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(7)

Date Referred: March 6, 1992

HOUSE COMMITTEE REPORT
FURTHER REFERRALS:

Finance

Date of Committee Action: 3-23-92

The JUDICIARY Committee considered:

HB 510

HOUSE BILL NO. 510

PROTECT ELDERLY AND DISABLED ADULTS

"An Act relating to criminal offenses and penalties for offenses involving disabled or elderly adults."

RECOMMENDATIONS:

be replaced with C.S. HB 510 (JUDICIARY) the same title a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

indeterminate law; Admin.
 fiscal impact _____

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal note(s) _____

zero fiscal note Public Safety; Admin.

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<u>David Donley</u>	X	<u>Mike Hill</u>		X	
<u>Al Ellis</u>	X				
<u>Bob Hunter</u>	-				

David Donley
CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HB 510

Revision Date: _____ Department Affected: Public Safety
 Title: "An act relating to criminal offenses involving disabled or elderly " BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Representative Mackie
 Requestor: Representative Mackie COMPONENT SERIAL NO.

	7	9	9
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EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
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 FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)
No fiscal impact is anticipated.

1/10
2/25/92
Prepared By: Francis C. Allan Phone: 269-5691
 Division: Alaska State Troopers Date: 2/24/92
 Approved by Commissioner: *George A. Hovland for* Richard L. Burton
 Agency: Department of Public Safety Date: 2/25/92

Public Safety F/N

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HB510

Revision Date February 18, 1992 Dept. Affected Health and Social Service
 Title: "An Act relating to criminal offenses and penalties for offenses involving disabled or elderly adults." BRU: Division of Family and Youth Services
 Sponsor: Representative Mackie Component: SERO, SCRO, NRO
 Requestor: House HESS Committee COMPONENT SERIAL NO. 0254, 0255, 0258

Expenditures/Revenues

(Thousands of Dollars)

	FY93	FY94	FY95	FY96	FY97	FY98
OPERATING						
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING:

(Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	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

Estimate of current year impact: **NONE**

ANALYSIS: (Attach a separate page if necessary)

Alaska, like many states in the early 80's, passed but failed to fund a Protection of the Elderly statute. Ten years after Alaska's law was passed, the Department still is not adequately funded for this mandate. There is concern over raising the penalty when mandated professionals fail to report abuse and neglect to elderly persons to the Department as the existing response system is inadequate. This bill, however, if passed, would not directly create an additional workload on the Department.

Prepared by: Brian Saylor, Deputy Commissioner *B254* Phone: 465-3030
 Division: Division of Family and Youth Services Date: March 4, 1992
 Approved by Commissioner: Theodore A. Mala, MD, MFR *[Signature]* Date: 4-3-92
 Agency: Department of Health and Social Services

Distribution (by preparer):
 Legislative Finance OMB
 Legislative Sponsor Impacted Agency(ies)
 Requestor

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSHB 510 (HES)

Revision Date: March 19, 1992
Title: "...criminal offenses...involving disabled or elderly adults."
Sponsor: Representative Mackie
Requestor: Representative Mackie

Department Affected: Department of Law
BRU: Prosecution
Component: All

COMPONENT SERIAL

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Expenditures/Revenues: (Thousands of Dollars)

85 through 91

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	****	****	****	****	****	****

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	****	****	****	****	****	****
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL						

POSITIONS:

FULL-TIME	****	****	****	****	****	****
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared by: Richard I. Peques, Director
Division: Administrative Services
Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law

Phone: 465-3672
Date: March 19, 1992

Date: March 19, 1992

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 510 (HES)

The HES Committee substitute corrected a drafting error in Section 7. Otherwise, the bill is unchanged. Our fiscal note analysis is therefore repeated below.

This bill amends various criminal statutes to increase the penalty for an offense, if the offense is committed against a disabled or elderly adult. The department's analysis follows below.

Section 1. This section amends AS 08.01 to provide that conviction of a person licensed or regulated by the Department of Commerce and Economic Development, for failure to report harm to an elderly person or failure to report physical or sexual assault of a disabled adult, may be considered as grounds for disciplinary proceedings or sanctions against a person who has a duty to make such a report. This section will not have a direct fiscal impact for the Department of Law, nor should there be any impact for the Division of Occupational Licensing, because failure to report occurs rarely.

Section 2. This section amends AS 11.41.200(a) to include recklessly causing serious physical injury to a disabled or elderly adult within the crime of assault in the first degree. Because recklessly causing serious physical injury is currently assault in the second degree, this section will have the effect of raising the penalty for this conduct from a class B felony to a class A felony, if the victim is a disabled or elderly adult.

We cannot determine a fiscal impact for this section because the state does not keep records by the age of the victim, except for minors. Each year there are between 300 and 400 felony assaults referred for prosecution. However, we do not know how many of these assaults are committed against disabled or elderly adults. Increasing the penalty for this crime could cause some additional cost for the department because of the difficulty of proving that the defendant knew that the victim was a disabled or elderly adult.

Section 3. This section amends AS 11.41.210(a) to include recklessly causing physical injury to a disabled or elderly adult within the crime of assault in the second degree. Because recklessly causing physical injury is currently assault in the fourth degree, this section will have the effect of raising the penalty for this conduct from a class A misdemeanor to a class B felony, if the victim is a disabled or elderly adult.

Here again, we cannot determine a fiscal impact due to the lack of information about the age or mental disability of adult victims. It does appear likely, however, that some substantial impact will occur if what is currently a misdemeanor offense is raised to a felony offense. This is because full range felony prosecution includes the grand jury and indictment process, pretrial

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 510 (HES)

motion practice and, in view of the increased severity of the charge, a much more vigorous defense. We would also have to prove that the defendant knew that the victim was a disabled or elderly adult. Currently, about 3,000 misdemeanor assaults are reported under state law each year.

Section 4. This section amends AS 11.41.220(a) to include placing a disabled or elderly adult in fear of imminent physical injury by words or other conduct within the crime of assault in the third degree. This amendment will have the effect of raising the penalty for conduct currently classified as a class A misdemeanor to a class C felony if the victim is a disabled or elderly adult. The department's comments on the impact for Section 3 apply to this section, as well.

Section 5. This section amends AS 11.46.120(a) to provide that a person commits theft in the first degree if the victim of the theft is a disabled or elderly adult. Normally, the value of the property or services must be \$25,000 or more before the criminal conduct reaches theft in the first degree. Consequently, this section will have the effect of making theft with a value in any amount a class B felony, if the victim is a disabled or elderly adult. The department handles 1,000 misdemeanor thefts and 200 class C felony thefts annually.

For the reasons discussed above, we cannot determine what number of misdemeanors, or lesser degree felonies, would be required to be handled as class B felonies if this section is approved. However, some fiscal impact will occur if there is a substantial number of new felonies.

Section 6. This section defines a "disabled or elderly adult" to mean a person 18 years of age or older who has a physical or mental disability, or physical or mental impairment, as defined in AS 18.80.300, or a person 65 years of age or older.

Section 7. This section provides that a person who fails to report suspected harm to an elderly person, as required by AS 47.24.010, is guilty of a class B misdemeanor. The section also provides that the court shall notify a licensing entity when a person who is a member of a profession or occupation regulated by the state is convicted for failure to report. Failure to report is very rare. Consequently, this section should not have a fiscal impact.

Section 8. This section provides that the court shall notify the licensing entity when a person regulated by the state is convicted for knowingly failing or refusing to report suspected physical or sexual assault of disabled adults. Failure to report is rare, and a fiscal impact is not anticipated.

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSHB 510 (HES)

Revision Date: _____
 Title: "An Act relating to criminal offenses and penalties
 for offenses involving disabled or elderly adults.
 Sponsor: Mackie
 Requestor: House Judiciary

Department Affected: Administration
 BRU: Office of Public Advocacy
 Component: Office of Public Advocacy

COMPONENT SERIAL NO.

0	0	4	3
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Kevin Brooks, Director
 Division: Administrative Services

Phone: 465-2277
 Date: March 19, 1992

Approved by Commissioner: Nancy Bear Usura *NBCU*
 Agency: Administration

Date: 3/19/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

FISCAL NOTE

BILL NO. CSHB 510 (HES)

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: _____
 Title: "An Act relating to criminal offenses and penalties
 for offenses involving disabled or elderly adults."
 Sponsor: Mackie
 Requestor: _____

Department Affected: Administration
 BRU: Public Defender Agency
 Component: Public Defender Agency

COMPONENT SERIAL NO.

1	6	3	1
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	*	*	*	*	*	*
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL	*	*	*	*	*	*
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REVENUE FUND SOURCE:	*	*	*	*	*	*
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FUNDING: (Thousands of Dollars)

GENERAL FUND	*	*	*	*	*	*
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	*	*	*	*	*	*

POSITIONS:

FULL-TIME	*	*	*	*	*	*
PART-TIME						
TEMPORARY	*	*	*	*	*	*

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

(See attached)

Prepared by: John Salemi, Public Defender
 Division: Public Defender Agency

Phone: 279-7541
 Date: March 9, 1992

Approved by Commissioner: Nancy Bear Usura *NBLL*
 Agency: Administration

Date: 3/17/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSHB 510 (HES)

ANALYSIS: (continued)

The fiscal impact that will result from treating disabled and elderly adults as a special class of victim is impossible to quantify. However, it is clear that by increasing the seriousness of the penalties (in some cases requiring mandatory jail time) and also increasing the seriousness of the crime (making crimes that formerly were misdemeanors felonies with rights to grant jury and 12-person juries) defense costs will increase as well.

S P O N S O R S T A T E M E N T

HB 510 "An Act relating to criminal offenses
and penalties for offenses involving
disabled or elderly adults"

I have introduced HB 510 because there is occurring in Alaska a number of things which I feel make it critical for the legislature to discuss the subject of elder abuse, elder exploitation, crimes against the elderly, and adult protective services.

The 65+ age group increased by 93.7% in Alaska in the past decade. The number of persons age 65+ living alone increased by 108%. Some areas have far surpassed the growth in the 65+ segment: Haines Borough, in my legislative district - 133%, Mat-Su Borough - 155.62%, and the Kenai Peninsula Borough - 143.65%. When one is aware of the phenomenal rates of growth occurring in this age segment, the specter of declining resources available for protection, intervention and investigation of crimes against this vulnerable group becomes very alarming.

HB 510 creates separate classes of offenses for crimes against the elderly and disabled adults and mandates enhanced penalties for these crimes. Financial exploitation and abuse of the elderly and disabled would become its own class of offense, with persons who commit theft when the victim is a disabled or elderly adult guilty of theft in the first degree.

HB 510 will also requires enhanced penalties for the failure to report harm to the elderly and disabled. If a person convicted of failure to report is a member of a profession regulated by the state, the courts shall notify the licensing, certifying, or regulating entity of the conviction.

The law currently says that a person who fails to comply with the law is guilty of a violation, the least serious state criminal offense and no mention is made of professionals or other licensed occupations.

SPONSOR STATEMENT

HB 510 Relatin to criminal offenses and penalties for offenses involving disabled and elderly adults

Twenty-eight states have penalties for abuse of an elderly person and sixteen states now have some form of enhanced penalties for these crimes. Many states have included statutory language to reflect that elderly and handicapped persons are more vulnerable and disproportionately damaged by crime because they are less able to escape offenders and tend to suffer the greatest relative deprivation as a result of crimes against them. The elderly and disabled are also more susceptible to long-term adverse effects of these crimes and less able to recover from the substantial impact of physical, emotional and financial abuse.

I do not believe that we, as a legislative body, have adequately addressed the issue of adult protective services. I intend to show that the dismal manner in which adult protective services have been funded over the past decade is reflective of how an environment can be created whereby the elderly and disabled become prey to all forms of despicable acts.

We, as legislators, are well aware of those legislative actions that have been taken that now contribute to the growth of Alaska's older population. The State has gone into the nursing home business building Pioneer's Homes; we've eliminated the income tax; we've instituted the Permanent Fund Dividend and the Longevity Bonus Program; and allowed for property and tax exemptions for senior citizens.

I feel that this situation is one of our making. We must address this phenomenal growth in our aged with haste and concern for our responsibilities to this most vulnerable segment of our society.

P E N A L T I E S F O R C R I M I N A L O F F E N S E S

Proposed classifications of offenses involving elderly and disabled adults and attendant penalties:

Offense:	Crime:	Penalty:
Serious physical injury	Assault in the first degree; Class A felony	Not more than 20 years -1st conv.- 5 yrs -1st conv.- 7 yrs with firearm -2nd conv.-10 yrs -3rd conv.-15 yrs AS 12.55.125
Physical injury	Assault in the second degree; Class B felony	Not more than 10 years -2nd conv.-4 yrs -3rd conv.-6 yrs AS 12.55.125
By words or other conduct placing a disabled or elderly adult in fear of imminent harm	Assault in the third degree; Class C felony	Not more than 5 years -2nd conv.-2 yrs -3rd conv.-3 yrs AS 12.55.125
Financial exploitation and abuse	Theft in the 1st degree; Class B felony	AS 12.55.125
Failure to report harm to elderly	Class B misdemeanor	AS 47.24.010(c) AS 12.55.135
Failure to report harm to disabled	Class B misdemeanor	AS 47.24.110(b) AS 12.55.135

Penalty considerations during sentencing are, of course, determined by mitigating and aggravating factors and presumptive sentencing guidelines.

HOUSE HESS COMMITTEE TESTIMONY

REMARKS TO PREFACE HB 510 & 511

I would like to preface my remarks by stating that my constituency includes a populace of elderly and disabled adults who are fiercely independent. Many have devoted their lives to the betterment of their communities and entering a nursing or pioneers home is not considered a viable option. Even if some of those who are on waiting lists to enter urban institutions actually enter a long term care facility it is still viewed as "going to town to die." The reality, though, is that many will die before making it to the top of these waiting lists.

Given the prevailing attitude amongst our elders I must commit my energies to those efforts that will provide quality assurances in the home and community based support services. I cannot proceed without first working towards the attainment of these most fundamental of protections.

The purpose of HB 511 is not to enter the institutional versus home care debate. This is fully intended to be friendly legislation. I am not here to impugn the home care provider industry but to continue the dialogue at the legislative level initiated by Senator Uehling and Project Choice. This dialogue is intended to prepare for a burgeoning older population, increases in the already prohibitive cost of institutional care, and the effort underway to explore and attain Medicaid waivers and options for home and community care.

Home care is not only more efficient and cost effective but highly desired. In fact, many of the elders in rural Alaska view being removed from their families and their native foods and way of life as akin to dying. When I hear a not-so-young man agonizing over the needs of his aged mother with precious few options to consider I know that our state must by dire necessity wholly support home and community based care.

My region, Southeast Alaska, has only 13% of the states population but it has 25% of those age 85 and older in the state, the most expensive age segment to care for in any setting.

Should one of my elders experience abuse or exploitation and is desperate to identify an alternate source of care, there is no "one" phone number to call, no "one" person to go to. Where do they turn from their relatively isolated condition, how are they to know about the availability of services for which they might be eligible? How are they to know they have choices?

Amongst the elderly and disabled there exists an even more critically vulnerable component:

- those who won't or can't go to pioneer or nursing homes
- those not eligible for medicaid services but still in need
- those who reside in communities with no available home and community based services.

