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# FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. ~~143~~: CSHB 511

Revision Date: \_\_\_\_\_ Dept. Affected Health and Social Services  
 Title: An act relating to Public Home Providers BRU: Division of Family and Youth Services  
 Component: Central Office  
 Sponsor: Reps. Mackie, Ellis, Lincoln, Larson, Gonzales, Jacko  
 Requestor: Representative Mackie COMPONENT SERIAL NO. 0259

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING	FY93	FY94	FY95	FY96	FY97	FY98
PERSONAL SERVICES	0.0					
TRAVEL	0.0					
CONTRACTUAL	20.0					
SUPPLIES	0.0					
EQUIPMENT	0.0					
LAND & STRUCTURES	0.0					
GRANTS, CLAIMS	0.0					
MISCELLANEOUS	0.0					
<b>TOTAL OPERATING</b>	<b>20.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING:** (Thousands of Dollars)

GENERAL FUND	20.0					
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>20.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

**ANALYSIS:** (Attach a separate page if necessary)

Section 2 of this bill requires that the Department develop regulations on circumstances requiring reassignment, suspension, or termination of a home care provider alleged to have perpetrated harm and on the appeal rights and due process for such an individual. Section 9 requires that the regulations be adopted by March 15, 1993. A contract will be obtained to draft, conduct public hearings, and finalize the regulations. The contractor will revise the Adult and the Child Protective Services staff manuals to implement the changes, and will work with data processing to plan protective services data collection on home care providers under Section 4 of the bill.

Prepared by: Brian Saylor, Deputy Commissioner  
 Division: Division of Family and Youth Services  
 Approved by Commissioner: Theodore A. Mala, MD, MPH  
 Agency: Department of Health and Social Services

Phone: 465-3030  
 Date: March 17, 1992  
 Date: 3/20/92

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

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. HB 511

Revision Date: \_\_\_\_\_ Department Affected: Public Safety

Title: "An Act relating to public home care providers providing for effective date." BRU: Alaska State Troopers

Sponsor: Representative Mackie Component: Detachments

Requestor: Representative Mackie COMPONENT SERIAL NO. 

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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-
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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.

Prepared By: Francis C. Allan Phone: 269-5691

Division: Alaska State Troopers Date: 2/24/92

Approved by Commissioner: Richard L. Burton

Agency: Department of Public Safety Date: 2/25/92

*R.S. Mackie*

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Bill No. CS HB 511 (HESS)

Revision Date: \_\_\_\_\_ Department Affected: Alaska Court System  
 Title: An Act relating to public home care BRU: Trial Courts  
providers Components: \_\_\_\_\_  
 Sponsor: Mackie  
 Requestor: House HESS COMPONENT SERIAL NO. 000 | 000 000 | 768

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *(Signature)* Phone: 264-8228  
 Division: Alaska Court System Date: 03/02/92  
 Approved by: Arthur H. Snowden, II, Administrative Director *(Signature)*  
 Agency: Alaska Court System Date: 03/02/92

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

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. HB 511

Revision Date: \_\_\_\_\_  
Title: "An Act relating to public home care providers..."  
Sponsor: Representative Mackie  
Requestor: Representative Mackie

Department Affected: Department of Law  
BRU: Legal Services  
Component: Operations and Medicaid Provider Fraud  
COMPONENT SERIAL 

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Expenditures/Revenues: (Thousands of Dollars)

93 and 1410

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						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
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 2, 1992

Date: March 2, 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. HB 511

This bill amends various statutes under Title 47, covering state paid home care services for minors, disabled adults, and the elderly. The bill will not have a direct fiscal impact for the Department of Law; however, some of its provisions may work to interfere in the state's investigations of abuse, and some of the provisions may unnecessarily expose the state to liability claims.

Section 1. This section amends AS 13.26 to provide that a public home care provider may not accept a power of attorney designation for an individual to whom the provider furnishes in-home services, unless the designation is held jointly with another individual who is not employed by the same entity that employs the public home care provider. This section will not have a fiscal impact.

Section 2. This section amends AS 47.17.020 to provide that upon determining that a report of harm towards a child might relate to harm caused by the actions or inactions of a public home care provider, the Department of Health and Social Services shall notify the employer of the public home care provider of the allegations of harm. The section further provides that, upon receiving notification, the employer shall immediately assign a new person to provide home care to the subject of the report of harm. An employer who failed to reassign a home care provider after receiving the notification would be guilty of a violation under AS 11.81.900(b).

The Department of Law is concerned that prematurely notifying an employer, before a preliminary inquiry can be conducted to at least verify the report and determine the likely party or parties responsible for the harm, could compromise the state's future investigation efforts. The department is also concerned that reassigning a public home care provider, without verifying the allegations, and without a process to allow the home care provider to respond to the allegations, will result in personal injury claims against the employer and the state. This is because no investigation was conducted before adverse action was taken against the public home care provider. In most cases reassignment would probably result in the suspension or firing of the public home care provider, or literally finding the care provider guilty at the time of the report.

Section 3. This section amends AS 47.24.020 to provide for the same notification and reassignment requirements contained in Section 2, for reports of harm involving elderly persons. The department's comments in Section 2 apply equally here. In addition to those comments, the department notes that it expects federal certification of its Medicaid Provider Fraud Unit within the next

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 511

few weeks. Among its responsibilities, this unit has the duty to investigate and, where appropriate, prosecute all reports of harm of elderly persons caused by the actions or inactions of medicaid- or medicare-funded care providers. We expect that the activities of the unit will reduce the incidence of harm to the elderly that may be occurring and help deter future harm.

