

**S B**

**262**

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE \_\_\_\_\_  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER JUD

\*\*FISCAL NOTE(S) MUST BE ATTACHED  
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE \_\_\_\_\_

4/5/89

Mr. President:

HESS

Committee considered

SB 262

relating to mental health; and amending Rule 3, Alaska Rules of Civil Procedure

and recommended:

[ ] replace with CS \_\_\_\_\_ [ ] same title  
[ ] new title

[ ] attached amendment(s) and

[ ] \_\_\_\_\_ letter of intent adopted

[ ] do pass

[ ] do not pass

[ ] no recommendation

[ ] individual recommendations

[ ] further referral to \_\_\_\_\_

FISCAL NOTE(S) attached [ ] zero  
[ ] appropriation no FN attached

[ ] fiscal impact  
[ ] Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

*Tom Duncan*  
\_\_\_\_\_

*Tim Kelly - No Pass*  
\_\_\_\_\_

*Al Adams*  
\_\_\_\_\_

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*Paul Fish (Do Pass)*  
Chair : signature and recommendation

[ ] Committee backup attached

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: An Act relating to mental health  
 Sponsor: Senator Pourchot  
 Requestor: Senator Pourchot

Agency Affected: Health & Social Services  
 BRU: Institutions & Administration  
 Components: Alaska Psychiatric Institute

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

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>REVENUE</b>	-0-	-0-	-0-	-0-	-0-	-0-

**FUNDING:** (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-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)

Passage of SB262 will have no fiscal impact in FY90 and subsequent years.

Prepared by: Todd R. Risley, Ph.D. *TJR* Phone: 465-3370  
 Division: Mental Health & Developmental Disabilities Date: 3/22/90  
 Approved by Commissioner: *Georgia M. Merson* Date: 3/27/90  
 Agency: \_\_\_\_\_

**Distribution (by preparer):**

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

# ALASKA STATE LEGISLATURE

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Senator Pat Pourchot

## M E M O R A N D U M

TO: Senator Fischer, Chairman  
Senate Committee on Health, Education and Social  
Services

FROM: Senator Pourchot 

RE: SB 262, Relating to Mental Health

DATE: March 26, 1990

Thank you for scheduling a hearing on SB 262, which makes a series of changes to the patients' rights section of the mental health commitment statute.

The civil commitment statutes were substantially revised in 1981 to more adequately protect the legal rights of persons suffering from mental illness. Article 8 affirms the rights of patients in API and similar institutions by allowing the free exercise of religion, limiting the use of physical restraints, ensuring access to personal belongings, allowing visitors, and the like. SB 262 makes minor amendments to these provisions.

Of particular importance are Section 1, which would require treatment facilities to set program standards, and Section 7, which would require that grievance procedures be established. The other sections of the bill would strengthen the position of the patient in regard to the use of physical restraints, opportunity for physical exercise, and disposition of court records.

Persons committed to API and similar treatment facilities are often the people least able to help themselves. The responsibility for ensuring proper care and treatment of such individuals must therefore rest with others. SB 262 provides a forum for the Legislature to discuss treatment of this special population; I appreciate your consideration of it.

I am aware that a number of people are planning to testify at the Senate HESS Committee hearing. I am expecting critical comments on, and suggestions for changes to, SB 262. It would be my intent following the hearing to work with you on any desired amendments to the bill.

Sen. Pourchot  
March 21, 1990

SECTIONAL SUMMARY -- SB 262, RELATING TO MENTAL HEALTH

SB 262 makes a series of amendments to Article 8 of Title 47, the Patients' Rights section of the mental health commitment statute:

Sec. 1 Requires that programming standards (medical, psychological, social, vocational, educational, and recreational) be established for designated treatment facilities -- Alaska Psychiatric Institute, Fairbanks Memorial Hospital, and Mt. Edgumbe Hospital.

Sec. 2 Corrects an incorrect statute reference.

Sec. 3 Allows attendance at treatment team meetings by a mental health professional previously engaged in the patient's care and by another representative of the patient's choice. Current statute allows attendance by the patient's counsel or guardian.

Sec. 4 Current statute requires that, when practicable, the patient be consulted as to the form of physical restraint to be used. Sec. 4 requires that, in such instances, the patient's choice be honored.

Sec. 5 Clarifies that the physician's decision to prescribe psychotropic medication must include the potential for the patient to harm him or herself. Current statute only references harm to others.

Sec. 6 Specifies that a person undergoing evaluation or treatment has a right to both indoor and outdoor exercise and recreation. Current statute does not reference outdoor.

Sec. 7 Adds a new provision requiring that designated treatment facilities establish formal procedures to handle grievances about patients' treatment, care, and rights. Also requires that treatment facilities with a patient population over 50 have a consumer advocate on staff to assist patients in bringing grievances. Allows patients to seek a judicial remedy in superior court once the grievance procedure is exhausted.

Sec. 8 Clarifies that when a person files to have court records pertaining to commitment proceedings expunged, the court shall do so. Current statute allows for expungement, but does not contain standards by which the court is to evaluate motions to expunge. (The person's medical records would still be available at the treatment facility.)

Sec. 9 States that Sec. 7 amends Rule 3, Alaska Rules of Civil Procedure, by requiring that the court nearest to the treatment facility be the location for filing grievance petitions.

5124



Alaska Court System

State of Alaska

201 "K" STREET  
ANCHORAGE, ALASKA  
99501

ARTHUR H. SNOWDEN II  
ADMINISTRATIVE DIRECTOR

264-0548  
(807) XNNXX

April 14, 1989

Senator Pat Pourchot  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

Re: SB 262

Dear Senator Pourchot:

The court system has several concerns about the procedural aspects of SB 262. Section 7 of the bill provides that patients of mental treatment facilities may appeal their grievances directly to superior court after presenting them to an impartial body within the treatment facility. We believe that the bill should be amended to utilize the existing appeal procedures within the Administrative Procedures Act, codified at AS 44.62.360 et seq. This approach would lead to a speedier resolution of most grievances and would not require decisions by the court to define a new procedure. We suggest that section 47.30.848 be replaced with this language:

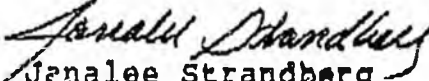
Sec. 47.30.848. Judicial Remedies for Patients. A patient or patient's representative may appeal pursuant to AS 44.62.560 an adverse grievance decision issued under AS 47.30.847.

This amendment would also take care of the question of venue as it will be in accordance with the rules of court governing appeals in civil matters. Thus, section 9 of the bill can be deleted.

Finally, we recommend that the administrative grievance procedure contain an intra-departmental appellate process. Appeals within agencies generally resolve most grievances quickly and inexpensively without necessitating formal court proceedings and their attendant expenses.

Thank you for the opportunity to comment on this bill. I will be happy to answer any questions you may have.

Sincerely,

  
Janalee Strandberg  
Staff Counsel