Most rural areas of our state do not have home care services, this is a gross inadequacy that demands to be remedied. As we, the legislature, face up to our responsibility to our rural residents these proposed quality assurances will further enhance the lives of our revered elders and those amongst our family, friends and neighbors that are disabled.

The preferred choice of remaining at home, the cultural concerns of many of my constituents, as well as the fierce sense of independence shared by Alaskans demands that I pursue at every turn home care services for my district.

Before we plunge ahead in pursuit of this goal, we must take pause to ensure that that which we seek to attain does not bring grief, abuse, exploitation or convicted criminals into the private residences of our elderly and disabled.

I am anxious and fearful that this legislature will not adequately fund programs to meet the needs of my elderly and disabled constituents. There are those I serve who view the projected revenue shortfall with trepidation and anxiety convinced we will not address this most significant need.

With anticipated future growth of 30% in our senior citizen segment and 100% in the 85 and older sector, I have accepted that public policy considerations of an aging populace will be one of the greatest challenges of my tenure as a legislator.

None will argue that the elderly in my district and throughout rural Alaska are particularly impaired and impoverished.

We know that the percentage of older Alaskans as part of the total population is greater for rural than for urban. Combine this with the fact that Alaska Natives suffer impairment levels approximately double that of white senior citizens and a difficult situation is intensely exacerbated.

DEPARTMENT OF COMMERCE
& ECONOMIC DEVELOPMENT / POSITION PAPER

HB 510: "An Act relating to criminal offenses and penalties for offenses involving disabled or elderly adults."

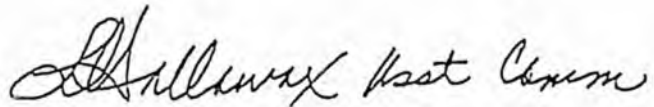
HB 510 gives authority to the appropriate board or the department where no board exists for disciplinary actions against the license or certification of a person under Title 8, for conviction under AS 47.24.010 or 47.24.110.

It instructs the court to notify the department of a conviction which assures it coming to our attention. By allowing the conviction to serve as prima facie evidence that the alleged act was committed, much time and funds will be saved in bringing an action against the license.

We believe this may be a deterrent to a licensed or certified professional who counts on being able to pay a fine but keep on practicing without a blemish in his or her licensing file.

It is our understanding that many of these cases are settled out-of-court with Health and Social Services being the mediator. Therefore, we would recommend that Health and Social Services be included with the court to notify the department when they make a "substantiation of a report of harm." Health and Social Services should be protected from a complaint of invasion of privacy, etc., by the person who is the subject of the report to the department.

The department supports passage of HB 510.



Glenn A. Olds, Commissioner

Date: 2.26.92

GAO/AB/dgl1506D
022592a

Position Paper Commerce

HOUSE BILL 510

"An Act Relating to Criminal Offenses and penalties for offenses involving disabled or elderly adults."

This bill proposes several changes to Alaska's criminal statutes regarding crimes against disabled adults and the elderly. It proposes increasing the penalty for failure of required professionals to report abuse, exploitation, abandonment or neglect of an elderly person to the department; for disabled adults it proposes increasing the penalty for failure to report to law enforcement. It proposes conviction of a professional who fails to report as grounds for disciplinary action by Occupational Licensing, where applicable. The Department supports this bill. Comments focus on Section seven.

Section 7

A February, 1992 Report from the U. S. Health and Human Services Secretary's Task Force on Elder Abuse stated that adult protective services agencies are the principal agencies responsible for the investigation and follow-up on domestic elder abuse cases and are also the primary agencies responsible for investigating institutional abuse cases. The report noted that most states have enacted some type of legislation addressing elder abuse, and that most have established policies, job classes etc., but lack of resources to carry out the mandates have often resulted in protective services programs that are less than adequate. Further the report noted that practitioners in the field sometimes ignore the reporting law because they recognize there is no service system to address cases of abuse.

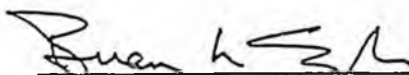
Alaska is no different. Some professionals have openly stated that they will not report because they believe the response from adult protective services is inadequate. Some have stated that they believe they can handle the problem better themselves. Others do not report because they do not recognize that abuse has occurred, or they do not know that they are required to report. For example, physicians and other medical professionals could use training in recognition, just as they needed it for child abuse. Many abuse symptoms are similar to those for children, but medical professionals are not trained to recognize abuse in adults and there are some significant differences.

While the department has not yet brought known instances of failure to report abuse, exploitation or neglect by a caregiver to the attention of the Department of Law for prosecution, it is important to have a strong penalty for blatant disregard of the reporting

requirement. We have been informed by the sponsor that a correction to make the penalty a Class B misdemeanor is being submitted in a sponsor substitute.

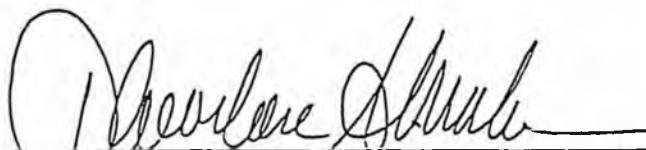
Task Force

Alaska falls into the mold of states referenced in the U. S. Health and Human Services report. Some states like Texas, Maine, Wisconsin and Illinois have established very credible adult protective services systems, but most have not. We are concerned about the vulnerable populations with which we come into contact and believe that lack of an adequate protective services system for vulnerable adults should be addressed, particularly as our aging population increases. We think that this area should be addressed in a planned way to avoid creating an overwhelming surge in reporting as we experienced in the area of child abuse. The Department proposes a task force be convened to address these issues. The task force is more fully discussed in the Department's Position paper for HB 511.



Brian Saylor, PhD, MPH,
Deputy Commissioner/Acting Director
Division of Family and Youth Services

Date: _____



Theodore A. Mala, MD, MPH,
Commissioner
Department of Health and Social
Services

Date: 4 March 1992

STATE OF ALASKA

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

THEODORE A. MALA, COMMISSIONER

P.O. BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030

February 26, 1992

Mr. David L. Olerud
P. O. Box 1069
4th and Main Street
Haines, Alaska 99827

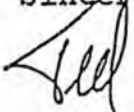
Dear Mr. Olerud:

Thank you for your recent letter regarding your concern on behalf of an elderly citizen of Haines. I appreciate your taking the time to inform me of her financial, physical and mental abuse from a caregiver and am relieved to learn that you and others have worked to improve the situation.

The legislation you mention has been introduced by Representative Mackie. Indeed it responds both to the situation you describe and to other similar cases of abuse by caregivers. In concept the Department is very supportive of the bills. I am informed that Pat O'Brien, Adult Protective Services coordinator, in the Division of Family and Youth Services has been working closely with Representative Mackie's staff. She is also reviewing the two bills, HB 510 and HB 511 with key staff from other affected divisions to ensure that the legislation appropriately addresses the issues.

Again, thank you for your concern. I will watch the progress on these bills with interest.

Sincerely,



Theodore A. Mala, MD, MPH
Commissioner

cc: Brian Saylor, PhD, MPH
Acting Director
Division of Family
and Youth Services
Representative Jerry Mackie

In order to protect our elderly and otherwise incapacitated population, and to keep this incredible scenario from happening again, I feel that the state should take two simple steps by way of new or existing legislation, as follows:

- 1) All doctors or healthcare givers are required to become cognizant of and report any signs of physical or mental abuse to appropriate authorities.
- 2) Anyone providing legal counsel must be required to likewise report to proper authorities their knowledge of any attempt to gain or to take someone's financial resources.

We look forward to continuing our work with Representative Mackey to correct this problem, and hopefully by the end of the current legislative session it will be passed into law. This case is not isolated, and you may well be aware of similar ongoing instances in which this legislation would be very important and beneficial.

Thank you.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "David L. Olerud". The signature is written in dark ink and is positioned below the typed name.

David L. Olerud

/lao

P. O. Box 1069
Haines, AK 99827

May 9, 1991

State Representative Johnny Ellis
Seventeenth Alaska State Legislature
Interdepartmental Mail Stop
P. O. Box V
Juneau, AK 99811

Dear Representative Ellis:

This letter is in regard to the subject of protection for the elderly population of Alaska, and also in response to my telephone conversation with Vickie. I wholeheartedly feel that we can and must provide a blanket of protection to our elderly and those who are incapacitated in any way. These objectives could best be met by placing into law the following:

1. Those persons providing either public or private care/services to the elderly or otherwise incapacitated people, would be denied the following perogatives:
 - a) Caregivers could not assume or be placed under any powers of attorney, last wills or testaments, or joint bank accounts.
2. Responsibility should be placed upon those who provide outside physical, mental, or material services. A degree of responsibility must be constantly maintained so that any physical neglect or mental abuse must be reported to the proper authorities. In other words, the elderly and disadvantaged should also be allowed the same lawful protection currently given to young people in relationship to child abuse.

Page Two

Recent personal experiences which I related in my earlier letter to State Representative J. Mackie (copy enclosed) have led me to believe that the state of Alaska has allowed a tremendous void to take place in relation to this particular grouping of people. The sad part is that each of us could undoubtedly have a high percentage chance of being in this same situation, and thus state mandated protection is extremely necessary.

With your abilities and dedication, I know that this problem can be corrected. If I can assist in way, I would be more than honored to do so.

Thank you for your time and effort.

Sincerely,



David E. Olerud

/lao
Enclosure

cc: State Representative Jerry Mackie (w/o encl.)

P. O. Box 1069
Haines, AK 99827

State Representative Jerry Mackie
Seventeenth Alaska State Legislature
Interdepartmental Mail Stop 3100
P. O. Box V
Juneau, AK 99811

Dear Representative Mackie:

In response to our telephone conversation today, I wish to recap in writing the subject of our discussion, which I feel should be very closely evaluated.

In the last few months, I've received an educational experience pertaining to personal and legal problems confronting an elderly lady with whom my wife and I have been close friends for almost 30 years. And, it occurs to me that this situation is undoubtedly representative of similar occurrences elsewhere.

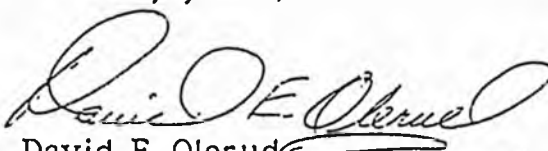
This particular individual is suffering from advanced stages of Parkinson's disease. In her prime she was extremely sharp, and quite possibly one of the most dynamic and mentally alert persons in our community, at which time she took great pains to organize the necessary papers, etc., that would oversee her desires upon her death. We now find her to be maybe one-hundredth of her mental capabilities, but most unfortunately, we are seeing tremendous stress being placed on her in relation to the wealth that she accumulated during her lifetime. The situation is a prime example of how older or otherwise incapacitated people can become very susceptible to outside mental control. One of the ways I believe we can protect these people, and give greater security with less pressure later on in life, is legislation that mandates those who provide care or services for innumeration in any way, be barred from holding power of attorney, participation in wills, or even joint-bank accounts. I very strongly believe that a third party outside of those who provide personal services, should act as a buffer to prevent mental intimidation and transfer of wealth.

Page Two

I will look favorably upon any legislation that will protect these people who are so vulnerable. I realize your time is in great demand, and I very much appreciate your phone call and interest.

Thank you, and if I can be of any assistance, it would be my pleasure.

Sincerely yours,



David E. Olerud

March 25, 1991

Bruce Abramson
2900 Boniface, #323
Anchorage, Alaska 99504

March 21, 1992

Rep. Dave Donley
Alaska State Legislature
Juneau, Alaska 99801-1182

Via Fax (465-2299)

Re: HB510 (Crimes Against Disabled and Elderly Adults)

Dear Representative Donley:

I have been a District Attorney in Alaska, an Assistant Public Defender, and victim - on several occasions - of violent crimes. Looking at HB510 (Crimes Against Disabled and Elderly Adults) from these three perspectives, the bill makes no sense. Not only does current law give special added protection to vulnerable victims, but this bill is grossly discriminatory.

I assume the purpose of the bill is to give added protection to extremely vulnerable citizens, the disabled and the elderly. The bill, in fact, does not do this.

Disabled Adults

When I think of protecting "disabled" adults, I picture a vulnerable blind man or a woman in a wheelchair. But the definition of "disabled" was not written specifically for the criminal code. Instead, the bill (under Section 6) incorporates the definition from Title 18 written for an entirely different purpose. A "disabled" person under A.S. 18.80.300 includes: a person who has lost a sense of smell; a person with a disfiguring birthmark; an impotent man; an infertile woman; a person with a reading disorder. Look at the statutory definition of "disabled"; it is extremely broad and has no bearing to the kind of real vulnerability that a criminal may prey on:

"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, genitourinary, hemich and lymphatic, skin, and endocrine;

(B) mental or psychological disorder, including mental retardation, organic

Representative Dave Donley
March 21, 1992
Page 2 of 3

brain syndrome, emotional or mental illness, and specific learning disabilities; [AS 18.80.300 (13)]

It makes no sense to treat all these "disabled people", as defined by Title 18, as so vulnerable that they need a special criminal law to protect them. (Note also that "disabled" children are not included in the bill.)

Elderly

The bill also stereotypes people over 65 as being so vulnerable, so feeble, that they should be treated differently than everyone else. This simply is a false stereotype: a robust 65 year old is not comparable with a bedridden 85, nor with a "95 pound weakling" who is 35 years of age, nor to a child. Note that Section 5 of the bill applies not to assaults but to property crimes, in which actual physical vulnerability is typically irrelevant. Under the bill, taking a stick of gum from the seat of a Winnebago owned by a 65 year old is equal in criminality to stealing \$25,000 from a 62 year old widow, or from a single mother with three kids, or from an unemployed laborer, etc., etc. This is ridiculous.

Vulnerable Victims Already Receive Special Protection

Vulnerable victims already receive special protection. Under the current sentencing statute, a victim's vulnerability is an aggravating sentencing factor. AS 12.55.155 (c)(5) allows the court to increase a sentence if:

The defendant knew or reasonable should have known that the victim of the offense was particularly vulnerable or incapable of resistance due to advanced age, disability, ill health, or extreme youth or was for any other reason substantially incapable of exercising normal physical or mental powers of resistance.

Justice must be individualized, that is, individual characteristics of a defendant and individual characteristics of a victim must be considered in applying the criminal law. The sentencing statute already does this by looking at individual vulnerability, not on the basis of crude stereotypes. The bill crudely lumps together a vigorous 65 year old with a 90 year old, and lumps an impotent 25 year old with a blind man in a wheelchair. By contrast, the current sentencing law individualizes justice to protect the truly vulnerable.

The Bill Discriminates Against Classes of Victims

What the bill really does is create two classes of citizens: "disabled adults" and the "elderly" are made first-class citizens with special status in the law, while the rest of us are put in second-class. This bill tells me that it is less serious, and therefore more desirable, for a criminal to steal \$24,000 from me than steal a golf ball from a retired millionaire. I resent being treated as a "preferred victim".