Section 4. This section provides that the Department of Health and Social Services shall, upon request, disclose the number of verified reports of harm of the elderly that were the result of actions or inactions of a public home care provider. This section will not have a fiscal impact.

Section 5. This section provides a definition for a public home care provider

Section 6. This section provides for notification to employers and reassignment of public home care providers as a result of reports of harm involving disabled adults. The department's comments in Section 2 also apply to this section.

Section 7. The sponsor's staff has advised that this section is being deleted from the bill.

Section 8. The sponsor's staff has advised that this section is being deleted from the bill.

Sections 9 and 10. These sections amend AS 47.65.050 and AS 47.65.100 and provide that the Older Alaskans Commission may not make payments to a sponsor of home care, adult day care, or family respite care services unless the sponsor has agreed to request and receive criminal history information, under AS 12.62.035(a), for the person who will provide the services. These sections will not have a fiscal impact on the Department of Law.

Section 11. This section amends AS 47.65.290 and provides a definition for "home care services."

Section 12. This is the effective date section.

REPRESENTATIVE  
JERRY MACKIE

P O BOX 73  
CRAIG, ALASKA 99921  
(907) 826-3008 OFFICE  
(907) 826-2930 HOME

CHAIRMAN,  
COMMUNITY & REGIONAL AFFAIRS COMMITTEE

VICE CHAIRMAN,  
TRANSPORTATION COMMITTEE

# Alaska State Legislature



WHILE IN JUNEAU  
ALASKA STATE CAPITOL  
JUNEAU, ALASKA 99801-1182  
(907) 465-4925

## House of Representatives

### MEMORANDUM

TO: Senator Arliss Sturgulewski, Chair  
Senate HESS Committee

FROM: Representative Jerry Mackie

DATE: April 28, 1992

RE: HB 511

Arliss

A handwritten signature, likely of Jerry Mackie, consisting of several loops and a final flourish.

Attached, please find back-up documentation for HB 511 scheduled to be heard in Senate HESS Committee on Wednesday, April 29. I would like to thank you for expeditiously scheduling HB 511 to be heard in your committee.

This bill will require criminal background checks of care-givers employed by publicly funded home care services agencies. It will also mandate the Department of Health and Social Services to keep a public register of verified reports of harm caused by home care providers.

HB 511 will prevent those providing home care services to the elderly and disabled from assuming powers of attorney from a client, unless the power is held jointly with a neutral person. The Department of Health and Social Services will also be required to set regulations governing the investigation of reports of harm by home care providers.

I would appreciate your favorable consideration of this legislation.

Thank you.



## CS FOR HOUSE BILL NO. 511 (JUDICIARY)

"An Act relating to public home care providers; and providing for an effective date."

1. CSHB 511 (Judiciary)
2. Sectional Analysis - CSHB 511 (Jud)
3. Sponsor statement - Representative Jerry Mackie
4. Letter of support - Department of Law
5. Fiscal note - Department of Law  
Legal services BRU  
Operations component  
Medicaid Provider Fraud component
6. Fiscal analysis - Department of Law
7. Position paper - Dept. of Health and Social Services
8. Fiscal note - Dept. of Health and Social Services  
DFYS BRU  
Central office component
9. Fiscal note - Dept. of Public Safety  
Alaska State Troopers BRU  
Detachments component
10. Fiscal note - Alaska Court System  
Trial Courts BRU
11. Position paper - Older Alaskans Commission
12. Committee minutes - House HESS Committee

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TRANSPORTATION COMMITTEE

# Alaska State Legislature



WHILE IN JUNEAU  
ALASKA STATE CAPITOL  
JUNEAU, ALASKA 99801-1182

(907) 465-4925

## House of Representatives

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

#### CS HB 511 (Jud) "An Act relating to public home care providers; and providing for an effective date"

HB 511 will mandate quality assurances within the home care provider industry. Services providing protection, intervention and investigation of crimes against the elderly and disabled are presently inadequately funded and facing additional cutbacks.

The legislature and the Department of Health and Social Services are fast pursuing Medicaid waivers and options for home and community based care.

Additionally, the Department of Health and Social Services recently launched a new home care services program. This program is a collaborative effort of the Divisions of Public Health, Medical Assistance and Mental Health and Developmental Disabilities.

All of these factors push Alaska to the precipice of an explosion in home and community based care when combined with a burgeoning aging population and a staggering unmet demand for home and community based care.

In anticipation of the expected growth in the home care services industry I am seeking to legislate quality assurances and enhanced protections for the clients of these services.

HB 511 restricts the assumption of powers of attorney by a public home care provider over the client to whom the care-giver provides in-home services. We must remove any opportunities for abuse and exploitation by care-givers placed in the private residences of these persons who are least able to protect themselves.

HB 511 will mandate criminal background checks for home care providers. This will include both state and federal

Sponsor Statement  
CSHB 511 (Jud), Home Care Providers  
April 13, 1992

criminal histories. The Judiciary CS will require the employer agency to request records under AS 12.62.035 within two weeks of the first day of employment. The employer will be allowed one week to review these records upon receipt.

