

HB

344



STATE OF ALASKA  
HOUSE OF REPRESENTATIVES

M E M O R A N D U M

DATE: April 28, 1988

TO: Senator Jalmar Kerttula  
Chairman  
Senate Judiciary Committee

FROM: Representative Peter Goll

SUBJECT: Abuse of Disabled Persons

Physical and sexual abuse of mentally and physically disabled adults is a problem in Alaska and nationally.

HB 344 establishes mandatory reporting requirements and procedures for investigation of attacks on those adults who are so severely disabled that they are clearly unable to protect themselves.

The Division of Family and Youth Services reports that in 1986, there were 202 actual "reports of harm" to the elderly and 312 "reports of harm" to disabled adults under the age of 65 in Alaska.

That is a total of 514 reported cases in a single year. The reported cases represent only a portion of actual incidents.

I have attached:

1. Letter of support from the "Alaska State Association of Retarded Citizens".
2. Letter of support from the "Association of Retarded Citizens of Anchorage".
3. Letter to Rep. Peter Goll from Mr. David Maltman.

PG:ljb

attachments

# State of Alaska

House Majority Leader

COMMITTEES

HOUSE HEALTH, EDUCATION  
AND SOCIAL SERVICES  
HOUSE JUDICIARY  
HOUSE RULES



P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-3718  
465-4968/4986

914 CLAY COURT  
ANCHORAGE, ALASKA 9950  
(907) 276-6844

Representative Max F. Gruenberg, Jr.  
District 11  
Spenard, Upper Midtown Anchorage

October 19, 1987

TO: REPRESENTATIVE NIILLO KOPONEN, CO-CHAIR HOUSE HESS  
COMMITTEE  
REPRESENTATIVE JOHNNY ELLIS, CO-CHAIR HOUSE HESS  
COMMITTEE

FROM: MAX F. GRUENBERG, JR. *max*

RE: INTRODUCING "AN ACT RELATING TO PHYSICALLY AND MENTALLY  
DISABLED PERSONS" AS A HESS COMMITTEE BILL

I would very much appreciate it if we could introduce the attached draft bill as a HESS Committee bill.

This bill clarifies certain portions of SB 1, which was signed into law by the Governor.

Section 1 of the bill requires the driver of a vehicle who causes property damage to a physically disabled person's property, such as a wheelchair, to pay for damages. There is no provision in SB 1, now Chapter 69, SLA 1987, to compensate a victim if his property is damaged or destroyed.

Section 2 clarifies AS 11.76.130(a) to require that a person must intentionally interfere with the rights of a disabled person to be guilty of a Class "B" misdemeanor. Thus, a person repairing his sidewalk, for example, would not be criminalized.

Both of these changes certainly reflect our legislative intent in HB 172 last year, now SB 1, passed this year.

Section 3 removes a superfluous requirement for determining eligibility for driver's licenses. The Division of Motor Vehicles already under (5) of this section, retains the ability to refuse a license or permit for a person with a present mental disability. Many people have received

counseling or, at one time were mentally ill. Very few were legally adjudged incompetent. Fewer still were formally restored to competency by the methods provided by law. The mental health community strongly supports the repeal of AS 28.15.031(a)(4). Subsection (5) gives the DMV sufficient authority to protect the public.

I would like to make a motion at our Friday, October 23 meeting that the HESS Committee sponsor the bill and have it pre-filed.

If any committee member objects or requests any amendment (deletion or addition), please contact me at my law office, 276-6844, and I'll be happy to assist.

Thank you very much.

cc: All HESS Committee members

POSITION PAPER

CSHB 344

"An Act relating to the protection of persons with disabilities and to disabled adults who are victims of physical or sexual abuse."

EFFECT OF CSHB 344

Section 1 amends A.S. 09.65.150(a) 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.

Section 2 amends A.S. 11.76.130(a) and limits the crime of interference to those situations where the rights of a disabled person are intentionally prevented or restricted as described.

Section 3 requires certain professionals to report suspected criminal physical and sexual abuse of a disabled adult to the nearest law enforcement agency provided that the disabled adult is unable to report the abuse. CSHB 344 also provides immunity from liability and retaliation to the individual who is reporting the suspected abuse.

The bill appropriately distinguishes between those disabled people who are capable of reporting crimes themselves from those who cannot due to their disabilities. The former should be allowed to make their own decisions regarding reporting of crimes, while the latter must have assistance or they will go entirely unprotected.

Section 4 repeals A.S. 28.15.031(b)(4) which restricts 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 provision is unnecessarily restrictive and redundant. AS 28.15.031 (b) (5) provides the Department of Public Safety the authority to revoke or not grant a driver's license to a person with a mental or physical disability.

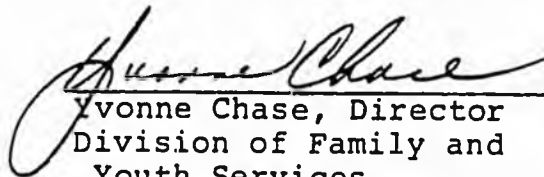
The Department of Health and Social Services (DHSS) supports CSHB 344. The department estimates that 312 reports of harm to disabled adults were received in 1986. Although DHSS attempts to respond to reports of abuse of disabled adults, DHSS currently does not have the necessary resources to provide an adequate level of adult protection services statewide. Further, this bill addresses reports of criminal conduct against adults which is appropriately investigated by law enforcement. The efforts of the two agencies working cooperatively in appropriate cases will further the protection available to disabled people.

CSHB 334 helps by providing a mechanism by which people who are aware of criminal physical and sexual abuse of disabled people are required to report these crimes to the appropriate law enforcement agency. In addition, CSHB 344 clarifies existing law with regard to interference with disabled persons.