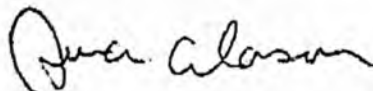
Representative Dave Donley
March 21, 1992
Page 3 of 3

The law must protect all citizens, and must give special protection to the especially vulnerable. The current law does this as sentencing. The bill however is based on gross stereotypes, which, in effect divides victims into first and second class citizens.

If the current law is failing to protect certain citizens, and if that failure lies not in the enforcement of the law but in the definition of crimes, then a carefully tailored amendment must be drafted to address the specific, real-life problems.

I strongly oppose Sections 2 through 6 of HB510. Please give copies of this letter to all House Judiciary Committee Members. Thank you.

Sincerely,



Bruce Abramson

BA/dp

AVCP

Association of Village Council Presidents
P.O. Box 219 • Bethel, Alaska 99559 • Phone 543-3521

March 13, 1992

Dave Donley, Chairman
House Judiciary Committee
State Capitol
Juneau, Alaska 99801-1182

RE: HB 510 and HB 511

The Association of Village Council Presidents is interested in the quality of life for our elders. House Bill 510 and House Bill 511 are of particular interest to us, in it the bills will enhance much needed protection for the elderly and disabled. And it will mandate harsher penalties for crimes committed against them.

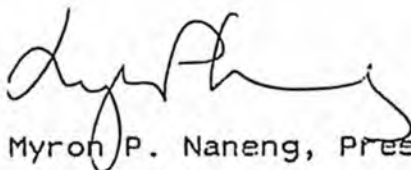
In this area we value the wisdom and the direction the elders give us. Crimes against the elderly and disabled cannot be tolerated, as well as the failure to report such abuse.

We hope that HB 510 and HB 511 introduced by Representative Mackie, Representative Ellis and Representative Lincoln will be passed into law.

House Bills 510 and 511 have our full support.

Sincerely,

ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS
Willie Kasayulie, Chairman



Myron P. Naneng, President

D. DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

February 24, 1992

SUBJECT: Sectional Summary - CSHB 510() (Work Order No. 17-LS2051\D)

TO: Representative Jerry Mackie
Attn: Vickie Irwin

FROM: Jerry Luckhaupt *JLR*
Legislative Counsel

You have requested a sectional summary of HB 510, an Act relating to criminal offenses and penalties for offenses involving disabled or elderly adults. You have also asked that I compare the enhanced penalties provided by this Act with any existing penalties. Be advised that a sectional summary is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill provides that a conviction under AS 47.24.010 or 47.24.110, relating to requirements for reporting harm or abuse of disabled or elderly adults, may be considered grounds for disciplinary action if the person convicted is licensed under AS 08.

Section 2 of the bill amends AS 11.41.200(a) by providing that a person who recklessly causes serious physical harm to a disabled or elderly adult is guilty of assault in the first degree, a class A felony, and can be sentenced as provided in AS 12.55.125(c). Currently this offense could only be prosecuted as assault in the second degree, a class B felony, and punished as provided in AS 12.55.125(d).

Section 3 of the bill amends AS 11.41.210(a) by providing that a person who recklessly causes physical harm to a disabled or elderly adult is guilty of assault in the second degree, a class B felony, and can be punished as provided in AS 12.55.125(d). Currently a person who recklessly causes physical harm to another person may be punished for third degree assault, a class C felony, if they use a dangerous weapon in the commission of the offense, or for fourth degree assault, a class A misdemeanor, without a dangerous weapon. A class C felony is punishable as provided in AS 12.55.125(e) and a class A misdemeanor is punishable as provided in AS 12.55.135(a).

Sectional Analysis

Section 4 of the bill amends AS 11.41.220(a) by providing that a person who recklessly by words or physical conduct places a disabled or elderly adult in fear of imminent physical injury is guilty of assault in the third degree, a class C felony and may be punished as provided in AS 12.55.125(e). Currently a person that does this against another person may only be punished for assault in the fourth degree, a class A misdemeanor, with a sentence as provided in AS 12.55.135(a).

Section 5 of the bill amends AS 11.46.120(a) by providing that a person who commits theft (as defined in AS 11.46.100) and the victim is a disabled or elderly adult, commits theft in the first degree, a class B felony, punishable as provided in AS 12.55.125(d). Currently a theft committed against another person is adjudged first (class B felony), second (class C felony), or third degree theft (class A misdemeanor), based on the value of the property stolen or in some cases the type of property.

Section 6 of the bill provides a definition of disabled or elderly adult.

Section 7 of the bill amends AS 47.24.010(c) to provide that a person listed in AS 47.24.010(a) who fails to report that a disabled or elderly adult has suffered harm is guilty of a class B misdemeanor and requires the court to notify the licensing entity of the person of the conviction. Currently, this section only provides for punishment by way of a non-criminal violation.

Section 8 of the bill amends AS 47.24.110(b) by providing that the court that has convicted a person listed in AS 47.24.110(a) for failing to report that a disabled or elderly adult has been physically or sexually assaulted, shall report the conviction to the licensing entity of the person.

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Table 1.
Statutory Penalties for Adult Abuse

State	Crime Class	Penalty
Alabama	Class B felony Class C felony Class A misdemeanor	Two to 20 years One year one day to 10 years Not more than one year
Arizona	Endangerment, injury, or neglect by caretaker: Class 1 misdemeanor	Not more than six months
Arkansas	Class D felony Class B misdemeanor Class C misdemeanor	Determinate sentences not to exceed six years Not less than five years or more than 20 Not less than three years or more than 10
Delaware	Patient or resident abuse, neglect: Class A misdemeanor Serious injury: Class D felony Death: Class A felony Board member, manager who fails to take corrective action: Class A misdemeanor	10 years, plus fine or other court conditions Life imprisonment Not more than two years, plus fine or other court conditions
Florida	2nd Degree felony 3rd Degree felony 1st Degree misdemeanor	Maximum 15 years, \$10,000 Maximum five years, \$5,000 Maximum one year, \$500
Georgia	Misdemeanor	
Hawaii	See Table 2 for special provisions	
Illinois	Abuse, neglect in long-term care facility: Class 3 felony "Business offense": Class 4 felony Criminal neglect, financial exploitation of elderly: Class 2, 3, or 4 felony	Two to five years, \$10,000 One to three years, \$10,000
Kentucky	Caretaker abuse, neglect, exploitation: Class C felony Class A misdemeanor	Five to 10 years Not more than 12 months
Maryland	Caregiver abuse, neglect: misdemeanor Abuse of facility residents' funds: misdemeanor	Fine not exceeding \$5,000 or imprisonment for not more than five years or both. (In addition to other sentence for conviction arising from same facts and circumstances) Fine not exceeding \$500
Massachusetts	Attorney General may impose civil penalty on person who abuses, neglects, mistreats patient, resident of facility	Not specified
Nebraska	Knowing and intentional abuse of vulnerable adult: Class IV felony	Up to five years' imprisonment, or \$10,000, or both
Nevada	Gross misdemeanor (unless more severe common penalty applies)	Not less than one year nor more than six years
New Hampshire	Gross misdemeanor unless more severe penalty applies	Not more than one year
North Carolina	Abuse or neglect in health care or residential care facilities causing serious bodily injury: Class C felony for intentional conduct; Class G felony for culpably negligent conduct; Class H felony for conduct which proximately causes injury	Up to 50 years Up to 15 years Up to 10 years
Ohio	Assault, abuse, neglect of "functionally impaired," Assault by caretaker: 4th degree felony Repeat offense by caretaker: 3rd Degree felony; Caretaker reckless failure to provide care resulting in physical harm: 1st Degree misdemeanor; Repeat offense: 4th Degree felony. Caretaker reckless failure to provide care: 2nd Degree misdemeanor; Repeat offense: 4th Degree felony	18 months to five years Two to 10 years

State	Crime Class	Penalty
Oregon	"Criminal mistreatment": 1st Degree: Class C felony 2nd Degree: Class A misdemeanor	Maximum five years Maximum one year
Pennsylvania	Abuse, neglect, mistreatment in long-term health facility Pattern of harassment in long-term health facility	\$3,000, three years, or both \$500, one year, or both
Rhode Island	See Table 2 for special provisions	
South Carolina	Misdemeanor	Not less than \$500 or more than \$5,000, or imprisonment of not less than 90 days or more than five years
South Dakota	Abuse: Class 6 felony Theft by exploitation: Class 1 or Class 2 misdemeanor	Not more than one year One year jail or \$1,000 or both. 30 days' jail or \$100 or both. Restitution also may be ordered
Tennessee	Willful abuse, neglect, exploitation: Class A misdemeanor	Not more than 11 months 29 days, or fined more than \$1,000, or both
Texas	1st Degree felony 3rd Degree felony Class A misdemeanor	Five years to life Two to 10 years Maximum one year jail, fine not to exceed \$2,000, or both
Utah	3rd Degree felony	Not to exceed five years (unless firearm used)
Vermont	Abuse/exploitation of elderly Abuse/exploitation of elderly by caregiver	Fine of not more than \$10,000, imprisonment not more than one year, or both Same as above; however, court may on motion of party on its own motion defer such sentence and place defendant on probation
West Virginia	Abuse, neglect by one with care, custody, or control over incapacitated adult: guilty of felony	Two to 10 years penitentiary; not more than 12 months' jail or \$1,500 (at court's discretion)
Wisconsin	Cruel maltreatment: Class A misdemeanor Abuse, neglect, or ill-treatment of residents of facilities: Class E felony	Fine not to exceed \$10,000, or imprisonment not to exceed nine months, or both Fine not to exceed \$10,000, or imprisonment not to exceed two years, or both
Wyoming	Abuse, neglect, exploitation, abandonment: misdemeanor	Not more than \$1,000, or one year county jail, or both Repeat conviction: state penitentiary not more than five years

States listed are the only ones known to have set penalties in elder-specific or adult protection laws.

In its 1989 enactment concerning "criminal neglect and financial exploitation of an elderly or disabled person," the Illinois General Assembly created a Class 4 felony for adult abuse "business offenses." The resulting penalty is imprisonment for one to three years and a fine of \$10,000; or the judge may impose a larger fine if the financial exploitation involved more than \$10,000.

An NCSL analysis of state statutes has found that 14 states include financial exploitation among offenses for which a special penalty can apply or have created a separate, specific penalty for financial abuse. Florida, for example, created a 3rd Degree felony for "improper or illegal use or management of the funds, assets, property, power of attorney or guardianship of such an aged person or disabled adult for profit" (Fla. Stat. § 415.111 [1989]). To be convicted of this offense could carry a maximum sentence of five years in prison and a \$5,000 fine.

Like Illinois, Maryland deals separately with financial exploitation that takes place in an institution. This measure creates a misdemeanor for "abuse of a facility resident's funds."

By including financial exploitation in its 1989 statute that sets penalties, Alabama now can prosecute cases that before might have fallen through the cracks of the criminal code, according to Stephens in the Alabama Attorney General's Office. Conning elderly boarding home residents has been too common, according to Stephens, who described situations where an elderly resident might consent to a payee

Table 2.

Statutory Enhanced Criminal Penalties for Crimes Against the Elderly

State	Crime	Enhancement/Penalty
Arizona	Class 4, 5, or 6 felony Class 2 or 3 felony	Sentence may be increased by up to 25% when the victim is 65 or older or handicapped. Sentence may be increased up to 100% when the victim is 65 or older
California	Prior conviction for burglary; robbery; kidnapping; kidnapping for ransom, extortion, or robbery; rape; sodomy; mayhem; and committed against person 65 or older or one who is blind, paraplegic, quadriplegic, or under 14 years. Assault, battery or assault with a deadly weapon, against person 65 or older	Two-year enhancement Restitution may be ordered as a condition of probation
Colorado	On victim age 60 or over or disabled: 2nd Degree assault becomes Class 3 felony; 3rd Degree assault becomes Class 5 felony; Robbery of elderly (60+) or disabled becomes Class 3 felony; Theft from elderly or handicapped becomes Class 3, or Class 5 felony (depending on value of items). Theft by means other than force, threat, or intimidation: Class 4 felony regardless of value of things taken	Four to six years One to five years. Restitution also may be ordered and probation revoked for nonpayment Four to six years Four to six years One to five years. Restitution also may be ordered and probation revoked for nonpayment Two to eight years
Connecticut	Assault of victim 60 or older: 1st Degree assault, a Class B felony	Five years' sentence may not be suspended or reduced by the court
Delaware	2nd Degree robbery of person 65 or older by repeat offender: Class D felony	Mandatory one-year minimum during which no furlough, work release, or other supervised release allowed
Florida	When committed against person 65 or older: Aggravated battery goes from 2nd Degree felony to 1st Degree felony; Aggravated assault goes from 3rd Degree felony to 2nd Degree felony; Battery goes from 1st Degree misdemeanor to 3rd Degree felony; Assault goes from 2nd Degree misdemeanor to 1st Degree misdemeanor	Mandatory minimum term of three years, plus fine of not more than \$10,000, and restitution and community service ordered
Hawaii	In committing or attempting to commit felony, causes death or serious or substantial injury to person 60 years or older, blind, paraplegic, quadriplegic, eight years or younger: 2nd Degree murder Class A felony Class B felony	Mandatory minimums, no parole, apply as such: 15 years Six years, eight months Three years, four months. However, law also provides "authority to withhold sentence of imprisonment" and grant probation <i>except for</i> Class A felony, repeat offender, felony firearm offender, death, or serious or substantial bodily injury
Illinois	Sexual assault of person 60 or older, or handicapped, becomes "aggravated" Class X felony. Sexual abuse of person 60 or older, or handicapped, becomes "aggravated" Class 2 felony	Six to 30 years Three to seven years

State	Crime	Enhancement/Penalty
Indiana	Battery against elderly person becomes Class D felony. Home improvement fraud is Class D felony when committed against person 60 or older and cost of fraud is more than \$10,000	Fixed term two years
Massachusetts	Assault, battery with dangerous weapon on person 65 or older. Repeat offense. Assault with dangerous weapon on person 65 or older. Repeat offense. Assault with intent to rob or murder with dangerous weapon on person 65 or older. Repeat offense	Not more than 10 years' state prison, \$1,000, or jail more than 2-1/2 years. Mandatory minimum of two years, during which no probation, parole, furlough, work release, or good time allowed. Not more than five years' state prison, \$1,000, or jail more than 2-1/2 years. Mandatory minimum of two years, during which no probation, parole, furlough, work release, or good time allowed. Not more than 20 years' state prison. Mandatory minimum of two years, during which no probation, parole, furlough, work release, or good time allowed
New Mexico	Noncapital felonies	One-year sentence enhancement that can't be suspended or deferred. Two-year enhancement if serious bodily injury
Oklahoma	Assault, battery, or assault and battery with dangerous weapon; 2) Aggravated assault and battery; 3) Burglary in second degree; 4) Use of firearm or offensive weapon; 5) Grand larceny; 6) Extortion; 7) Fraud; 8) Embezzlement against elderly (62 years or older) or incapacitated persons	30-day mandatory minimum jail term in addition to subsequent probation; restitution and community service required; fine also may be imposed. Repeat offense against elderly results in 10-year mandatory minimum for crime with sentence normally exceeding five years. Third offense enhancement also created in statute
Pennsylvania	Sets mandatory minimums. Crimes committed by persons under 60 against person over 60: Aggravated assault Rape Involuntary deviate sexual intercourse Theft by deception	Not less than two years Not less than five years Not less than five years Not less than 12 months (minimum sentence discretion where the court finds justifiable cause and explains in writing). Parole should not be granted until minimum term of imprisonment has been served
Rhode Island	Assault/battery of person 60 years or older causing serious bodily injury becomes felony. Assault/battery by person responsible for care of person 60 years or older causing bodily injury becomes felony. Assault/battery by person responsible for care of person 60 years or older causing serious bodily injury becomes felony	Imprisonment not less than three years but not more than 20 years, or fine not more than \$10,000, or both. Mandatory restitution and/or community service. Imprisonment not exceeding five years, or fine not exceeding \$2,500, or both. Health care facility also may be fined, not exceeding \$5,000. Imprisonment mandatory two years but not more than 20 years, or fine not more than \$10,000. Health care facility also may be fined not more than \$15,000
Texas	Aggravated robbery of person 65 or older or disabled person that causes bodily injury or places person in fear of imminent bodily injury or death becomes 1st degree felony	Five years to life
West Virginia	Assault, battery, or assault during commission of or attempt to commit felony against person 65 or older	Sentence mandatory, not subject to probation or suspension