HB 511 will require the Department of Health and Social Services to promulgate regulations that will provide an established procedure or protocol between the Department and the home care services agency when a care giver is charged with abusing or exploiting a client. These regulations shall provide for a grievance procedure that will allow the alleged abuser due process. These regulations shall protect the due process and constitutional rights of the alleged abuser as well as the alleged victim. These regulations will also require the department to address these concerns in the due course of the grantor/grantee relationship with contract agencies. Contracts shall include provisions ensuring the State of Alaska that the contracting agency employer will not interfere in the course of any investigation of an allegation of abuse of a client.

These regulations shall be adopted by March 15, 1993 with a report to the legislature by February 1, 1992. This report shall not be elaborate, simply a report of departmental findings with an update on the status of the regulations and their expected date of completion.

Additionally, HB 511 will require that the Department of Health and Social Services shall, upon request, disclose the number of verified reports of harm that were the result of actions or inactions of a public home care provider. Currently, the Department is required to furnish information as to the number of verified reports of harm occurring at an institution for care of the elderly. This added requirement will provide access by family members to information that is critical to making informed decisions regarding care arrangements.

Please note that the term "respite care" is not referred to in section 8. This is because "family respite care" is a term already defined for the Older Alaskans Commission programs covered by section 8. Instead, "family respite care" is added to section 6 and section 7, therefore it does not need to be part of the definition of "home care services" in section 8.

## CS FOR HB 511 (JUDICIARY)

### SECTIONAL ANALYSIS

Section # 1 - AS 13.26 (Decedents Estates, Guardianships and Trusts; Protection of Persons Under Disability and Their Property; Statutory form power of attorney) - Amended

--Amended to prohibit a public home care provider from accepting a designation as attorney in fact or agent by general or special power of attorney for an individual to whom the provider furnishes in-home services unless the designation is held jointly with another individual who is not employed by the same entity.

Section # 2 - AS 47.05 (Welfare, Social Services and Institutions; Administration of Welfare, Social Services and Institutions) - Amended

--Amended to require criminal background checks for home care providers. Criminal records shall be requested under AS 12.62.035(a) (Code of Criminal Procedure: Criminal Justice Information Systems Security and Privacy; Access to certain crime information) within 10 business days after the provider is hired and are to be reviewed within five business days of receipt. Any entity, grantee or contractor would be precluded from receiving state money for the provision of home care services unless records for previous criminal history are requested.

NOTE: This criminal history will include records of all felony convictions, convictions involving contributing to the delinquency of a minor, and convictions involving any sex crimes of a person who holds or applies for a position of employment in which the person will have supervisory or disciplinary power over a minor or dependent adult. A copy of the information will also be provided to the person who is the subject of the request.

--The Department of Health and Social Services will be required to adopt regulations that identify actions that it will take when reports of harm are received and the harm is caused by the actions or inactions of a public home care provider. Additionally, the regulations will address circumstances under which the department

CS HB 511 (Judiciary)  
Sectional Analysis  
April 14, 1992

will require a contractor or grantee to reassign, suspend or terminate a person alleged to have perpetrated harm. The regulations will include procedural safeguards to protect the due process rights of the care giver.

Section # 3 - AS 47.10.230 (Welfare, Social Services & Institutions: Delinquent Minors and Children in Need of Aid; Powers and duties of department over care of child)  
- Amended

--Amended to address criminal background checks for respite care service providers.

Section # 4 - AS 47.24.050(b) (Protection of Elderly Persons and Disabled Adults: Confidentiality of reports)  
- Amended

--Amended to provide disclosure of the number of verified reports of harm caused by a public home care provider; similar to the current law's requirement relating to institutions.

Section # 5 - AS 47.24.100 (Protection of Elderly Persons and Disabled Adults: Definitions) - Amended

--Amended to provide a definition for the purposes of sections 2 - 4.

Section # 6 - AS 47.65.050 (Protection of Elderly Persons and Disabled Adults: Service Programs for Older Alaskans; Administrative requirements) - Amended

--Amended to prohibit the Older Alaskans Commission from making payments to a sponsor of programs determined to directly benefit older Alaskans unless the sponsor or grantee has agreed to request records of criminal history for the individual who will provide the services within 10 business days after the individual is hired. The records will have to be reviewed within five business days after receiving them.

CS HB 511 (Judiciary)  
Sectional Analysis  
April 14, 1992

Section # 7 - AS 47.65.100 (Protection of Elderly Persons and Disabled Adults: Service Programs for Older Alaskans; Adult Day Care and Family Respite Care) - Amended

--Amended to prohibit the Older Alaskans Commission from making payments to a sponsor whose program includes family respite care services or home care services or from awarding a grant for family respite care services or for adult day care services that include home care services, unless the sponsor or grantee has agreed to request records of criminal convictions.

Section # 8 - AS 47.65.290 (Protection of Elderly Persons and Disabled Adults: Service Programs for Older Alaskans; Definitions) - Amended

--Amended to add a definition of "home care services." "Home care services" means homemaker services, chore services, personal care services, home health care services or similar services in or around the residence of the client of the services.

NOTE: Respite care is not referred to in this section because "family respite care" is a term already defined for the Older Alaskans Commission programs. "Family respite care" is covered by this CS in sections 6 and 7. Therefore, it does not need to be part of the definition of "home care services" in section 8.

