

SB

248

HFIN

FILE

(11)

Date Referred: April 18, 1994

HOUSE COMMITTEE REPORT
FURTHER REFERRALS:

Date of Committee Action: 4/27/94

The FINANCE Committee considered:

CSSB 248(RLS) am

CS FOR SENATE BILL NO. 248(RLS) am

ASSIST & PROTECT VULNERABLE ADULTS

"An Act relating to services for and protection of vulnerable adults; and providing for an effective date."

RECOMMENDATIONS:

be replaced with

HCS CSSB 248 (FIN)

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):

(3) DHS 1/14/94

(Dept)

APPROVES PREVIOUS:

(Dept/Date)

fiscal impact Admin 3/24/94

fiscal note(s)

zero fiscal note

zero fiscal note(s)

DPS 2/18/94
Admin 3/24/94

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<u>Richard Foster</u>	<u>*</u>	<u>Ronald J. Larson</u>		<u>X</u>	
<u>Jerry Martin</u>	<u>✓</u>	<u>Mark Hanley</u>		<u>X</u>	
<u>Bob Grussendorf</u>	<u>X</u>	<u>Pam Parnell</u>		<u>✓</u>	
<u>Mike Navarre</u>	<u>✓</u>	<u>Tom Thurnau</u>		<u>X</u>	
<u>Jay Brown</u>	<u>✓</u>				

Ronald J. Larson
CO CHAIRMAN'S SIGNATURE Larson

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSSB 248 (RLS) am

Revision Date: _____
Title: "An Act relating to services for and protection of vulnerable adults."
Sponsor: Rules Committee
Requestor: _____

Department Affected: Administration
BRU: Senior Services
Component: Pioneers' Homes
COMPONENT SERIAL NO. 1950

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUNDING SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	0	0	0	0	0	0

Estimate of any current year (FY 94) cost: \$ 0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Connie J. Sipe, Director
Division: Senior Services

Phone: 465-4879
Date: _____

Approved by Commissioner: Nancy Bear Usara
Agency: Department of Administration

Date: 4/16/94

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSSB 248 (RLS) am

Revision Date: _____
 Title: "An Act relating to services for and protection of vulnerable adults."
 Sponsor: Rules Committee
 Requestor: _____

Department Affected: Administration
 BRU: Senior Services
 Component: Senior Services Administration

COMPONENT SERIAL NO. 1981

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	258.5	263.7	268.9	274.3	279.8	285.4
TRAVEL	20.0	20.4	20.8	21.2	21.6	22.1
CONTRACTUAL	264.1	269.4	274.8	280.3	285.0	291.6
SUPPLIES	5.0	5.1	5.2	5.3	5.4	5.5
EQUIPMENT	12.0	12.2	12.5	12.7	13.0	13.2
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	559.6	570.8	582.2	593.8	605.7	617.8
CAPITAL EXPENDITURES	0	0	0	0	0	0
CHANGE IN REVENUES ()	0	0	0	0	0	0

FUNDING SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	538.0	549.2	560.6	572.3	584.1	596.2
1005 GF/Program Receipts						
1006 GF/MHTIA	21.6	21.6	21.6	21.6	21.6	21.6
OTHER						
TOTAL	559.6	570.8	582.2	593.9	605.7	617.8

Estimate of any current year (FY 94) cost: \$ 0

POSITIONS:

FULL-TIME	5	5	5	5	5	5
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

Future costs inflated at 2 percent annual increase. This fiscal note reflects the transfer of staff and support for Adult Protection Services to the Senior Services BRU. See fiscal notes from the Department of Health and Social Services for equivalent reductions.

Further analysis is on the attached pages.

Prepared by: Connie J. Sipe, Director
 Division: Senior Services

Phone: 465-4879
 Date: _____

Approved by Commissioner: Nancy Bear Usera
 Agency: Department of Administration

Date: 2.10.94

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FISCAL NOTE

**STATE OF ALASKA
1994 LEGISLATIVE SESSION**

BILL NO. CSSB 248 (RLS) am

ANALYSIS: (continued)

Transfers:

1. Transfer from Department of Health and Social Services, Family and Youth Services BRU, Southcentral and Northern Regional Office Components:

Three full-time Social Worker positions, range 16, PCNs 063714, 063426, and 063725.