Appendix A

Elder Abuse/Adult Protective Statutes

Nevada	Nev. Rev. Stat. § 200.5093 to 200.599 (1985) Protective services for adults 60 and over. Reporting. Penalties.	South Carolina	S.C. Code Ann. § 43-29-10 to 43-29-100 (Law. Co-op 1979) Adult protective services. Abuse, neglect, exploitation. Penalties.
New Hampshire	N.H. Rev. Stat. Ann. § 161-D:1 to 161-D:6 (1983) Adult protective services. Reporting. Registry. Penalties.	South Dakota	S.D. Codified Laws Ann. § 22-46-1 to 22-46-4 (1986) Penalties for abuse of disabled adult, theft by exploitation.
New Jersey	N.J. Stat. Ann. § 52:276-1 to 52:276-16 (West 1987) Protection of institutionalized elderly. Abuse, exploitation, reporting.	Tennessee	Tenn. Code Ann. § 71-6-101, 71-6-118 (1986) "Tennessee Adult Protection Act." Adult protective services. Abuse, neglect, exploitation. Reporting. Penalty.
New Mexico	N.M. Stat. Ann. § 27-7-14 to 27-7-31 (1989) Adult Protective Services Act. Abuse, neglect, exploitation.	Texas	Tex. Human Resources Code Ann. § 48.002 (Vernon 1987) Protective services. Abuse, neglect, exploitation. Reporting. Court attendants for elderly. Tex. Penal Code Ann. § 22.04 (Vernon 1989) Penalties for injury to child, elderly, invalid. Tex. Stat. Ann. art. 442c. (Vernon 1987) Reports of institutional abuse, neglect. Reporting. Registry.
New York	N.Y. Social Service Law § 473 & 473a (McKinney 1985) Adult Protective Services. Reporting.	Utah	Utah Code Ann. § 62A-3-301 to 62A-3-312 (1988) Protective services for abused, neglected, exploited disabled adults. Protective services. Reporting. Penalties.
North Carolina	N.C. Gen. Stat. § 108A-99 to 108A-111 (1976) Adult protective services. Reporting. N.C. Gen. Stat. § 14-32.2 (1989) Abuse, neglect of residents, patients of care facilities. Penalties.	Vermont	Vt. Stat. Ann. tit. 18, § 1150 to 1159 (1989) Protective services. Registry. Public education. Penalties for abuse, exploitation of elderly or disabled adult.
North Dakota	N.D. Cent. Code § 14-07.1 (1979) and § 14-07.1-09 (1989) Protective services for adult abuse. Reporting.	Virginia	Va. Code § 63.1-55.1 to 63.1-55.8 (1986) Protective services for persons 60 and over, incapacitated adults. Abuse, neglect, exploitation. Reporting. Va. Code § 32.1-127.2 (1989) Requires nursing home facilities to report injuries to patients to Dept. of Health semiannually.
Ohio	Ohio Rev. Code Ann. § 5101.60 (Page 1989) Adult protective services for persons 60 or over. Abuse, neglect, exploitation in "independent living arrangement" (not licensed facilities). Reporting. Ohio Rev. Code Ann. § 2903.10, 2903.13, 2903.16 (Page 1989) § 2903.11, 2903.12, 2903.14, 2903.15 (Page 1987) Penalties for abuse, neglect, assault of "functionally impaired" persons. Ohio Rev. Code Ann. § 3722.12 (Page 1989) Abuse in adult care facilities. Allows civil course of action.	Washington	Wash. Rev. Code § 74.34 (1989) Abuse, neglect, exploitation of "vulnerable adults." Protective services. Reporting. Crime information.
Oklahoma	Okla. Stat. Ann. tit. 43A, § 10-101 (West 1986) Protective services for elderly or incapacitated persons. Abuse, neglect, exploitation. Reporting.	West Virginia	W.Va. Code § 9-6-2 to 9-6-15 (1989) Protective services for incapacitated adults. Reporting. Penalties.
Oregon	Or. Rev. Stat. § 410.610 to 410.700 (1983) Reporting. Or. Rev. Stat. § 441.630 to 441.680 (1987) Reporting of patient abuse in health care facilities. Or. Rev. Stat. § 163.200 and 163.205 (1973) Penalties for criminal mistreatment of "dependent person."	Wisconsin	Wis. Stat. Ann. § 46.90 (West 1984) Elder abuse protective services. Abuse, material abuse, neglect. Voluntary reporting. Wis. Stat. Ann. § 940.285 (West 1986) Penalties for abuse to "vulnerable adults."
Pennsylvania	Pa. Stat. Ann. tit. 35, § 10211 to 10224 (Purdon 1987) "Older Adults Protective Services Act." Abuse, neglect, abandonments, exploitation. Reporting.	Wyoming	Wyo. Stat. § 35-20-101 to 35-20-109 (1985) Protective services for vulnerable adults, elderly. Abuse, neglect, exploitation, abandonment. Reporting. Penalties.
Rhode Island	R.I. Gen. Laws § 23-17.8-1 to 23-17.8-10 (1989) Abuse in health care facilities. Reporting. Penalties. R.I. Gen. Laws § 11-5-10.1, 10.3 - 10.4. (1988) Penalties for assault, including those responsible for care. Facility penalties.		

Appendix B

Enhanced Penalty Statutes

Ariz. Rev. Stat. Ann. § 13-702 (1987)

Cal. Penal Code § 667.9 (West 1987)
Two-year enhancement.

Cal. Penal Code § 1203.1j (1990)
Defendant knew or reasonably should have known elderly status of victim.

Colo. Rev. Stat. § 18-3-209(4) (1986)
Assault, Felony several classes.

Colo. Rev. Stat. § 18-4-401 (1989)
Theft, Felony.

Colo. Rev. Stat. § 18-4-304 (1986)
Robbery, Felony.

Conn. Gen. Stat. § 53a-60c (1981)

Del. Code Ann. tit. 11, § 831 (1983)
Repeat offender. No furlough, work release, other supervised release during minimum sentence.

Fla. Stat. Ann. § 784.08 (West 1989)
Aggravated assault, aggravated battery. Mandatory sentencing, fine, restitution.

Hawaii Rev. Stat. § 706 (1988)
Mandatory minimum without parole. Sets sentence lengths.

Ill. Ann. Stat. ch. 38, § 12-14 (Smith-Hurd 1989)
Aggravated sexual assault.

Ill. Ann. Stat. ch. 38, § 12-16 (Smith-Hurd 1989)
Aggravated criminal sexual abuse.

Ind. Code Ann. § 35-42-2 (Burns 1989)
Battery, Felony.

Mass. Gen. Laws Ann. ch. 265, § 15a, 15b, 18 (1981)
Dangerous weapon. Penalty. Mandatory minimum for repeat offenses.

N.M. Stat. Ann. § 31-18-16.1 (1980)

N.C. See "abuse."

Ohio Rev. Code Ann. § 2903.10 - 2903.16 (Page 1988)
Penalties for offenses committed by a caretaker.

Okla. Stat. Ann. tit. 22, § 991a-6 to 991a-12 (West 1989)

Pa. Cons. Stat. Ann. tit. 42, § 9717 (Purdon 1982)

R.I. Gen. Laws § 11-5-10.1 (1988)
Assault. Serious bodily injury.

R.I. Gen. Laws § 11-5-10.3 (1988)
Assault. Responsible for care. Includes fine for health care facility that either condoned the act or attempted to conceal it.

R.I. Gen. Laws § 11-5-10.4 (1988)
Assault. Serious bodily injury. Responsible for care. Includes fine for health care facility that either condoned the act or attempted to conceal it.

Tex. Penal Code Ann. § 22.04 (Vernon 1989)

Tex. Penal Code Ann. § 29.03 (Vernon 1989)
Aggravated robbery.

Vt. Stat. Ann. tit. 18, § 1159 (1989)

W. Va. Code § 61-2-10a (1984)

Appendix C

Fraud/Consumer Trickery

Ind. Code Ann. § 35-43-6-1 to 35-43-6-14 (Burns 1987)
Home improvement fraud is Class D felony when committed against person 60 or older and cost of such fraud is more than \$10,000.

Minn. Stat. § 325F.71 (1989)
Imposes additional civil penalty of up to \$10,000 for deceptive trade practices, false advertising, consumer fraud perpetrated against senior citizen or vulnerable adult. Authorizes separate cause of action, including attorney's fees.

N.Y. Gen. Bus. Law § 349(c) to 349(e) (McKinney 1989)
Does not specify elderly but does specify medically related fraud. Prohibits fraudulent use of the title *doctor*.

STATE OF MONTANA

respect to the person acted in bad faith or with malicious purpose.
History: En. Sec. 7, Ch. 623, L. 1983; Sec. 53-5-514, MCA 1989; red. 52-3-814 by Code Commissioner, 1991.

Cross-References
Unsworn falsification to authorities, 45-7-203.

52-3-815. Evidence of abuse or neglect to be gathered and submitted. (1) A person or agency receiving a report of suspected abuse or neglect under 52-3-811 shall prepare a written description of the conditions regarded as evidence of abuse or neglect and may, with the consent of an allegedly abused or neglected older person or developmentally disabled person or without consent of the person if it appears that the person is an incapacitated person, take or cause to be taken photographs of an area of trauma visible on the body of the allegedly abused or neglected person and regarded as evidence of abuse or neglect.

(2) A physician required to report under 52-3-811 may, with the consent of an allegedly abused or neglected older person or developmentally disabled person or without consent of the person if it appears that the person is an incapacitated person, require x-rays or other appropriate medical tests or procedures that would, in the professional opinion of the physician, assist in establishing evidence related to the allegation of abuse or neglect.

(3) Evidence authorized to be gathered under this section must be submitted with the report required under 52-3-811 to the authorities designated in 52-3-811 as soon as possible after submission of the report.

History: En. Sec. 3, Ch. 716, L. 1991.

Compiler's Comments
Codification Not Followed: Section 4, Ch. 717, L. 1991, provided that this section was intended to be codified as an integral part of Title 53, ch. 5, part 5. The Code Commissioner has codified this section as part of Title 52, ch. 3, part 8, to reflect the renumbering of former Title 53, ch. 5, part 5, as Title 52, ch. 3, part 8.

52-3-816 through 52-3-820 reserved.

52-3-821. Admissibility of evidence. In any proceeding resulting from a report made pursuant to the provisions of this part or in any proceeding where the report or its content is sought to be introduced into evidence, the report or its content or any other fact related to the report or to the condition of the person who is the subject of the report may not be excluded on the ground that the matter is or may be the subject of a privilege granted in Title 26, chapter 1, part 8, except the attorney-client privilege granted by 26-1-803.

History: En. Sec. 8, Ch. 623, L. 1983; amd. Sec. 8, Ch. 198, L. 1989; Sec. 53-5-521, MCA 1989; red. 52-3-821 by Code Commissioner, 1991.

52-3-822 through 52-3-824 reserved.

52-3-825. Penalties. (1) Any person who purposely or knowingly fails to make a report required by 52-3-811 or discloses or fails to disclose the contents of a case record or report in violation of 52-3-813 is guilty of an offense and upon conviction is punishable as provided in 46-18-212.

plotts an older person or a developmentally disabled person is guilty of an offense and upon a first conviction may be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both, and upon a second or succeeding conviction may be imprisoned for a term not to exceed 10 years and may be fined an amount not to exceed \$10,000, or both.

History: En. Sec. 10, Ch. 623, L. 1983; amd. Sec. 2, Ch. 608, L. 1985; amd. Sec. 1, Ch. 411, L. 1987; amd. Sec. 9, Ch. 198, L. 1989; Sec. 53-5-525, MCA 1989; red. 52-3-825 by Code Commissioner, 1991.

Cross-References
When no penalty is specified — misdemeanor, 46-18-212.

CHAPTER 4 SERVICES TO THE DISABLED

Part 1 — Developmentally Disabled—Protective Services

- 52-4-101. Definitions.
- 52-4-102. Legislative findings and directives.
- 52-4-103. Application for protective services.
- 52-4-104. Protective and supportive services provided.
- 52-4-105. Department as conservator of small estate of person adjudicated developmentally disabled.
- 52-4-106. Bond not required — exception.
- 52-4-107. Costs of protective services.
- 52-4-108. Reports required.
- 52-4-109 reserved.
- 52-4-110. Acceptance and expenditure of donated funds.

Part 2 — Physically Disabled—Community Home Licensing

- 52-4-201. Purpose.
- 52-4-202. Definitions.
- 52-4-203. Licensing.
- 52-4-204. Health and safety standards.
- 52-4-205. Rulemaking.

Part 1

Developmentally Disabled — Protective Services

Part Cross-References
Persons under disability guardianship and conservatorship, Title 72, ch. 5.

Montana

to dir use of the estate for the needs of the person and for the general relief of the person.

(i) No civil rights are relinquished as a result of any protective placement under this chapter. Nothing in this chapter shall be construed to authorize or require medical care or treatment for a person in contravention of his stated or implied objection thereto upon the grounds that such medical care and treatment conflict with his religious beliefs and practices.

(j) As far as is compatible with the mental and physical condition of the adult in need of services or claimed to be in need of services under this chapter, every reasonable effort shall be made to assure that no action is taken without the full and informed consent of the person. (Acts 1977, No. 780, p. 1340, § 4; Acts 1989, No. 89-825, p. 1652, § 2.)

Code commissioner's note. — Section 5 of Acts 1989, No. 89-825 provides: "Nothing contained in this Act shall be deemed to repeal any other section of Code of Alabama, 1975."

Waiver of right to jury trial. — The right to a jury trial under this section is not of a mandatory nature and thus is capable of waiver. *Tillery v. State Dep't of Pensions & Sec.*, 481 So. 2d 386 (Ala. Civ. App. 1985).

Agreement entered into by all the parties, with the assistance of capable legal counsel, and adopted by the court, operated as an implied waiver of any right to trial by jury as provided for under subsection (a) of this section. *Tillery v. State Dep't of Pensions & Sec.*, 481 So. 2d 386 (Ala. Civ. App. 1985).