Section # 9 - Regulations

--The Department of Health and Social Services shall adopt the regulations enacted by section 2 of this Act, by March 15, 1993. The department shall report to the legislature by February 1, 1993 on the status of the regulations process.



CS FOR HOUSE BILL NO. 511 (JUDICIARY)  
 IN THE LEGISLATURE OF THE STATE OF ALASKA  
 SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/25/92  
 Referred: Finance

Sponsor(s): REPRESENTATIVES MACKIE, Ellis, Lincoln, Larson, Gonzales, Jacko

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to public home care providers; and providing for an effective date."

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

3 \* Section 1. AS 13.26 is amended by adding a new section to article 5 to read:

4           Sec. 13.26.358. POWERS OF ATTORNEY HELD BY PUBLIC HOME CARE  
 5 PROVIDERS. (a) A public home care provider may not accept a designation as attorney-in-fact  
 6 or agent by general or special power of attorney for an individual to whom the provider furnishes  
 7 services unless the designation is held jointly with another individual who is not a public home  
 8 care provider.

9           (b) In this section, "public home care provider" has the meaning given in  
 10 AS 47.05.017(c).

11 \* Sec. 2. AS 47.05 is amended by adding a new section to read:

12           Sec. 47.05.017. HOME CARE PROVIDERS. (a) State money may not be used for a  
 13 home care provider unless records under AS 12.62.035(a) are requested for the provider within  
 14 10 business days after the provider is hired to provide the care and are reviewed within five

1 business days after they are received. The department shall require the grantee or contractor to  
2 do the records request and review required under this subsection for a home care provider  
3 employed by a person who has a grant or contract from the department to provide home care  
4 services.

5 (b) The department shall adopt regulations identifying actions that it will take, in addition  
6 to those otherwise required under AS 47.17 and AS 47.24, when a report of harm is made under  
7 AS 47.17 or AS 47.24 that might relate to harm caused by actions or inactions of a public home  
8 care provider. The regulations must

9 (1) address circumstances under which the department will, or will require a  
10 contractor or grantee to, reassign, suspend, or terminate a person alleged to have perpetrated  
11 harm; and

12 (2) include appropriate procedural safeguards to protect the due process rights of  
13 public home care providers who may be reassigned, suspended, or terminated under the  
14 circumstances described in (1) of this subsection.

15 (c) In this section, "public home care provider" means a person who is paid by the state,  
16 or by an entity that has contracted with the state or received a grant from state funds, to provide  
17 homemaker services, chore services, personal care services, home health care services, or similar  
18 services in or around a client's private residence or to provide respite care in either the client's  
19 residence or the caregiver's residence or facility.

20 \* Sec. 3. AS 47.10.230 is amended by adding a new subsection to read:

21 (h) The department may not pay for respite care, as defined in (d) of this section, unless  
22 the department or the entity that has contracted with the department to provide the respite care  
23 requests records under AS 12.62.035(a) for the individual who provides the respite care within  
24 10 business days after the individual is hired to provide respite care and reviews the records  
25 within five business days after receiving them.

26 \* Sec. 4. AS 47.24.050(b) is amended to read:

27 (b) The department shall disclose a report of harm if the elderly person who is the  
28 subject of the report consents in writing. The department shall, upon request, disclose the  
29 number of verified reports of harm that occurred at an institution for care of the elderly or that  
30 were the result of actions or inactions of a public home care provider.

31 \* Sec. 5. AS 47.24.100 is amended by adding a new paragraph to read:

1 (13) "public home care provider" has the meaning given in AS 47.05.017(c).

2 \* Sec. 6. AS 47.65.050 is amended by adding a new subsection to read:

3 (b) The commission may not make payments to a sponsor whose program includes  
4 family respite care services or home care services unless the sponsor has agreed to request  
5 records under AS 12.62.035(a) for the individual who will provide the services within 10 business  
6 days after the individual is hired to provide the services and review the records within five  
7 business days after receiving them.

8 \* Sec. 7. AS 47.65.100 is amended by adding a new subsection to read:

9 (f) The commission may not award a grant under this section for family respite care  
10 services or for adult day care services that include home care services unless the grantee has  
11 agreed to request records under AS 12.62.035(a) for the individual who will provide the services  
12 within 10 business days after the individual is hired to provide the services and review the  
13 records within five business days after receiving them.

14 \* Sec. 8. AS 47.65.290 is amended by adding a new paragraph to read:

15 (8) "home care services" means homemaker services, chore services, personal care  
16 services, home health care services, or similar services in or around the residence of an older  
17 Alaskan or of a frail older person or similarly disabled adult, as defined in AS 47.65.100.

18 \* Sec. 9. REGULATIONS. The Department of Health and Social Services shall adopt the regulations  
19 required under AS 47.05.017(b), enacted by sec. 2 of this Act, by March 15, 1993. By February 1,  
20 1993, the department shall report to the legislature on the status of the regulations process.

21 \* Sec. 10. This Act takes effect immediately under AS 01.10.070(c).

