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344

# HOUSE COMMITTEE REPORT

(7)

Date referred: 1/11/88

FURTHER REFERRALS: Judiciary

DATE: 2-16-88

The Health, Education and Social Services Committee has considered HB 344

"An Act relating to physically and mentally disabled persons."

**RECOMMENDS:**

- replace with CS HB 344 (HESS)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

Phil Kopman  
Alyce Hawley  
Paul E. Jolly  
John Ellis  
Bill Huls  
Mark Stenberg  
David Dowley

**SIGNING OTHER RECOMMENDATIONS:**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

John Ellis  
 Co Chairman's signature  
Phil E. Kopman

POSITION PAPER

HB 344

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

EFFECT OF House Bill 344

A.S. 09.65.150(a) is amended to include responsibility for property damage incurred when a driver fails to yield for a physically disabled pedestrian so identified in this Section.

"Property" under this section could relate to the mobility aids and appliances utilized by the pedestrian.

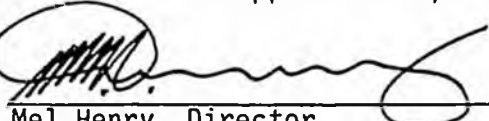
A.S. 11.76.130(a) is amended to limit the crime of interference to those situations where the rights of a disabled person are intentionally prevented or restricted as described.

A.S. 28.15.031(b)(4) repeals existing statutory authority to restrict the issuance of a driver's license if a person has a mental disability and has not been restored by the methods provided by law. This need is already addressed in subsection (5).

RECOMMENDATION

The Department of Health and Social Services supports the passage of House Bill 344.

Recommended by:

  
Mel Henry, Director

Date:

21<sup>st</sup> January, 1988

Approved by:

  
Myra M. Munson, Commissioner

Date:

Feb 1, 1988

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Health & Social Services  
 Title: relating to the rights of physically and mentally disabled persons BRU: \_\_\_\_\_  
 Sponsor: HESS Committee Components: \_\_\_\_\_  
 Requestor: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	-0-					
TRAVEL	-0-					
CONTRACTUAL	-0-					
SUPPLIES	-0-					
EQUIPMENT	-0-					
LAND & STRUCTURES	-0-					
GRANTS, CLAIMS	-0-					
MISCELLANEOUS	-0-					
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The enactment of HB 344 would have no direct fiscal impact on the Department of Health & Social Services.

Prepared by: Mel Henry, Director of Mental Health & D.D.  
 Division: Division of Mental Health & Develop. Svs.

Phone: 465-3370  
 Date: 1/21/88

Approved by Commissioner: Myra Munson  
 Agency: Health & Social Services

Date: 2-1-88

Distribution (by preparer):

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

Original sponsor: Health, Education and  
Social Services Committee

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 344 ( )

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the protection of persons with  
7 disabilities and to disabled adults who are victims  
8 of physical or sexual assault."

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

10 \* Section 1. AS 47.24 is amended by adding new sections to read:

11 ARTICLE 2. PROTECTION OF DISABLED ADULTS.

12 Sec. 47.24.110. REPORTS OF PHYSICAL OR SEXUAL ASSAULT. (a) The  
13 following persons who, in the performance of their professional  
14 duties, have reasonable cause to believe that a disabled adult is a  
15 victim of assault under AS 11.41.200 - 11.41.230 or sexual assault  
16 under AS 11.41.410 - 11.41.420, and that the disabled adult is unable  
17 to report the crime, shall promptly report the crime to the nearest  
18 law enforcement agency:

- 19 (1) a physician or other licensed health care provider;  
20 (2) a mental health professional as defined in AS 47.30.-  
21 915;  
22 (3) a pharmacist;  
23 (4) an administrator or employee of a nursing home, resi-  
24 dential care, or health care facility;  
25 (5) a caretaker of the disabled adult;  
26 (6) a guardian or conservator of the disabled adult;  
27 (7) a police officer as defined in AS 18.65.290;  
28 (8) a village public safety officer;  
29 (9) a village health aide;

- 1 (10) a social worker;
- 2 (11) a member of the clergy;
- 3 (12) a staff employee of a program or project serving dis-
- 4 abled adults;
- 5 (13) a licensed foster care provider;
- 6 (14) a paid employee of a domestic violence and sexual
- 7 assault program or a crisis intervention and prevention program as
- 8 defined in AS 18.66.900;
- 9 (15) an employee of a homemaker program or home health aide
- 10 program;
- 11 (16) an emergency medical technician or paramedic in the
- 12 mobile intensive care program.

13 (b) A person who knowingly fails or refuses to make a report

14 required under (a) of this section is guilty of a class B misdemeanor.

15 (c) In this section, "disabled adult" means a person 18 years of

16 age or older who has a physical or mental disability, or physical or

17 mental impairment, as defined in AS 18.80.300.

18 Sec. 47.24.120. IMMUNITY FROM LIABILITY; RETALIATION PROHIBITED.

19 (a) A person who in good faith makes a report under AS 47.24.110,

20 regardless of whether the person is required to do so, is immune from

21 civil or criminal liability that might otherwise be incurred or

22 imposed for making the report.

23 (b) An employer or supervisor of a person who in good faith

24 makes a report under AS 47.24.110 may not discharge, demote, transfer,

25 reduce pay or benefits or work privileges of, prepare a negative work

26 performance evaluation of, or take other detrimental action against

27 the person because the person made the report. The person making the

28 report may bring a civil action for compensatory and punitive damages

29 against an employer or supervisor who violates this subsection. In

1 the civil action there is a rebuttable presumption that the detri-  
2 mental action by the employer or supervisor was retaliatory if it was  
3 taken within 90 days after the report was made.

4 \* Sec. 2. AS 09.65.150(a) is amended to read:

5 (a) The driver of a vehicle approaching a physically disabled  
6 pedestrian who is carrying a white or metallic-colored cane, or using  
7 special equipment for mobility, or using a service animal, shall take  
8 precautions necessary to avoid injury to the pedestrian or the service  
9 animal. A driver who fails to take necessary precautions and, as a  
10 result, causes injury to the pedestrian or the service animal, or  
11 causes property damage, is liable [IN DAMAGES] for the injury or  
12 damage caused.

13 \* Sec. 3. AS 11.76.130(a) is amended to read:

14 (a) A person commits the crime of interference with the rights  
15 of a disabled person if the person intentionally prevents or restricts

16 (1) a physically or mentally disabled person from having  
17 full and free pedestrian use of a street, highway, sidewalk, walkway,  
18 or other thoroughfare, to the same extent that any other person has a  
19 right to pedestrian use; or

20 (2) a physically disabled person from being accompanied or  
21 assisted by a certified service animal, without an extra charge for  
22 the service animal, in a common carrier, place of public accommoda-  
23 tion, or other place to which the general public is invited, except as  
24 provided in (b) of this section.