Once guardian was appointed to represent mother, plaintiff-daughter no longer had capacity to sue on behalf of her mother pursuant to the Adult Protective Services Act; the guardian had stepped into the plaintiff-daughter's shoes to ensure that her mother's interests were protected. Should the

plaintiff-daughter take issue with the guardian's representation of her mother, suit would lie thereto. *Burnett ex rel. Fridny v. Burnett*, 497 So. 2d 511 (Ala. Civ. App. 1986).

Standard of proof. — The proper standard is one which requires that the burden of proof be met by a preponderance of the evidence with regard to the "least drastic alternative" chosen for the protected person. *Tillery v. State Dep't of Pensions & Sec.*, 481 So. 2d 386 (Ala. Civ. App. 1985).

Placement in nursing home upheld. — Trial court's conclusion finding that the least restrictive means of caring for adult in need of protective services at her home was not feasible and ordering her placed in a nursing home would be upheld where the evidence sufficiently showed that she could not be adequately protected in her home given continued actions by her son to interfere with her care. *Tillery v. State Dep't of Pensions & Sec.*, 481 So. 2d 386 (Ala. Civ. App. 1985).

§ 38-9-7. Abuse, neglect and exploitation prohibited; initiation of charges; penalty.

(a) It shall be unlawful for any person to abuse, neglect or exploit any adult subject to protection under the provisions of this chapter. Charges of such abuse, neglect or exploitation may be initiated upon complaints of private individuals or as a result of investigations by social service agencies or on the direct initiative of law enforcement officials.

(b) Any person who intentionally abuses or neglects a person in violation of the provisions of this chapter shall be guilty of a Class B felony if the intentional abuse or neglect causes serious physical injury.

(c) Any person who recklessly abuses or neglects a person in violation of the provisions of this chapter shall be guilty of a Class C felony if the reckless abuse or neglect causes serious physical injury.

the provisions of this chapter, shall be guilty of a Class C felony if the intentional abuse or neglect causes physical injury.

(e) Any person who recklessly abuses or neglects a person in violation of the provisions of this chapter, shall be guilty of a Class A misdemeanor if the reckless abuse or neglect causes physical injury.

(f) Any person who emotionally abuses a person in violation of the provisions of this chapter shall be guilty of a Class A misdemeanor.

(g) Any person who exploits a person in violation of the provisions of this chapter shall be guilty of a Class C felony, where the value of the property, assets or resources exceeds \$100.00.

(h) Any person who exploits a person in violation of the provisions of this chapter shall be guilty of a Class A misdemeanor, where the value of the property, assets or resources does not exceed \$100.00.

(i) If a violation of this section is also a violation of any other Alabama criminal statute, then a conviction or acquittal under either statute bars prosecution under the remaining statute. (Acts 1977, No. 780, p. 1340, §§ 5, 11; Acts 1989, No. 89-825, p. 1652, § 3.)

Code commissioner's note. — Section 5 of Acts 1989, No. 89-825 provides: "Nothing contained in this Act shall be deemed to repeal any other section of Code of Alabama, 1975."

§ 38-9-8. Reports by physicians, etc., of physical abuse, neglect or exploitation — Required; method of reporting; contents.

(a) All physicians and other practitioners of the healing arts having reasonable cause to believe that any adult protected under the provisions of this chapter has been subjected to physical abuse neglect or exploitation shall report or cause a report to be made as follows:

(1) An oral report, by telephone or otherwise, shall be made immediately, followed by a written report, to the county department of human resources or to the chief of police of the city or city and county, or to the sheriff of the county if the observation is made in an unincorporated territory.

(2) Within three days following such oral report, an investigation shall be made by the county department of human resources or the law enforcement official, whichever receives the report, and a written report prepared which will include the following:

- Name, age and address of such person.
- Nature and extent of injury suffered by such person.
- Any other facts or circumstances known to the reporter which may aid in the determination of appropriate action.

(b) All such reports prepared by a law enforcement official shall be forwarded to the county department of human resources within 24 hours. (Acts 1977, No. 780, p. 1340, § 6.)

Alabama

ARIZONA

LEGISLATION

GROUPS COVERED

Elder abuse is covered by Arizona's Adult Protective Services Legislation contained in ARS 46-451; 452; 453; 454; and ARS 14-5310.01. ARS 46-453 and 454 were enacted in 1984. The remainder were enacted in 1980. This legislation covers incapacitated adults. Incapacity includes mental illness, mental deficiency, mental disorder, physical illness or disability, advanced age, chronic intoxication or other cause to the extent that the person lacks sufficient understanding or capacity to make or communicate responsible decisions.

DEFINITIONS

Abuse

"Abuse" means: (a) Intentional infliction of physical harm; (b) Injury caused by negligent acts or omissions; (c) Unreasonable confinements.

Neglect

"Neglect" means a pattern of conduct resulting in deprivation of services necessary to maintain minimum physical and mental health.

Exploitation

"Exploitation" means the illegal or improper use of an incapacitated adult or his resources for another's profit or advantage.

REPORTING

Who Must Report

A physician, hospital intern or resident, surgeon, dentist, psychologist, social worker, peace officer or other person who has responsibility for the care of an incapacitated adult and whose examination or observation yields a reasonable basis to believe that abuse or neglect has occurred.

The guardian or conservator of an incapacitated adult shall immediately report or cause reports to be made.

An attorney, accountant, trustee, guardian, conservator or other person who has responsibility for preparing the tax records of an incapacitated adult or a person who has responsibility for any

other action concerning the use or preservation of the adult's property and who, in the course of fulfilling that responsibility, has reason to believe that exploitation of the adult's property has occurred shall report or cause reports to be made.

Who May Report

The law authorizes protective service workers to receive from any source information regarding an adult who may be in need of protective services.

Procedures

Persons required to report shall immediately make an oral report to a municipal or county peace officer or to a protective service worker of the Department of Economic Security. A guardian reports suspected incident to the superior court. The oral report must be followed by a written report within 48 hours.

Central Registry

Not addressed in the law.

INVESTIGATIONS

Upon receipt of a report, a protective service worker of the Department of Economic Security shall make an evaluation to determine the need for protective services and what services are needed. If access is denied, the protective services worker may file a petition with the court for a special visitation warrant. The public fiduciary may investigate alleged incidents of exploitation.

PENALTIES

Failure to Report

The legislation does not specify a penalty for failure to report.

For Perpetrators

If any person is found to be responsible for abuse, neglect or exploitation of an incapacitated adult in a criminal or civil action, the court may order the person to make restitution, as the court deems appropriate.

IMMUNITY

Reporter

Any person making a complaint, providing information or otherwise participating in the program, authorized by this chapter or in a judicial proceeding resulting from the reports submitted pursuant to the law is immune from any civil or criminal liability, unless the person has been charged with or is suspected of being the abuser.

ARKANSAS

LEGISLATION

GROUPS COVERED

Arkansas does not have specific elder abuse legislation. It is covered, however, by the adult protective services legislation contained in Arkansas Statute 99-1301. This statute provides protection for incapacitated, endangered persons age 18 and older. An endangered adult is defined as being in a situation or condition which poses imminent risk of death or serious bodily harm to such person and who demonstrates the lack of capacity to comprehend the nature and consequence of remaining in that situation or condition.

DEFINITIONS

Abuse

"Abuse and Maltreatment" means any willful or negligent act which results in negligence, malnutrition, physical assault or battery, physical or psychological injury inflicted by other than accidental means and failure to provide necessary treatment, rehabilitation, care, sustenance, clothing, shelter, supervision, or medical services.

Exploitation

"Exploitation" means any unjust or improper use of another person for one's own profit or advantage.

REPORTING

Who Must Report

Whenever any physician, surgeon, coroner, dentist, osteopath, resident intern, registered nurse, hospital personnel (engaged in the administration, examination, care or treatment of persons), social service worker, mental health professional, peace officer, or law enforcement official has reasonable cause to suspect that an endangered adult has been subjected to conditions or circumstances which would reasonably result in abuse, he shall immediately report or cause a report to be made.

Whenever such person is required to report under this Act in his capacity as a member of the staff he shall immediately notify the person in charge of such institution, facility or agency, or his designated agent, who shall then become responsible

for making a report or causing such a report to be made.

Who May Report

Any other person may make a report if such person has reasonable cause to suspect that such adult has been abused or neglected.

Procedures

Persons required to report must make immediate reports to the Central Registry maintained by the Department of Human Services. If requested, oral reports must be followed within 48 hours by a written report. If the person alleged to be abused died as a result of the alleged abuse, the report is made to the medical examiner or coroner.

Central Registry

Establishes within the department a statewide Central Registry for reports of abused adults, sexual abuse, or neglect made pursuant to this act.

INVESTIGATION

The Department of Human Services is required to make a prompt, thorough investigation upon receipt of a report. The investigation must include a visit to the abused adult's home. If the abused adult or next of kin or other responsible person refuses entry to the protective services worker, the probate court may order that the protective service worker be allowed entry. In the event of a death caused by abuse, the medical examiner or coroner shall investigate and report his findings to the police and district attorney.

PENALTIES

Failure to Report

(1) Any person, official, or institution required by this Act to report a case of suspected adult abuse, sexual abuse, or neglect, who willfully fails to do so shall be guilty of a Class C misdemeanor and shall be punished accordingly.

(2) Any person, official or institution required by this Act to report a case of suspected adult abuse, sexual abuse, or neglect, and who willfully fails to do so shall be civilly liable for damages caused by such failures.

For Perpetrators

(1) Whoever, willfully or by culpable negligence causes great bodily harm, permanent disability or permanent disfigurement shall be guilty of a Class D felony.

(2) Whoever, willfully or by culpable negligence permits the physical or mental health of an adult

ILLINOIS

LEGISLATION

GROUPS COVERED

The Domestic Violence Act is the only statewide legislation that provides protection from abuse for elders. Illinois does have an Elder Abuse Demonstration Act. This act permitted the state to fund four elderly abuse demonstration projects. Each project tests a different approach to the problem of elder abuse. The Domestic Violence Act provides protection to spouses, individuals who were formerly spouses, individuals sharing a common household, parents and children, or persons related by blood or marriage. This analysis reflects only the Domestic Violence Act.

DEFINITIONS

Abuse

"Abuse" means the act of striking, threatening, harassing or interfering with the personal liberty of any family or household member by any other family or household member, but excludes reasonable discipline of minor children.

Neglect

Not addressed in the law.

Exploitation

Not addressed in the law.

REPORTING

Who Must Report

Every law enforcement officer investigating an alleged incident of abuse between family or household members shall make a written police report of any bona fide allegation and the disposition.

Who May Report

A person may seek a protection order for himself or herself, on behalf of a minor child, or on behalf of any person prevented by physical or mental incapacity or because of advanced age from seeking a protection order on his or her behalf.

Procedures

A person may seek an order of protection for himself or on the behalf of any person prevented by physical or mental incapacity or because of advanced age from seeking an order of protection on his own behalf. The petition to the court must allege abuse by a family or household member and be verified or accompanied by an affidavit. A

complaint of abuse by a family or household member may be made to a law enforcement agency.

Central Registry

The Department of Law Enforcement shall maintain a complete and systematic record and index of all valid and recorded orders of protection. The data is used to inform all dispatchers and law enforcement officers at the scene of an alleged incident of abuse or violation of a protection order of any recorded prior incident of abuse involving the abused party and the dates and terms of any protection order.

INVESTIGATION

A law enforcement officer may investigate any alleged incident of abuse between family members.

PENALTIES

Failure to Report

Not addressed in the law.

For Perpetrators

Upon a finding of abuse, the court shall issue a protection order with any or all of the remedies listed below. These remedies shall be in addition to other civil or criminal remedies which may be available: (1) ordering the respondent to refrain from striking, threatening, harassing or interfering with the personal liberty of the petitioner or other family or household member; (2) granting possession of the residence or household to the petitioner, to the exclusion of the respondent or ordering the respondent to provide suitable, alternate housing for the petitioner or minor children in lieu of excluding the respondent from the actual residence or household; (3) requiring or recommending the respondent to undergo counseling for a specified duration; (4) restraining the respondent from improperly using an aged family member's resources, financial or otherwise, for respondent's profit or advantage, or for the profit or advantage of another person; (5) requiring the respondent to pay temporary support for the petitioner when the respondent has a legal obligation to support that person; (6) requiring the respondent to pay the petitioner actual monetary compensation for losses suffered as a direct result of abuse; and (7) entering injunctive relief as may be necessary or appropriate and referring to the aging network petitioners over age sixty.

To: PAULA SCAVERA	From: O'CONNOR
Co.	Co.
Dept: DT# 2	Phone #
Fax #	Fax #

KENTUCKY

LEGISLATION

GROUPS COVERED

Kentucky has two statutes which may be used in elder abuse cases, the Protection of Adults Act and the Domestic Violence and Abuse Act. Only the Protection of Adults Act is included in this analysis. This act provides protection to persons age 18 or older who because of mental or physical dysfunctioning, or who are the victims of abuse or neglect inflicted by a spouse, are unable to manage their own resources, carry out activities of daily living, or protect themselves from neglect, hazardous or abusive situations without assistance from others and who have no one available, willing, and responsible to assist them.

DEFINITIONS

Abuse or Neglect

"Abuse or neglect" means the infliction of physical pain, injury, or mental injury, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult, or a situation in which an adult, living alone, is unable to provide or obtain for himself the services which are necessary to maintain his health and welfare or a situation in which a person inflicts physical pain or injury upon a spouse or deprives a spouse of reasonable services necessary to maintain the health and welfare of his spouse.

Exploitation

"Exploitation" means the improper use of funds by a caretaker which have been paid by a governmental agency to an adult or to the caretaker for the use or care of the adult.

REPORTING

Who Must Report:

Any person, including, but not limited to, physician, law enforcement officer, nurse, social worker, department personnel, coroner, medical examiner, alternative care facility employee, or caretaker with reasonable cause to suspect abuse shall report or cause reports to be made. The death of the adult does not eliminate the reporting responsibility.

Who May Report

Not addressed in the law.

Procedures

An oral or written report must be filed immediately with the Department of Social Services upon knowledge of the occurrence of suspected abuse, neglect, or exploitation.

Central Registry

Not addressed in the law.

INVESTIGATION

Upon receipt of a report the Cabinet for Human Resources is required as soon as practical to notify the appropriate law enforcement agency and initiate an investigation. The law gives any representative of the cabinet entry to any health facility or health service licensed by the cabinet and access to the mental and physical health records of the adult which are in the possession of any individual, hospital, or other facility. Any representative of the cabinet may, with the consent of the adult or caretaker, enter any private premises where any adult alleged to be abused is found. If the adult or caretaker does not consent to the investigation, a search warrant may be issued upon a showing of probable cause.

PENALTIES

Failure to Report

Anyone required to report who knowingly and willfully fails to report shall be punished by a fine of no less than \$25 or more than \$200. Each violation shall constitute a separate offense.