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 5, 1992

## REPLY TO:

- 1031 W 4th AVENUE SUITE 200  
ANCHORAGE, ALASKA 99501-1994  
PHONE: (907) 276-3550  
FAX: (907) 276-3697
- 1st NATIONAL CENTER  
100 CUSHMAN ST. SUITE 400  
FAIRBANKS, ALASKA 99701-4679  
PHONE: (907) 452-1568  
FAX: (907) 456-1317
- P.O. BOX K—STATE CAPITOL  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3600  
FAX: (907) 463-5295  
465-3603

The Honorable Jerry Mackie  
Alaska House of Representatives  
P.O. Box 113100  
Juneau, Alaska 99811

Re: SB 511

Dear Representative Mackie:

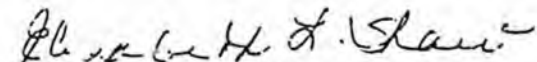
Thank you for asking the Department of Law to review SB 511. I have talked with your staff and with staff of legislative affairs, division of legal services, regarding the bill. We specifically discussed those sections of the bill that require the Department of Health and Social Services to notify an employer of a report of harm and for the employer to assign a new home care provider based solely on the report. The narrative portion of our department's fiscal note refers to these legal concerns regarding the due process rights of the employee and the possibility of difficulties with reporting requirement conflicting with criminal investigations.

The new draft version of SB 511 dated March 2, 1992, addresses the legal problems identified. The Department of Health and Social Services would be delegated the responsibility of developing regulations which would insure both the safety of the individual receiving services and the home care provider's due process rights regarding the employment. Of course, this department cannot speak for the position which the Department of Health and Social Services may wish to take in relation to the new responsibilities that its workers will take on in relation to home care providers.

If there are further questions, please feel free to  
contact my office.

Sincerely,

CHARLES E. COLE  
ATTORNEY GENERAL

By:   
Elizabeth L. Shaw  
Assistant Attorney General

ELS:jh

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## Older Alaskans Commission

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### POSITION PAPER

#### COMMITTEE SUBSTITUTE FOR HOUSE BILL 511 (Judiciary)

#### "An Act relating to public home care workers"

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The Older Alaskans Commission supports passage of Committee Substitute for House Bill 511 (Judiciary).

This bill adds several new protection for seniors and other disabled persons who use the services of public home care providers. The bill would

- 1) forbid public home care workers from accepting a client's designation to hold a power of attorney, unless the power is jointly held with a neutral person;
- 2) require the Department of Health and Social Services to promulgate regulations no later than March 1993 as to how it will investigate reports of harm by home care workers, which regulations must include provisions for worker re-assignment to protect clients and protection for the due process rights of the worker;
- 3) forbid state agencies from paying for home care unless the employing home care agency agrees to timely request and review criminal background checks on all home care workers.
- 4) require the Department of Health and Social Services to keep a public register of verified reports of harm caused by a home care provider.

This bill covers home care and respite services provided under grants awarded by the Older Alaskans Commission as well as other publicly funded home care services.

The Older Alaskans Commission understands that the Department of Health and Social Services has submitted a one-time-only fiscal note of \$20,000 for writing the new regulations and training its social workers and lawyers in the new procedures. The Older Alaskans Commission understands that public dollars are very limited this year, but would recommend that the Governor and Legislature support this modest fiscal note.



The dollars will be well spent, to carry out preventive efforts that can save many hundreds of thousands of public dollars in investigations and legal actions. Also, this bill, once fully implemented by the regulations, should defer and prevent many instances of financial and physical exploitation or abuse of elderly or disabled persons. The public costs which may be avoided by this bill seem to justify the small fiscal note.

The Older Alaskans Commission urges passage of CSHB 511 (Judiciary).

Approved:

	
Howard Vaughn, Chairman Legislative Subcommittee Older Alaskans Commission	Janet Helen Gamble Chairman Older Alaskans Commission

Date: April 13 1992

HOUSE BILL 511

"An Act relating to public home care providers; and providing for an effective date."

This bill recognizes the intimate relationship between those needing help and those providing it. Alaska is fortunate to have so many caring and kind helpers. Almost all home care providers are moral people, but the demands and dynamics of the caregiving relationship often result in extraordinary temptations and dilemmas for the caregiver. This bill would set legal limits on the relationship and reduce risk to vulnerable populations through requiring protective action on reports of harm and through requiring criminal background checks on public home care providers. The Department of Health and Social Services supports this bill with amendments.

Applicability

The Department notes that this bill excludes private arrangements for care even if there are state funds involved. The Department supports the exclusion as practical.

Section 1

This section limits the relationship between a home provider and person requiring care by prohibiting public home care providers from accepting sole responsibility under a Power of Attorney. The Department believes this is an appropriate limitation. We are concerned with a potential problem that might occur when a home care provider has a friend or relative co-sign a power of attorney. Perhaps an additional clause such as "and who is not a relative of and has no previous association with the home care provider" could be added.

Sections 2 and 3

Sections 2 and 3 require the Department to notify the employer upon receiving a report of harm to either a child or to an elderly person, when the harm may have been caused by a public home care provider. The employer agency must immediately assign a new care provider to give the care. The assignment of a new care provider is critical to free concerned persons to report. Frequently individuals will not report for fear of retaliation and of losing the care upon which the elderly person or child depends. There are personality conflicts in the caring relationship, and not all reports will be founded, but removal and assignment of a new care provider when there are allegations of abuse or neglect is prudent state policy. The Department has had a similar requirement in its non-medical care facility regulations for more than 10 years. Investigation may move a concern from suspicion to evidence.

We suggest that an amendment be added to the effect that the employer must cooperate with department officials and may not hamper the investigation.