Recommended by:

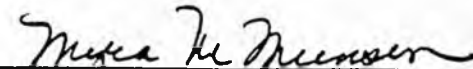


Mel Henry, Director  
Division of Mental Health  
and Developmental Disabilities



Yvonne Chase, Director  
Division of Family and  
Youth Services

Approved by:



Myra M. Munson  
Commissioner  
Department of Health  
and Social Services

STATE OF ALASKA  
1988 LEGISLATIVE SESSION

BILL VERSION: CSHB 344 (HESS)  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: Relating to the Protection of Persons with Disabilities...  
Sponsor: HESS COMMITTEE  
Requestor: \_\_\_\_\_

Agency Affected: HEALTH and SOCIAL SERVICES  
BRU: \_\_\_\_\_  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:


FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Mel Henry, Director   
Division: Division of Mental Health and Dev. Disabil.

Phone: 465-3370

Date: 2/29/88

Approved by Commissioner: Mvra Munson   
Agency: Health and Social Services

Date: 3/1/88

Distribution (by preparer):

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



Association for Retarded Citizens of Alaska, Inc.  
2211-A Arca Drive, Anchorage, Alaska 99508 • (907) 277-6677

January 23, 1988

Representative Peter Goll  
513 Capitol Building  
P.O. Box V  
Juneau, Alaska 99811

RE: House Bill 311

For an act entitled, "An Act Relating to Protection of Adults with Disabilities who are Victims of Abuse, Neglect or Exploitation."

Dear Representative Goll:

I am writing this letter in behalf of the Board of Directors of the Alaska State Association of Retarded Citizens, who at its January 16, 1988 Board meeting unanimously supported the passing of House Bill 311.

The Alaska State Association for Retarded Citizens is comprised of families, consumers, and professionals all dedicated to speak out in behalf of the interests and rights of persons who are mentally retarded/developmental disabled. We feel that the bill will provide for the protection of those individuals who due to their disability are not able to speak out for themselves.

Again, our strong support for this bill is encouraged. If I can be of any further assistance, please do not hesitate to contact me at 277-6677.

Sincerely,

Mary Jane Starlings  
Executive Director

Margaret R. Lowe, President  
Board of Directors

MJS/sls  
cc: Fran Ulmer



January 23, 1988

Representative Peter Goll  
513 Capitol Building  
P.O. Box V  
Juneau, Alaska 99811

RE: House Bill 311  
For an act entitled, "An Act Relating to Protection of  
Adults with Disabilities who are Victims of Abuse, Neglect  
or Exploitation."

Dear Representative Goll:

I am writing this letter in behalf of the Board of Directors of  
the Association of Retarded Citizens of Anchorage, who at its  
January 14, 1988 Board meeting unanimously supported the passing  
of House Bill 311.

The Association for Retarded Citizens of Anchorage provides  
residential services for persons who are mental  
retarded/developmentally disabled. We feel that this bill will  
provide for the following:

1. The assurance that adults with mental retardation will  
live in a safe program providing quality training  
leading to the least restrictive and most normalized  
setting possible.
2. That professionals in residential, vocational, respite  
and other services provided to adults with mental  
retardation who have reasonable cause to believe that  
an individual has suffered harm as a result of abuse,  
neglect or exploitation shall be afforded the  
opportunity and protection to report the harm to the  
Department of Health and Social Services.
3. That advocates, families, friends, and consumers who  
have reasonable cause to believe that an individual has  
suffered harm as a result of abuse, neglect or  
exploitation within a program in the State of Alaska  
has the opportunity to report the harm to the  
Department of Health and Social Services.

Representative Goll  
DM: ARCA  
DATE: January 23, 1988  
PAGE: 2 of 2

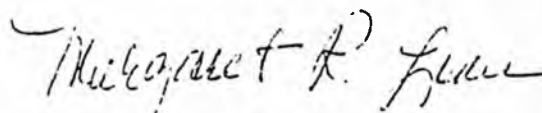
It is all of our responsibilities to advocate in behalf of the interests and rights of persons with mental retardation who may not have the ability to speak out in their own behalf because of their disabilities.

Again, our strongest support for this bill is encouraged. If I can be any further assistance, please do not hesitate to contact me at 277-6677.

Sincerely,



Mary Jane Starlings  
Executive Director



Margaret R. Lowe, President  
Board of Directors

MJS/sls  
cc: Fran Ulmer



**PROTECTION AND ADVOCACY FOR THE DEVELOPMENTALLY DISABLED**

325 E. Third, Suite 400  
Anchorage, AK 99501-2606  
(907) 274-3658 TTD

127 S. Franklin  
Juneau, AK 99801  
(907) 586-1627 TTD

250 Cushman, Suite 3H  
Fairbanks, AK 99701  
(907) 456-1070 TTD

February, 27, 1987

Mr. Peter Goll  
P.O. Box 581  
Haines, Alaska 99827

Dear Representative Goll:

We are glad to respond to your request for suggestions for a bill which would protect vulnerable adults from abuse. For your review, we have enclosed a draft document which includes the ingredients we believe necessary for an optimal approach for legislation to remedy this problem

Most importantly, the draft document we offer establishes a penalty for care givers that do not report the abuse and neglect of people with Developmental Disabilities. This provision alone would do a great deal to rectify the current situation. As your bill moves through the legislature we hope the provision for a penalty can be maintained and passed into law.

We appreciate your concern about this serious situation and you can count on our support for your bill. Your interest and sponsorship for this measure will undoubtedly determine its success.

Again, we are pleased to assist you. Do not hesitate to call if we can provide more information.

Sincerely,

David F. Maltman  
Executive Director

DFM:glf  
Enc.