For Perpetrator

Any caretaker who knowingly and willfully abuses, neglects or exploits an adult and in so doing causes serious physical or mental injury or permanent disability is guilty of a Class C felony, or if such abuse, neglect or exploitation causes minor physical or mental injury or temporary disability to the adult, the caretaker is guilty of a Class A misdemeanor.

KENTUCKY

IMMUNITY

Reporter
Investigator

Anyone acting upon reasonable cause in the making of a report or investigation, participating in filing a petition for injunctive relief, (rendering) protective services or emergency protective services, or participating in a judicial proceeding has immunity from any civil or criminal liability that might otherwise be incurred or imposed.

MISSISSIPPI

LEGISLATION

GROUPS COVERED

Mississippi has two laws which may be used in certain instances to provide protection for elder abuse: the Adult Protective Services Act of 1982, the Protection from Domestic Abuse Law, and the Mississippi Vulnerable Adults Act of 1986. The Domestic Abuse Law provides protection to spouses, former spouses, persons living as spouses, parents, children, or other persons related by consanguinity or affinity. The Domestic Abuse Law is not included in the analysis below. The Adult Protective Services Act of 1982 provides protection to persons age 18 and older residing in a personal care home and in need of protective services. The provisions of the Adult Protective Services Act of 1982 are very similar to the provisions of the Mississippi Vulnerable Adults Act of 1986. Therefore, a separate analysis of it is not provided below. The Mississippi Vulnerable Adults Act of 1986 provides protection to persons age 18 or older or any minor not covered by the Youth Court Act and who, regardless of residence, is unable to protect his own right, interests, and/or vital concerns and who cannot seek help without assistance because of physical, mental impairment or emotional status. The law becomes effective October 1, 1986.

DEFINITIONS

Abuse

"Abuse" means the willful inflicting of physical pain, injury or mental anguish on an adult, the unreasonable confinement of an adult, or the willful deprivation by a caretaker of services which are necessary to maintain the mental and physical health of an adult. (The Division of Medicaid, licensed nursing homes, and licensed hospitals are not included in the definition of "caretaker.")

Neglect

"Neglect" means either the inability of any vulnerable adult who is living alone to provide for himself the food, clothing, shelter, health care, or other services which are necessary to maintain his mental and physical health, or failure by a caretaker to supply the vulnerable adult with the food, clothing, shelter, health care, supervision or other services which are necessary to maintain his mental and physical health.

Exploitation

"Exploitation" means the illegal or improper use of an adult or his resources for another's profit or advantage.

REPORTING

Who Must Report

Any person having reasonable cause to believe that a vulnerable adult has been or is being abused, neglected or exploited shall report such information.

Who May Report

Not addressed in the law.

Procedures

Reports may be made orally or in writing to the state Department of Public Welfare or the county welfare department where the vulnerable adult is located. Oral reports must be followed by a written report.

Central Registry

The Commissioner of Public Welfare is required to establish a statewide central register capable of receiving reports seven days per week, 24 hours per day via a single toll-free statewide telephone number. The central register must include but is not limited to: the name and identifying information of the individual reported; the local welfare department responsible for the investigation; the names, affiliations and purposes of any person requesting or receiving information.

MISSISSIPPI

INVESTIGATION

The Department of Public Welfare shall initiate an investigation within 48 hours of the receipt of the report. If a caretaker refuses to allow the department reasonable access to conduct an investigation, the department may petition the court for an order enjoining the caretaker from interfering with the investigation.

PENALTIES

Failure to Report

Not addressed in the law.

For Perpetrators

Any caretaker or other person who willfully inflicts physical pain or injury upon a vulnerable adult shall be guilty of felonious abuse and/or battery and may be punished by imprisonment for not more than 10 years.

Any caretaker or other person who willfully commits an act or omits the performance of any duty, which act or omission contributes to, tends to contribute or results in the abuse, neglect or exploitation of any vulnerable adult shall be guilty of a

Nevada

Procedures

Immediately after an instance of abuse, neglect, or exploitation is suspected a report must be made to: (a) the local office of the Welfare or Aging Division of the Department of Human Resources; (b) any police department or sheriff's office; or (c) the county office of protective services, if one exists in the county where the suspected action occurred. The report may be made orally. The person receiving the report must reduce it to writing as soon as possible.

Central Registry

Not addressed in the law.

INVESTIGATION

The division, office, or department which receives the report must investigate the report within three working days. The legal basis for entry of the residence of the abused is not addressed by the law.

PENALTIES

Failure to Report

Any person who violates any provisions of the law, excluding the acts or omissions which constitute abuse, neglect or exploitation, is guilty of a misdemeanor.

For Perpetrators

Subsection 2 provides that any adult who willfully causes or permits an older person to suffer unjustifiable physical pain or mental suffering as a result of abuse, neglect or exploitation, or who willfully causes or permits an older person to be placed in a situation where the person may suffer unjustifiable physical pain or mental suffering as the result of abuse, neglect or exploitation is guilty of a gross misdemeanor unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse, neglect, danger or loss through exploitation.

A person may be convicted of neglecting older persons only if he voluntarily assumed responsibility for the older person.

If a person violates any provision of the above section, if substantial bodily or mental harm results to the older person he will be punished by imprisonment in the state prison for not less than one year nor more than six years.

Social Work

JOURNAL OF THE NATIONAL ASSOCIATION OF SOCIAL WORKERS

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Elder Abuse: A Review of the Literature

DURING THE PAST ten years, social work has increased its interest in, and services to the aged, especially in the areas of nutrition, transportation, and the rights of the elderly (Cormican, 1980). In addition, there has been a corresponding increase in interest by students in gerontological social work. Nevertheless, certain areas of practice with and research on the elderly have received little attention. One such area is elder abuse. Because whatever research on elder abuse exists has been narrowly focused and poorly circulated, social workers have had to rely on practice wisdom, rather than on the results of scientific inquiry. Therefore, the authors believe, a systematic review of the literature in this area will provide a foundation for future research and research-based practice.

Interest in elder abuse evolved from research on other types of abuse. Thus, in the 1960s, research on child abuse uncovered cases of the abuse of women. In the 1970s, research on wife abuse led to the discovery that women who were battered by their husbands also were battered by their teenage children (Pedrick-Cornell and Gelles, 1982). (These findings led investigators to examine abuse of the elderly. In its most extreme form, elder abuse consists of the active physical abuse of an elderly dependent parent who is being "cared for" in the home of a relative, often an adult child (McCormack, 1980; and O'Rourke, 1981). In its most common and less dramatic form, elder abuse includes exploitation, neglect, and psychological mistreatment (Pedrick-Cornell and Gelles, 1982).

Social services for the elderly have focused on the individual, and the dominant form of care to protect the older adult has been institutionalization (Cormican, 1980). This approach

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Research on family violence in the 1970s uncovered the existence of elder abuse, a problem that has received very little professional attention. Because of this lack of attention, social workers have had to rely on practice wisdom in this area. This article reviews the literature on elder abuse and examines categories of abuse, the incidence of abuse, and characteristics of the typical abused person. In addition, it presents hypotheses of the causes of abuse and strategies for preventing or dealing with it.

suggests a lack of awareness and knowledge of the nature of elder abuse in the development of social programs. For some time, there have been strong inducements to find alternatives to institutionalization (Cormican, 1980). With recent changes in the funding of social programs, the opportunities for institutionalization will be reduced. Thus, further pressure will be placed on relatives to provide direct care to the elderly.

The need for more information about the problem of elder abuse is essential to guide practitioners, to redirect social policy, and to further research. This article examines the literature on elder abuse to present

a view of the nature and the extent of the problem, to point up current theoretical viewpoints, and to suggest strategies for intervention.

SCOPE OF THE PROBLEM

Categories of Abuse

A significant impediment to understanding the extent, patterns, and causes of intrafamilial abuse has been the lack of an acceptable definition (Pedrick-Cornell and Gelles, 1982). Most researchers have stipulated that an act must be intentional for it to be considered abusive (Block and Sinnott, 1979; Legal Research and Services for the Elderly, 1979). Furthermore, abusive acts can include both passive and active neglect, mental anguish, financial exploitation, and the denial of medicines and medical care. Self-inflicted abuse can also occur.

There is clear justification for considering acts and behavior beyond physical violence as being harmful to the elderly, according to Pedrick-Cornell and Gelles (1982). The fear of being beaten or punished may cause as much harm to the victim's functioning as the actual act (Legal Research and Services for the Elderly, 1979). The deprivation of needed medicines and medical care can be injurious and life threatening. And, financial exploitation, although not life threatening, is a criminal act and deprives the victim of independence, income, and assets.

The following categories of elder abuse were cited by the Select Committee on Aging (1981):

Physical Abuse. Physical abuse is violence that results in bodily harm or mental distress. It includes assault, unjustified denial of another's rights, sexual abuse, restrictions on freedom of movement, and murder.

Negligence. Negligence is the breach

of duty or carelessness that results in injury or the violation of rights.

Financial Exploitation. Financial exploitation involves the theft or conversion of money or objects of value belonging to an elderly person by a relative or caretaker. It can be accomplished by force or through misrepresentation.

Psychological Abuse. Psychological abuse is the provoking of the fear of violence or isolation, including name calling and other forms of verbal assault and threats of placement in a nursing home. It can be a spontaneous or protracted and systematic effort to dehumanize and usually is accompanied by other types of abuse.

Violation of Rights. The violation of rights is the breaching of rights that are guaranteed to all citizens by the Constitution, federal statutes, federal courts, and the states.

Self-neglect. Self-neglect includes self-inflicted physical harm and the failure to take care of one's personal needs. It stems from the elderly person's diminished physical or mental abilities and is brought on by the attitudes and behavior of relatives.

Block and Sinnott (1979) found that psychological abuse is more common than physical abuse. Indeed, verbal assaults, threats, fear, and isolation had frequency rates of 46-58 percent, compared to the most frequent actions under physical abuse (the lack of personal care and supervision), which occurred in 38 percent of the cases. Direct beatings were given in only 15 percent of the cases. The abused elderly people studied by Block and Sinnott were older than average (mean age, 84; age range, 60-92), female (81 percent), Protestant (61 percent), lower or middle class (15 percent and 58 percent, respectively), and living with relatives (76 percent). Nearly half had moderate or severe mental impairments, and only 4 percent were free from physical impairment. These investigators also found that the majority of abusers were relatives (81 percent), primarily children of the victim (42 percent), in their forties and fifties (53 percent), female (57 percent), white (88 percent), and middle class (65 percent).

Lau and Kosberg (1978) found that over three-fourths of the cases of elder abuse they investigated involved physical abuse and over half involved psychological abuse. The profile of

the elderly victim that emerged from the Lau and Kosberg study (1978) was that of a severely impaired person (over 75 percent had at least one major mental or physical impairment), who was female (75 percent), widowed (58 percent), white (75 percent), and living with relatives (66 percent). Over 90 percent of the abusers in this study were relatives; daughters were the perpetrators twice as often as any other type of relative (31 percent), followed by sons, granddaughters, husbands, and siblings (usually sisters).

In a study conducted in Massachusetts (Legal Research and Services for the Elderly, 1979), the most common abusive incident was the lack of personal care (49 percent), although direct beatings occurred in 28 percent of the cases. Psychological abuse characterized 51 percent of the cases, with verbal assault occurring most frequently. Financial exploitation (31 percent) and violation of rights (18 percent) were less common. Other forms of abuse included theft or the misuse of money or property, being forced from home, and being forced into a nursing home. The elderly clients in this study typically suffered from more than one form of abuse.

The majority of victims in Steur and Austin's study (1980) were women who had physical or mental disabilities, or both, and were dependent on their caregiver for nutrition, medication, cleanliness, and ambulation. Caregivers included spouses, children, siblings, and other relatives. Abuse was both physical and verbal. Verbal abuse included derogation and infantilization. Neglect, seen as a type of physical abuse, was the most common and sometimes resulted in ulcers and infestation with lice. Other forms of physical abuse were the misuse of drug therapy, poor nutrition, abandonment, and murder.

Incidence of Abuse

According to the most frequently cited statistics, cases of elder abuse range from 500,000 to 2.5 million a year (Pedrick-Cornell and Gelles, 1981). Lau and Kosberg (1979) estimated that one in ten elderly persons living with a family member are abused each year. Block and Sinnott (1979) found that 4.1 percent of their elderly respondents in the urban areas of Maryland reported they were abused. The researchers stated that

if this rate was projected for the national population of elderly persons, the number of cases of abuse would reach about one million. This projection was corroborated by Steinmetz (1978), who reported that from 500,000 to one million elderly persons are abused in any given year. Furthermore, the number of cases of abuse may increase as more elderly people move in with their families.

The extent of the problem was documented in hearings by the Select Committee on Aging (1980). For example, Ralph Brewster, director of the Senior Citizens Crime Victims Assistance and Prevention Program, Brooklyn, New York, stated that one in eight cases that his program dealt with in a six-month period involved some type of elder abuse. The Federation of Protestant Welfare Agencies testified that an estimated 5 percent of its caseload was abused elderly persons. The director of the Victims Service Agency reported that the incidence of elder abuse was increasing. The Select Committee on Aging concluded that, based on the testimony, elder abuse is a nationwide problem as significant as child abuse.

The existence of elder abuse has been confirmed, and a preliminary estimate of the number of cases has been obtained. However, the data presented in published and unpublished reports may not be accurate because estimates of abuse are based only on cases reported to social service agencies, and few states have mandatory reporting laws. Not only do the number of cases reported to agencies vary by type of agency, location, and title of agency (Select Committee on Aging, 1980), but many physicians and psychotherapists in the private sector seldom report cases of abuse to these agencies. Thus, it appears that these estimates are but a fraction of the total number of cases. Moreover, the research on elder abuse typically has been based on small nonrepresentative samples; therefore, attempts to generalize the incidence of abuse from these data to the national population of elderly persons must be undertaken with caution.

Although several investigators have attempted to predict a rate of elder abuse based on a national total of elderly persons, one cannot simply multiply the rate of abuse by the

number of individuals aged 65 years or older. An extrapolation will vary, depending on the definition of "elderly" and whether the focus is only on abuse by familial caregivers or whether other types of caregivers are included (Pedrick-Cornell and Gelles, 1981). Moreover, researchers cannot report whether factors related to abuse are distinctive of particular abused clients, of clients who are not abused, or of the general population of elderly persons. That is, they cannot determine if they have discovered factors related to elder abuse or those that are unique to the individual or family being seen or discovered by an agency.

As long as the definitions of abuse are inconsistent from study to study, comparability and corroboration will be inaccurate. For example, Douglas, Hickey, and Noel (1980), in contrast to Lau and Kosberg (1978) and Block and Sinnott (1979), concluded that passive neglect was most prevalent and that the behavior of victims, such as aggressiveness and belligerence, possibly provoked neglect and hostility. Thus, it is evident that a common classification system is needed so that researchers who study abuse are, indeed, measuring the same thing.

THEORETICAL VIEWPOINTS

Much of what is offered as theoretical work on elder abuse involves propositions and theories that have been developed and applied to other forms of intrafamilial abuse (Block and Sinnott, 1979; Pedrick-Cornell and Gelles, 1981). A common and logical approach has been to test selected theories that provide the most plausible explanation of elder abuse (O'Rourke, 1981).