Sections 2 and 3 will potentially have significant impact on the Division of Family and Youth Services (DFYS). Depending on the nature of an allegation, the care provider employee may need to be removed from all caregiving situations until the investigation can be completed, and then the results of the investigation may have a negative effect on the future employment of the care provider. Since this is very similar to our previous experience in licensed facilities, we know that two elements are necessary in the DFYS response to the report of harm: first,

it must be timely; and second, DFYS must be prepared to participate in any employee appeal proceeding, if the finding results in dismissal of the employee.

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. We believe there will be few reports under this proposed statutory provisions, however, given inadequate numbers of existing staff, need for a timely investigative response and involvement in any employment appeals, the Department is concerned that investigative response will not be able to meet expectations.

#### Section 4

Section 4 is important in that it will require tracking the number of reports of harm by public home care providers. While we believe the number will be small, statewide computer information is critical to our better understanding of the nature of abuse and neglect.

#### Sections 5 and 11

The definition of a public home care provider in Section 5 should be amended to read....."in or around the client's [A PRIVATE] residence." This clarification will make the definition consistent with the definition in Sec.11 by clarifying that it applies to the residence of the person receiving the care. The amendment would further clarify that the definition does not broadly include the care given in private residences by licensed foster parents and licensed family child care providers. Foster care providers and family child care home providers not exempt from AS 47.35 are regulated through licensing. The committee should consider adding the term "respite" to the list of services in both Sections 5 and 11, to ensure inclusion.

#### Section 6

The Department supports Section 6 on disabled adults as consistent with other sections of the bill. As a practical matter DFYS, as the protective services agency, investigates some reports of harm to individuals included in AS 46.24 (Article 2) in coordination with law enforcement.

#### Sections 7, 8 and 12

The Department recommends deletion of all reference to Chapter 66, SLA 1991. Under the Weiss litigation in the Mental Health Trust lawsuit, there is an unstated understanding between the state and the attorneys for the plaintiff that there would be no amendments to Chapter 66 without the agreement of both sides. An amendment at this time would create an additional complication in settling this litigation, so we believe it would be best to delete reference to Chapter 66 until after a settlement has been reached.

Perhaps the best location for the criminal history background searches required in Section 8 would be AS 12.62. Criminal history searches are currently required in department grants and are in the draft regulations for home care in final review in the Department of Law. The phrase in Section 8, "before the care is provided," would prevent care providers from entering the system prior to criminal history clearance. Our experience in child foster care is that clearance can take months. This is especially true in rural communities where unacceptable fingerprint rolling results in reprocessing delays.

# POSITION PAPER

STATE OF ALASKA ★ DEPARTMENT OF HEALTH & SOCIAL SERVICES

In drafting any amendment, we suggest that the language of Section 9 be used as it does not contain the phrase, "before the care is provided." We believe it is possible to protect the recipient while a criminal background check is being completed on a new hire; our home care regulations require extensive reference checks and an applicant's affidavit of their record, among other precautions. We think that the risks of "conditional hires" must be balanced against the recipient's need for care. Almost anywhere outside of Anchorage, there is no "pool" of home care providers, so requiring completion of a criminal background check before service is begun could have devastating effects on the client, far beyond the risks of using an uncleared provider.

## Task Force

The Department recommends that an Adult Protective Services (APS) Task Force be created, preferably with legislative sponsorship, to address issues which this bill and HB 510 address. DFYS has carried the APS role, since before statehood. About 2/3 of their caseload are over age 65 (with 3 over 100 years old) and about 1/3 of the caseload are younger disabled adults, often just below criteria that could get them help in other systems. These are street people and frail elderly, and persons who are physically handicapped, mentally ill or developmentally disabled. Reports of harm include self-neglect, neglect by a person responsible for their care, financial exploitation, and abuse.

Division activity in APS is so understaffed that community members including neighbors of victims do not know that help is possible and professionals fail to report, assuming an inadequate investigative response. When DFYS does get reports, they have been termed as non-responsive on all but the worst cases. In 1982, the Elder Abuse reporting statute was passed, but not funded. Ten years later

- We don't have a full Adult Protective Services system
- We don't provide the same level of protection to elderly and disabled adults as we do to children.
- We know that we don't have an adequate system.
- We want to do better.
- So how do we do that?

We strongly believe the department with legislative support has a responsibility to bring this problem out of the closet. This state has people qualified to address an APS System. We think that it is time for a small task force of experts and selected community professionals to address APS issues and make recommendations to the Governor and to the legislature. We would be pleased to participate in a legislative sponsored task force.

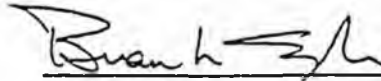


# POSITION PAPER

STATE OF ALASKA ★ DEPARTMENT OF HEALTH & SOCIAL SERVICES

## Position

The Department supports House Bill 511 with amendments.



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

Date: 3/4/92



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

Date: 4 March 1992

## 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 FY89 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.



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

	FY83	FY85	FY88	FY89	FY90
Population 65+	15,149	10,133	20,397	21,885	22,459
Population 18+			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	?
	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.