This section presents hypotheses related to seven theories about the factors that lead to elder abuse: (1) family dynamics, (2) dependence because of impairments, (3) personality traits of the abuser, (4) filial crisis, (5) internal stress, (6) external stress, and (7) negative attitudes toward the elderly. As will be seen, many of these hypotheses overlap, and it is likely that abuse is triggered by the interplay of several factors (O'Rourke, 1981).

It should be noted that three of the hypotheses—filial crisis, internal stress, and external stress—focus on

adult children. Adult children, sometimes referred to as the "sandwich generation" because of their position between their elderly parents and their children, are exposed to a unique set of stressors. According to Miller (1981), this generation is confronted with the loss of youth, the recognition of their own aging, and the impact of an "empty nest" in addition to the stress of dual responsibilities and role expectations. The caregiving role can become overwhelming when several members of the family are undergoing crises and must make difficult choices. Furthermore, the psychological stress experienced by one family member may affect the relationships among all family members, as well as the individual's career and social life (Seelbach, 1976).

The following is a summary of the seven hypotheses and theoretical explanations of elder abuse.

Family Dynamics. A major premise in the first hypothesis of the causes of elder abuse is that violence is a normative behavioral pattern which is learned in the context of the family. That is, children learn from observation and participation in the family that violence is an acceptable response to stress; they even learn a variety of scripts for future behavior (Lau and Kosberg, 1979; O'Rourke, 1981; Rathbone-McCuan, 1980; and Steinmetz, 1978). According to Steinmetz (1978), one in four hundred children who are reared nonviolently attack their parents later on, compared to one out of two children who are mistreated violently by their parents.

Impairment and Dependence. The most likely elderly people to be abused are women with severe physical or mental impairments (Block and Sinnott, 1979; Burston, 1973; Lau and Kosberg, 1979; Legal Research and Services for the Elderly, 1979; Rathbone-McCuan, 1980; Regan and Springer, 1977). According to the second hypothesis, such impairments lead to dependence, which makes the elderly person vulnerable to abuse (O'Rourke, 1981). Some researchers use the generic term "dependent abuse" to describe domestic violence. Others think that the normal dependence of elderly people is sufficient to make them vulnerable to such abuse (Douglas, Hickey, and Noel, 1979). A corollary to the hypothesis of dependence owing to im-

pairments is the concept of learned helplessness. According to this concept, elderly people may come to feel, as they become increasingly dependent, that they have no control over their lives and that they can do nothing to change their situation (Davidson, Hennessey, and Sedge, 1979).

Personality Traits of the Abuser. The third hypothesis holds that the abuser has personality traits or a character disorder that causes him or her to be abusive. Although researchers generally consider this explanation to be too simplistic—and the findings of research in this area neither confirm nor refute this hypothesis—personality traits are still a factor to be considered (O'Rourke, 1981). A related hypothesis is that adult children are abusive and neglectful because of an abnormal childhood that did not foster their ability to make appropriate judgments (O'Rourke, 1981).

Filial Crisis. Several theorists (Block and Sinnott, 1979; Lau and Kosberg, 1979) have proposed a fourth hypothesis, namely, that elder abuse may be the result of the failure of adult children to resolve the filial crisis. According to this hypothesis, a developmental task of adult children is to go beyond the stage of adolescent rebellion toward emancipation from their parents. Often, however, parent-child conflicts that originated in adolescence continue into later life (Farrar, 1955). One study found that problems in parent-child relationships became more entrenched when adult children attempted to handle added stress by using old defensive patterns (Simos, 1973).

Internal stress. The responsibility of caring for a dependent, elderly relative can lead to a stressful situation for the family, which, in turn, can result in abuse (Block and Sinnott, 1979; Legal Research and Services for the Elderly, 1979; Rathbone-McCuan, 1980; and Steinmetz, 1978). O'Rourke (1981) found that caregivers spend an average of twenty-four hours a week providing physical and psychological assistance to a frail elderly relative. Two-thirds of the caregivers in her study reported they were exhausted and anxious and that their health had deteriorated.

As Pedrick-Cornell and Gelles (1981) noted, those who find the caregiving role most stressful believe that the needs of their spouse and children

are being subordinated to those of their elderly parent. When an elderly parent lives with an adult child and his or her family, the family's routine may be disrupted, and conflicts may develop over household procedures, freedom, and discipline—factors that can lead to excessive stress (Lau and Kosberg, 1979). And, as Block and Sinnott (1979) pointed out, once their child-rearing years are over, adult children look forward to a freer, more relaxed lifestyle and hence may not welcome the caregiving role. Furthermore, responsibility for the care of an elderly parent often falls on one adult child in the family, who may regard it as a burden from which he or she cannot be relieved. Adults who provide support and assume responsibility for both their elderly parents and their own children often feel they are not receiving enough gratification in exchange for the care they are providing. Hence they may feel resentful, angry, and frustrated (Miller, 1981). Such feelings may lead them to be abusive.

External Stress. In the 1970s, research on family violence recognized that external stress on the family is a major factor that contributes to violence. Despite methodological problems, several sources of stress were identified. For example, Straus, Gelles, and Steinmetz (1980) found that the important correlates of domestic violence are age, income level, and employment status and that religion, urban-rural residence, and race are of lesser importance. In the study by Legal Research and Services for the Elderly (1979), the abusers were likely to be alcoholics who were experiencing some form of external stress, such as the loss of a job or a long-term medical problem. According to Douglas, Hickey, and Noel (1980), such external stressors as life crisis and environmental factors also trigger abuse. Block and Sinnott (1979) considered the presence of stress, in particular economic stress, to be one way in which elder abuse resembles other types of domestic violence. The data on income level should be viewed with caution, however, because the abusers in the study by Legal Research and Services for the Elderly were primarily low income whereas those in Block and Sinnott's study were predominantly middle income.

Negative Attitudes toward the Elderly. Patterns of elder abuse and

neglect may be reinforced by negative stereotypes toward elderly people and their roles in society. As Block and Sinnott (1979) and Kalish (1979) pointed out, expectations can distort perceptions. The resulting misperceptions may be a major force in the creation of situations that are conducive to abuse because these negative attitudes tend to dehumanize elderly persons and make it easier for an abuser to victimize them without feeling remorse.

STRATEGIES FOR DEALING WITH ABUSE

Services to elderly people focus on those who live alone without family support and the 5 percent who are in institutions. Unfortunately, service systems provide help to families only after a situation has deteriorated (Miller, 1981). This strategy is based on an assumption that when an elderly person lives with his or her family, the family can and should provide the sole support. Such a policy may compel many families to give up their primary caring role prematurely or to resort to abuse and neglect.

A major step in working with as well as preventing cases of abuse would be to acknowledge the family's contribution to the care of the elderly person and to provide services that support and enhance the caregiving role. These services would include home nursing care, homemaker-home health aides, home-delivered meals, home repair, home visitor programs, day care, overnight respite care, and transportation. Education and counseling services to support the family's efforts and to recognize its emotional strains also should be available (O'Rourke, 1981).

Service planners and advocates for the aged need to advance the case for a national policy that recognizes that the family and government are partners in the provision of care to the elderly. Most states do not have comprehensive protective service systems for the elderly (although they offer some services) or the authority to intervene. In addition, laws designed to provide for surrogate decision making are fraught with the potential for misuse and are ambiguous (O'Rourke, 1981).

Numerous suggestions have been made about improving these laws to offer greater protection to the elderly

nationwide (Block and Sinnott, 1979; Lehrman, 1980; Regan and Springer, 1977; and Select Committee on Aging, 1981). These improvements focus on the identification and reporting of cases of abuse (only seventeen states have mandatory reporting laws), guardianship, commitment, conservatorship, power of attorney, and protective placement that only minimally damage family ties over the long term. Emphasis on assistance to the abused rather than on criminal prosecution of the abuser appears to be the best design for such legislation (Block and Sinnott, 1979).

The complexities of coordinating the delivery of services are compounded by the nature of elder abuse, which sometimes requires an emergency response and heightens issues of professional ethics and confidentiality, such as the need to substantiate the abuse while providing immediate services and maintaining confidentiality (O'Rourke, 1981). The most comprehensive approach would include coordinating the efforts of the various disciplines that provide essential services. For example, a protective service caseworker could act as a case manager to ensure that health, legal, nutrition, financial, police, and emergency services are provided when necessary (Legal Research and Services for the Elderly, 1979).

Although the foregoing approaches appear to have merit, in light of the current knowledge of the necessity for multifaceted interventions in the solution of complex social problems, they also are unrealistic because of the massive cuts that have been made in the social services. It is clear that in any attempts to ameliorate elder abuse, priorities must be assigned. Therefore, the ultimate cost in relation to the anticipated benefit of all potential approaches will need to be evaluated. Existing resources, such as computer technology, which has the capacity to disperse available data nationwide, and the pooling of information among agencies serving the aged can be used to lower the cost of such evaluations.

CONCLUSIONS

In 1975, 10.3 percent of the U.S. population was 65 years and over; this percentage will grow to 12 percent by 2000 (Palmer, 1977). The

increase in the number of elderly persons in this country creates the need for more services for their care and protection. However, because of budget cuts and the trend toward reduced services, it has been necessary for a greater number of adult children to care directly for their elderly parents (Maddox, 1975), which increases the circumstances under which elder abuse most commonly occurs.

Characteristically, the abused person is a severely impaired woman, aged 75 and over, white, widowed, and living with relatives (Block and Sinnott, 1979; Lau and Kosberg, 1976; Legal Research and Services for the Elderly, 1979; and Pedrick-Cornell and Gelles, 1982). Consequently, the types of services that are provided to the institutionalized and the elderly who are living alone obviously are inadequate to address this problem. The present knowledge about elder abuse, as found in the literature, suggests that the most appropriate strategy would be to reallocate existing resources and redirect services toward families. In the case of child abuse, the child needs protection and treatment and the abusing parents need as much service, if not more, than the child. So it is that the abuser of an elderly person—usually a family member and most often an adult child—requires as much assistance as does the victim. Thus, support groups, mental health services, and family life education programs that are directed toward helping families understand the aging process and the unique circumstances of the adult child are needed.

This review of the literature has shown that there has been minimal research on the nature, extent, and causes of elder abuse. Indeed, the largest specific case study involved thirty-nine individuals (Block and Sinnott, 1979). If social workers are to approach this problem on the basis of scientific findings, additional research into the correlates of abuse must be conducted. Larger population samples representing several cultural groups are necessary to guide the development of new intervention methods and the design of appropriate programs. Although extensive research in this area may be obstructed by the lack of funding and legal entanglements, it is essential

that the profession overcome these barriers to provide the empirical data necessary to guide practitioners and administrators.

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Readers will note that bibliographic style has been used for references in this article. This style is used only for reviews of the literature.

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ELDER ABUSE FUNDING IN HEALTH & SOCIAL SERVICES

In FY80 approximately 80% of the homemakers services were related to the protection of the elderly. This translates into an estimated budget of \$1,012,300. Also in that year \$340,100 was included in the component: Adult Supportive Services to provide adult residential care. Staff within the Division of Family and Youth Services were assigned to assist adults with protective services, but the actual number can not be identified in our budget documents nor within the agency's records.

FY81 saw an increase in Adult Supportive Services to help with the costs of care in an adult residential care facility. This was accomplished through 1) supplementing SSI payments of SSI eligible individuals, or 2) providing full payment for residential care for those elderly, developmentally disabled or handicapped individuals who do not meet the state and federal eligibility criteria for SSI and cannot afford residential care. In FY82 the Division of Adult & Aging Services was created and then disbanded with the transfer of programs to Dept. of Administration (OAC) and Dept. of Public Safety (Domestic Violence).

In FY87 during the budget reduction exercises the number of hours of adult protective homemaker services was reduced (\$262,700). In FY90 the adult homemaker services was transferred to the Division of Public Health.

Adult Services was increased by \$100,000 in FY 89 for adult protection residential care for levels I and II. In FY89 Adult Services was funded at \$372,100 and homemaker services at \$1,488,600 and has remained at that level until FY92. At that time the homemaker services program sustained a reduction of \$388,600. In the governor's FY93 budget submission, the adult homemaker and the home health aide programs are transferred to a new component entitled Home Health Services. This is to find efficiencies in the coordinated administration of these programs and will make the identification of funds specific to elder care even more difficult to identify.

There are currently between 3 and 3.5 social worker positions that specialize in the elder programs. Most other social workers spend some time dealing with the elderly but it is not possible to determine how many positions that actually translates into.

1100-1020-10-100

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
 Division of Family & Youth Services

General Funds	FY83	FY84	FY85	FY86	FY87	FY88	FY89	FY90	FY91	FY92	FY93 (Gov)
Elder Programs	1,352.4	1,462.3	2,058.0	2,058.0	1,760.7	1,760.7	1,860.7	1,860.7	1,860.7	1,472.1	1,472.1
Positions-PFT	FY83	FY84	FY85	FY86	FY87	FY88	FY89	FY90	FY91	FY92	FY93 (Gov)
Elder Programs	11	10	8	8	3	3	3	3	3	3	3
Population 65+	FY83		FY85			FY88	FY89	FY90			
Population 18+	15,149		18,133			20,397	21,885	22,459			
						369,446	374,618	380,609			

MEMORANDUM

STATE OF ALASKA

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF FAMILY AND YOUTH SERVICES

DATE: 1/2/91

TO: Russ Webb
Acting Director

FROM: Pat O'Brien
Social Services
Program Officer

RE: Adult Protective Services (APS) Positions

FILE: 1750

You asked that I reconstruct the APS history of positions.

--Prior to passage of the Protection of the elderly statute, the division (DFYS) performed some supportive services for elderly and vulnerable adults, primarily assessing need for homemaker services and authorizing the service or referring individuals to local community services.

--In 1977 DFYS gained statutory responsibility for licensing adult residential care facilities (commonly called boarding homes) and foster homes. No positions were obtained. Regulations were promulgated in 1980 and limited funds secured for the care of dependent adults residing in existing facilities. Existing licensing staff were assigned the new licensing responsibility. Existing social workers were assigned the adult caseload in 1980 and 81. Most of those clients were vulnerable adults younger than age 65.

--In 1983, the Protection of the Elderly statute was passed without positions being added to the division's budget.

--For a period of a few months in late 1982 and 1983, the Department created a Division of Adult and Aging Services taking three Central Office positions from DFYS (including the WIN coordinator) and combining those positions with the department's Office of Aging positions for an expanded Central Office. Approximately 11 or 12 field social work and clerical positions were transferred from DFYS to the new Adult and Aging Division to provide Adult Protective Services. These field positions had previously been assigned primarily to child protective services.

Another half dozen field WIN Social Worker and clerical positions were also transferred from DFYS to the new Adult and Aging Services Division. WIN was a Federally funded program designed to assist adult single parents who were receiving Aid to Families with Dependent Children to find and retain jobs. The Office of Aging positions had primarily administered the Federal grant funds from the Federal Office on Aging.

--Also in 1983 the recently created Older Alaskan's Commission had developed by laws and was establishing an office within the Department of Administration. A decision was made to disband the new Division of Adult and Aging Services and to transfer the positions which had formerly been in the Office of Aging to the Older Alaskan's Commission office in the Department of Administration. The Older Alaskan's Commission then assumed the function of administering federally funded grants to local agencies.

--Following the transfer of Office of Aging positions to the Older Alaskans Commission, the positions originally taken from DFYS were restored to DFYS. Those designated for adult protective services were:

Central Office: Field Administrator - Elizabeth Muktarian
Assoc.Coord. Rng.18 - Jane Miller

Anchorage : Supervisor SW IV - Gladys Langdon
5 Social Worker III's John Burke,
Jerry Swenson,
Doris Julian,
Dorothy Emmons, and
Gary Mandzik
Clerk Typist ?

Fairbanks : Supervisor SW IV ? PCN 3724
Social Worker III Lare Lamm PCN 3725

Juneau : Social Worker III Lisa Clough
half time

Ketchikan : Social Worker III ?
half time

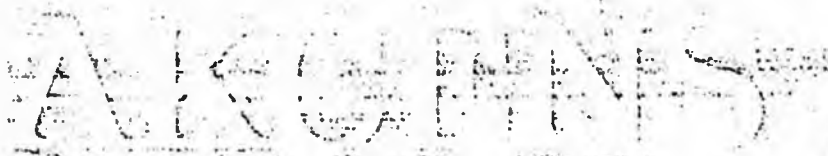
Bethel : Social Worker III ?
half time
(unable to confirm the Bethel position)

--In late 1983 or early 1984, in a budget reduction exercise, the position Jane Miller was holding in Central Office was eliminated.

--In 1984 the way of child protection increased reports caused the division to again look at reallocation of positions to respond most effectively to agency mandates. The homemaker contractor was authorized to perform assessments to determine need for homemaker services. This resulted in a reduced social worker responsibility statewide. A study of the individuals in adult residential and foster care was finalized in September, 1985. Based on the study, those adults with a diagnosed developmental disability or serious mental illness were transferred to the Division of MH&DD for case management, though no positions were transferred. DFYS retained adult cases with a borderline diagnosis and individuals on the wait list of MH&DD. Following the transfer of clients to MH&DD, most APS social workers were reassigned to a child protection caseload. The APS unit in Anchorage was reduced to two workers and the one in Fairbanks was reduced to one position. Remaining APS positions fell to less than half time. The Central office position assumed additional responsibilities, so that there was no longer a Central Office position designated for Adult Protective Services.

--In 1985 the Central Office WIN coordinator position in DFYS and the WIN field social workers and clerical staff were transferred from DFYS to the Division of Public Assistance. Welfare Reform legislation has now converted the WIN program into JOBS, Job Opportunities and Basic Skills Training.

To reconstruct this history, I contacted six DFYS staff and referred to three documents. If necessary more detail might be obtained in personnel files.



AGE 65+ POPULATION INCREASE

The number of persons age 65 years and older increased by 93.7% in Alaska during the 1980s according to figures released from the 1990 Census. The 1990 census counted 22,369 persons age 65 years and over, up from the 1980 total of 11,547. The 65+ age group was the fastest growing age group in the state. Despite that fact, it was still the smallest percentage, making up only 4.1% of the total population. For the United States, this same age group grew by 22.5% and comprised 12.6% of the population.

When looking at the male/female components of this age group, the increase is even more dramatic for women. The number of age 65+ women increased by 104.2% compared with the male increase of 83.2%. Looking at just the 75 years and over age group by sex, the female population increased by 120.9% while the male grew by 98.9%. For the United States, the 75 years and over age group also increased more than the total 65+ age group, growing 33.3% for women and 31.3% for men.

During the same period Alaska's total population grew by 36.9% to 550,043 persons. This ranks Alaska second in growth percentage, behind Nevada's 50.1% increase. The United States' population increased by 9.8% to 248,709,873.

At the sub-state level, the Matanuska-Susitna Borough experienced the largest growth of persons age 65+ with an increase of 155.6%. Four other areas also outpaced the state's growth in this age category. The Kenai Peninsula Borough population grew by 143.7%; Anchorage increased by 134.6%; the Haines Borough increased by 133.3%; and Fairbanks North Star Borough grew by 99.1%.

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AKCENS is a quarterly newsletter published by the Alaska State Data Center (ASDC). It includes current census information provided by the U.S. Census Bureau, and demographic, economic and labor market information provided by the Research & Analysis Section of the Alaska Department of Labor (DOL). ASDC, based in the Juneau offices of DOL, is a joint venture of the U.S. Bureau of the Census and the State of Alaska.

Housing and household statistics from the 1990 census show that for persons age 65 years and over, 74.3% of their housing units were owner occupied. Only 67.2% of housing units were owner occupied for the age group 35-64 years. In Alaska 22.1% of all households consist of one person living alone, with 13.7% of these households consisting of persons over the age of 65.

The number of persons age 65 years or older living alone increased 108% from 1980-1990 from 2,758 to 5,737. The United States' 1990 figures show 39.1% of one person households are persons over the age of 65.

There is no single explanation for the large increase in Alaska's older population during the 1980s. However, the primary factor is likely the aging of the population that migrated to Alaska during the post statehood period. Alaska's median age has increased from 22.9 in 1970 to 29.4 in 1990. The United States' median age in 1990 was 32.9 years. Other factors that have contributed to keeping Alaska's older population in Alaska include improved health care and long term care facilities, elimination of Alaska's income tax, the Permanent Fund Dividend program, the Longevity Bonus program, and property and sales tax exemptions.

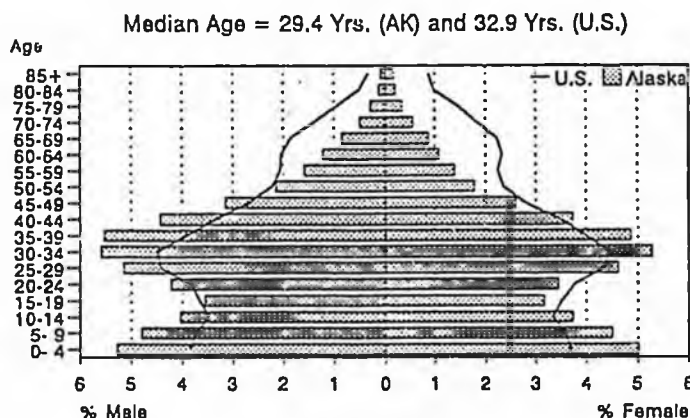
Table 1
Population Comparison for
Persons 65 Years and Older for the
State/Census Areas/Boroughs — 1980 & 1990

	1980	1990	Change 1980-90	Percent
Alaska	11,547	22,369	10,822	93.72
Aleutians East Borough	45	58	13	28.89
Aleutians West C.A.*	62	82	20	32.26
Anchorage Borough	3,520	8,258	4,738	134.60
Bethel C.A.	431	657	226	52.44
Bristol Bay Borough	25	42	17	68.00
Dillingham C.A.	122	205	83	68.03
Fairbanks North Star Borough	1,276	2,540	1,264	99.06
Haines Borough	78	182	104	133.33
Juneau Borough	771	1,364	593	76.91
Kenai Peninsula Borough	827	2,015	1,188	143.65
Ketchikan Gateway Borough	642	907	265	41.28
Kodiak Island Borough	255	425	170	66.67
Lake and Peninsula Borough	47	85	38	80.85
Matanuska-Susitna Borough	730	1,866	1,136	155.62
Nome C.A.	339	419	80	23.60
North Slope Borough	148	197	49	33.11
Northwest Arctic Borough	249	281	32	12.85
Prince of Wales-Outer Ketchikan C.A.	151	216	65	43.05
Sitka Borough	361	492	131	36.29
Skagway-Yakutat-Angoon C.A.	192	235	43	22.40
Southeast Fairbanks C.A.	142	223	81	57.04
Valdez-Cordova C.A.	295	463	168	56.95
Wade Hampton C.A.	178	258	80	44.94
Wrangell-Petersburg C.A.	353	507	154	43.63
Yukon-Koyukuk C.A.	308	392	84	27.27

*C.A.= Census Area

Source: 1990 Census of Population and Housing, STF1A

Alaska and U.S. Population Percent Distribution by Age and Sex 1990



Alaska Dept. of Labor, Research and Analysis
Demographics Unit

Mackie files elderly, disabled protection bills

By JENNIFER STRINKER
Daily News Staff Writer

Two bills designed to increase protection to the elderly and disabled were introduced in Juneau this week by Rep. Jerry Mackie, D-Craig.

House Bill 510 establishes separate classes of offenses and increased penalties for crimes against the elderly or disabled. For example, a separate offense would be created for financial exploitation and for abuse of an elderly or disabled adult.

House Bill 511 mandates criminal background checks for public home care providers and restricts caregivers from assuming the role of attorney. It would also require the Department of Health and Social Services to disclose the number of verified reports of harm perpetrated by caregivers under contract to the state. It is currently required for nursing homes.

Mackie said he introduced the bills in response to the growing number of elderly.

"The 65 and older age bracket is the fastest growing segment of our society. Combine this with declining resources available for protection, intervention and investigation of crimes against this vulnerable group and you have an alarming picture," said Mackie in a recent press release.

The 65 and over age group increased by 93.7 percent across the nation in the last decade, according to the release. Ketchikan's elderly population increased 41.3 percent, according to Mackie's office.

The other problem, Mackie said, is the lack of space in nursing homes. More people are being cared for out of their homes making them even more vulnerable.

"People need to recognize that if you

mess with an elderly person, you're going to be dealt with," Mackie said. (Those bills) would serve as a deterrent to people who even think about it."

Karen Kubley, Ketchikan Pioneer Home administrator, said she didn't expect the bills to affect the home, but said she could see a need for the bills.

They are targeted mainly at home care providers contracted by the state to take care of the elderly or disabled in their own homes, not in institutions.

"As an ex-public health nurse ... I've seen abuse of elderly within their homes ... Those things happen because they have no resources," said Kubley. She said she supported the bills. She stressed she spoke from personal experience and not on behalf of the home.

Along with enhancing penalties, HB 510 would also require stiffer penalties for failure to report harm. If the bill passes, a person convicted of this misde-

meanor who is licensed, certified or regulated by the state, would be reported to their board.

Home care provider is defined in HB 511 as "a person who is paid by the state...to provide homemaker services, chore services, personal care services, home health care services, and or similar services in or around the client's private residence."

Ketchikan home care provider Allie May Davis supported the bills behind the scenes, but questioned how effective they might be with the limited resources currently available.

"I think it's good that they're focusing on elderly abuse," Davis said, "I wonder how they're going to carry it out."

Investigations of elderly abuse currently fall to social workers assigned to the elderly. For the state of Alaska, there are three full-time social workers: two in Anchorage and one in Fairbanks.

That, says Becky Smith, means resources are already stretched "tremendously thin."

Smith, supervisor of the Ketchikan office of the Division of Family and Youth Services, has seven social workers working out of her office. Six are assigned full-time to children. One is split between children and adult protection.

"The difficulty is the lack of support staff," Smith said. Even with harsher penalties, if there wasn't an increase in staff the penalties might not be effective, Smith said.

The bills do not require additional social workers for the elderly.

Mackie acknowledged the bills are not a cure-all, but he hopes they will initiate discussion between the departments and bring the issues to light.

"This isn't the answer to all the problems, but it's a step in the right direction," Mackie said.

More than half of the 50 states already have penalties for abuse of an elderly person and 16 states now have some form of increased penalties for these crimes. Many states have included statutory language to reflect that elderly and handicapped persons are more vulnerable and disproportionately damaged by crime — because they are less able to escape offenders, and tend to suffer the greatest relative deprivation as a result of crimes against them.

The elderly and disabled are also more susceptible to long-term adverse effects of crimes because they are less able to recover from the impact of physical, emotional and financial abuse, said the press release.

"I want to convey a strong message to those who prey on the weak and vulnerable that their crimes will be subject to enhanced penalties," said Mackie in the release.

Board hears assessment report

By FRIB FIGUEROA
Daily News Staff Writer

How do students learn best? Revilla Brown and Anna Lucas at White Cliff Elementary School explained to the Ketchikan Gateway Borough School District Board of Education during their regular meeting Wednesday night how they are attempting to answer that question at White Cliff.

They explained effective assessment has distinct characteristics.

"The purpose of assessment is to improve instruction, therefore increasing learning," said Brown. "It has to be an on-going process linked to instruction, and it should also mirror and inform instruction."

"Why do some kids pick up concepts faster than others?" she asked.

She explained that there are three phases of learning in children from the age of 2 to 16, according to national

learning assessment statistics.

From 2 to 7 years of age, a child is able to describe an object only if they see and touch the real object, she said. From ages 4 to 11, children begin to understand abstract objects from pictures. Children begin to perceive objects at that age but they are still limited to physical reality.

From ages 11 to 16, children don't need to see objects to formulate ideas and explain them.

The assessment team at White Cliff is currently building tools to better assess student learning abilities to "find learning materials to meet student needs," Brown said.

Brown told the board that teachers are keeping progress profiles on White Cliff students.

"At the end of the year the staff has a profile of the student's thinking level and math ability," said Lucas.

Brown and Lucas told the board they will share their results with other teachers sometime this spring.

Brownstein, Huanan Iauded White Cliff's Special Education Pre-school Teacher Loda Brownstein was presented an official citation from the 17th Alaska Legislature for work with special needs children.

Brownstein was a recipient of a grant from Very Special Arts Alaska. Visiting artists worked with Brownstein's students, who range in age from 3 to 6, in working with visual arts and creative expression, according to the citation.

"The project had several goals: to give students hands-on experience with a variety of art forms; training artists to work in their art form with special needs children; and training Brownstein in the arts and researching the impact of the arts on language development.

Board Vice President Margaret Ortiz,

acting chairperson, presented the award to Brownstein.

The board also recognized Revilla High School Principal Alan Heman for his recent appointment to the Governor's Council on Vocational and Career Education.

Other business

The board approved a number of motions including the 1992-93 school calendar.

Russell Thomas, Ketchikan High School student body president, voiced concerns over the calendar which has school starting Aug. 31.

"Several students have voiced large concerns about the starting date," he told the board. "Many students are still on fishing boats in the first week of September and canneries are running. Students can lose between \$300 and \$400 in income by starting on Aug. 31."

See 'Board,' page 3

Wavemaker



The lowdown on child labor laws

Dear Wavemaker,

I would like to know who I can contact regarding child labor laws? Or where I can get a copy on child support, child laws, visitation rights, etc.

Wondering

Dear Wondering,

You can check out all the laws in the state at the Legislative Information Office, right next to the tunnel at 352 Front Street. Rae Rhodes said the LIO workers are happy to help you sort through the labyrinth, and we can vouch for that. You can also get copies there.

Regarding child labor laws specifically, you should contact the state's Wage and Hours Division in Juneau, 466-4842.

It is possible and legal for some underage children to work. Joann Elliott at the Ketchikan Job Service said children aged 14 to 18 can get a work permit, if they supply proof of age. The permit must be filled out by the employer and signed by a parent or guardian. For more information on that, one would contact the Job Service at 2030 Sea Level Drive (in the Tongass Commercial Center, on the second floor).

Pollock

Continued from page 1

Meetings & brevities

Obituary