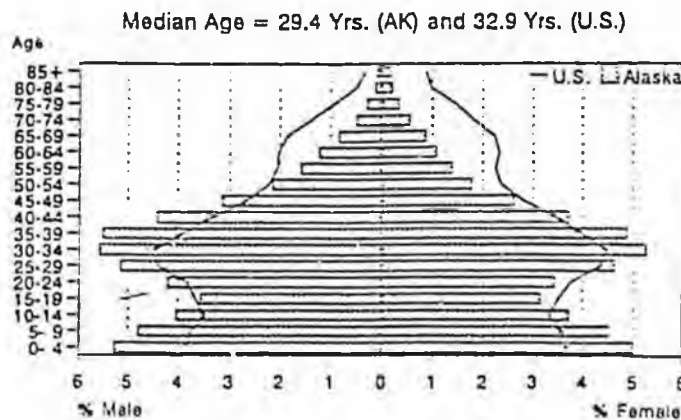
Table 1  
Population Comparison for  
Persons 65 Years and Older for the  
State/Census Areas/Boroughs — 1980 & 1990

	1980	Change		Percent
		1990	1980-90	
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	76	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	12.65
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





Alaska Sport Shop



P. O. Box 1069  
4th and Main Street  
Haines, AK 99827  
Telephone: (907) 766-2441  
FAX: (907) 766-2745

February 1, 1992

Mr. Ted Mala, Commissioner  
State Department of Health and Social Services  
Box 110601  
Juneau, AK 99811-0601

Dear Mr. Mala:

At the request of Representative Jerry Mackey, I am writing to bring to your attention an experience that has greatly angered and embarrassed me as a citizen of the state of Alaska. The situation involves an elderly lady who has been a prominent figure of our community for over 40 years. Unfortunately her age has progressed and disabilities have set in. Recently, I was amazed to learn that, irregardless of preliminary estate and financial planning done by this lady through her own lawyer, she has been subjected to financial, as well as physical and mental abuse from a healthcare giver employed on a full-time basis. Friends in the community have worked desperately to try and assist, as much as society will allow.

To our consternation, however, reality has shown us the extremely fragile position our state allows these elderly people to be in. Within the last year, any and all attempts to correct this situation have been accomplished after great expenditure of time and personal assistance from only her close friends within this community.

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.

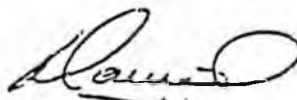
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Recent personal experiences which I related in my earlier letter to State Representative J. Mackie (copy enclosed) have led me to believe that the state of Alaska has allowed a tremendous void to take place in relation to this particular grouping of 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.

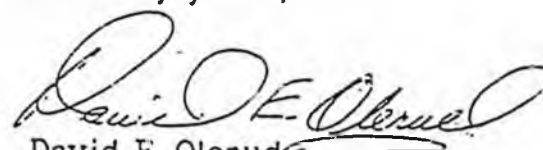


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I will look favorably upon any legislation that will protect these people who are so vulnerable. I realize your time is in great demand, and I very much appreciate your phone call and interest.

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

Sincerely yours,

  
David E. Olerud

March 25, 1991

TO: <i>Vicki Irwin</i>	FROM: <i>P O'Brien</i>	DATE: <i>2/14/92</i>
FAX #.: <i>2299</i>	<i>By your request.</i>	PAGE: INCLUDING THIS PAGE
	FAX #:	PHONE #: <i>465-2145 2</i>

## ADULT PROTECTIVE SERVICES CLIENTS AND DFYS SERVICES

<u>Age</u>	<u>FY87</u>	<u>FY88</u>	<u>FY89</u>	<u>FY90*</u>	<u>FY91*</u>
18-59	609	577	568	362	279
60 & up	1326	1326	1272	894	846
<u>Sex</u>					
Female	1268	1289	1256	810	725
Male	666	656	625	446	400
<u>Race</u>					
AK Native	792	790	672	461	483
Black	58	59	69	42	36
Caucasian	1020	1000	976	603	511
Unknown	65	91	117	148	178
<u>Services Turnover</u>					
<u>Clients Exiting</u>					
System in the FY	556	438	445	177	137
Clients Began in the FY	301	487	446	122	50
Clients Continued Thru to the next FY	554	543	569	871	853
Clients Interrupted During the FY	87	47	51	2	3
Clients Entered and Exited in the FY	437	428	371	84	86
<u>Homemaker Services</u>					
Number of Clients	1260	1430	1363	76	61
<u>Adult Foster Care</u>					
Number of Clients	27	41	38	28	28
<u>Adult Residential Care</u>					
Number of Clients	66	69	70	77	63

\*Homemaker Services were transferred to Public Health in FY90, resulting in a substantial drop in DFYS delivered homemaker services to "at risk" elders and vulnerable adults under the APS program. In addition beginning in FY90 social workers began to transition from the mainframe data system to a new system called Prober. Figures given for FY 90 and 91 are fewer than actual cases, as some cases were recorded only in the new Prober system and are not represented here.

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

Adult Protective Services Reports of Harm\*

<u>Number of Reports:</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>Avg.</u>	<u>%</u>
65 and over:	137		155	275	225	198	54
60 - 64	21		40	28	39	32	9
18 - 60	87		122	185	143	134	37
<u>Sex of Victim:</u>							
Male	85		118	185	161	137	38
Female	160		199	303	247	227	62
<u>Type of Harm:</u>							
Abandonment	10	11	11	17	7	11	3
Abuse	128	117	65	171	126	121	34
Economic Harm	40	69	133	127	98	93	26
Neglect	67	129	100	173	177	129	37
<u>Relationship of Perpetrator to Victim:</u>							
Wife	18		8	7	8	10	4
Husband	41		30	40	31	36	14
Son	40		24	43	64	43	17
Daughter	16		18	19	41	24	10
Other Male Family Member	32		10	30	34	27	10
Other Female Family Member	25		15	19	25	21	8
Other Male	31		64	46	63	51	20
Other Female	20		38	62	51	43	17
<u>Did the Victim Request That the Investigation be Terminated?</u>							
Yes	61		80	117	163	105	44
No	116		85	160	183	136	56
<u>Type of Report:</u>							
Mandatory	88		123	169	151	133	67
Other	63		79	77	48	67	33
<u>Was the Report Confirmed?</u>							
Yes	142	202	152	150	222	174	62
No	31	94	145	124	129	105	38

REPORTS OF HARM\*

	<u>65 and older</u> (all ages combined)	<u>60-65</u>	<u>18-55</u>	<u>TOTAL</u>
FY84				72
FY85	137	21	87	245
FY86	98	39	195	332
FY87	155	40	122	317
FY88	275	28	185	488
FY89	226	39	143	408

\*Due to a transition in data collection to Prober, Reports of Harm to adults data is not available after FY89.

DIVISION OF FAMILY AND YOUTH SERVICES  
Department of Health and Social Services

Adult Protective Services Annual Report  
Fiscal Year Ending June 30, 1989

Total Number of Reports	408
65 and over:	226
60 - 64	39
18 - 59	143

Sex of Victim:

Male	161
Female	247

Type of Harm:

Abandonment:	7
Abuse:	126
Economic Harm:	98
Neglect:	177

\*Relationship of  
Perpetrator to Victim:

Wife:	8
Husband:	31
Son:	64
Daughter:	41
Other Male Family Member:	34
Other Female Family Member:	25
Other Male:	63
Other Female:	51

Did the Victim Request that  
the Investigation be Terminated:

Yes:	163
No:	183

Type of Reporter:

Mandatory:	151
Other:	48

\*Was the Report Confirmed:

Yes:	222
No:	129

INCREMENT/DECREMENT DESCRIPTION (limit to 98 characters)

**INCREASE PROTECTION OF ELDERLY & VULNERABLE ADULTS-- 1 PPT POSITION & SUPPORT**

AGENCY CONTACT/PHONE NUMBER:

Frank Hickey 465-3002

DESCRIBE WHY THIS INCREMENT/DECREMENT IS NEEDED AND WHAT IT PURCHASES.

In FY 89 nearly 1,300 elderly Alaskans over age 60 (one in 25) another 600 vulnerable adults between the ages of 18 and 59 also received protective services. However, the number of persons who actually need protection is probably substantially greater. Studies indicate that, as with child abuse, the reported instances of abuse, neglect, and exploitation of elderly and vulnerable adults represents only a portion of the actual incidents. There has been no study of the unreported incidence of adult abuse in Alaska, however, there is a consensus among advocacy groups that the rate of reporting is below the actual incidence. In many instances persons in need do not seek the service and others request that intervention be terminated because the level of response is inadequate or the services needed are not available. The following illustrates the growth in the at risk population of elderly adults and in the need for services and the decline in capacity to respond to this need:

Year	1983	1985	1988	Percent Change
Population Age 65+	15149(1)	18133(1)	25526(2)	+ 221%
Reports of Harm to Vulnerable Adults	72(3)	310	488	+ 678%
DFYS Adult Service Staff	11	0	3.5	- 314%

(1) Alaska Population Projections, Alaska Department of Labor, October 1986.

(2) House Research Agency Report 86-A, The Delivery of Senior Services in Alaska, January, 1986.

(3) Reporting of harm to adults over 65 was not mandated by statute until 1983. Prior to that date data was not collected by any state agency.

CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
100	Personal Services	29.9	
200	Travel	1.3	
300	Contractual Services	3.2	
400	Supplies	2.1	
500	Equipment	6.0	
600	Lands, Buildings, Etc.		
700	Grants, Claims, Etc.		
800	Miscellaneous		
TOTAL		42.5	
I-A Transfer (NON-ADD)		1.9	
1002	Federal Funds		
1003	General Fund Match		
1004	General Funds	42.5	
1005	CI/Program Receipts		
1007	I-A Receipts		
POSITION INFORMATION	PPT		
	Non Permanent	1	
	Staff Months	6	
<input checked="" type="checkbox"/>	Enhance Existing Services Compared To FY 90		<input type="checkbox"/> Formula Program
<input type="checkbox"/>	New Services Compared to FY 90		
<input type="checkbox"/>	Continuation of FY 90 Service Level		<input type="checkbox"/> Facility Operation

IMPACT FROM CAPITAL PROJECT (NAME)

Chapter SLA Page/Line

INCREMENT/  
C5 DECREMENT  
REQUEST

Agency Priority of

AGENCY Health & Social Services  
 BRU Family Services  
 COMPONENT Western Region  
 PROJECT \_\_\_\_\_

FY 91

Page 1 of 5

Revised Date: 11/10/89



STATE OF ALASKA  
THE LEGISLATURE

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JUNEAU, ALASKA 99811  
907-465-3800

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Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

3/5/92

*House News*

3/6/92

*" "*