Total = \$ 195.1

2. Transfer from the Department of Health and Social Services, Purchased Services BRU, Adult Services Component:

Adult foster/residential care, other purchased protective and contractual services.

Total = \$ 364.5

3. Transfer from Department of Administration, Senior Services BRU, Pioneers' Homes Component:

- a. One full-time position (vacant) transferred within the BRU and reclassified to Clerk Typist, Anchorage.
- b. One position will be reclassified to become a Social Worker in Anchorage for adult protective services.

TOTAL FUNDS TRANSFERRED **559.6**

Adult Protective Services will use the funds as follows:

<u>Personal Services:</u>	<u>Months</u>	<u>Subtotal</u>	<u>Total</u>
1 PFT Social Worker III (Fairbanks)	12	66.8	
2 PFT Social Worker III (Anchorage)	24	128.3	
1 PFT Social Worker I (Anchorage)	10	35.1	
1 PFT Clerk Typist (Anchorage)	10	28.3	
TOTAL PERSONAL SERVICES			258.5

Note: The division will identify and cross-train personnel in one or more Pioneers' Home in Southeast to handle Adult Protective Services cases in that region on an "as needed" basis.

Travel 20.0

Contractual Services:

Purchased protective services, adult foster/residential	190.0
Lease space	33.0
Telephone: (800 number, 24-hour answering/paging)	34.0
Risk Management and other contractual costs	7.1

TOTAL CONTRACTUAL SERVICES **264.1**

Supplies 5.0

Equipment: software, telephones, computers, furniture 12.0

TOTAL TRANSFERRED IN FOR PROTECTIVE SERVICES **559.6**

FISCAL NOTE

No. 1

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Bill Version: SB 248

(S) Publish Date: 1-14-94

Revision Date: 1/10/94 Dept. Affected: Health and Social Services
 Title: Vulnerable Adults Protective Services BRU: Purchased Services
 Sponsor: Rules Committee Component: Adult Services
 Requestor: by Request of Governor COMPONENT SERIAL NO. _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	(364.5)					
MISCELLANEOUS						
TOTAL OPERATING	(364.5)	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
---------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of D.)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(342.9)					
1006 GF/Program Receipts						
1006 GF/MHTIA	(21.6)					
Other						
TOTAL	(364.5)	0.0	0.0	0.0	0.0	0.0

Changes in SSB 248 (RLS)
 reflect NO FISCAL CHANGE from the original
 fiscal note. This fiscal note is appropriate.

4-14-94 JWT
 date Comte Aide (initial)

POSITIONS:

FULL-TIME			
PART-TIME			
TEMPORARY			

Changes in CS SR 248 (HES)
 reflect NO FISCAL CHANGE from the original
 fiscal note. This fiscal note is appropriate.

2/16/94 bab
 date Comte Aide (initial)

Estimate of current year (FY94) impact: None

ANALYSIS (Attach a separate page if necessary)

When the existing Protection of the Elderly statute was passed in 1983, no funding was provided. In the late 70's, the department had also been given statutory responsibility for licensing adult facilities. Again no funds were provided for licensing and no funds were provided for upgrading the care of dependent adults residing in existing facilities, then called, boarding homes.

In 1983, the department obtained funds for residential and foster care for dependent adults. Those funds became the Adult Services Component of the Purchased Services BRU and are being transferred from the Division of Family and Youth Services, DHSS, to the Division of Senior Services, Department of Administration to support the Protection of Vulnerable Adults Legislation.

Prepared by: Deborah R. Wing, Director
 Division: Division of Family & Youth Services

Phone: 465-3191
 Date: 01/10/94

Approved by Commissioner: Margaret Lowe, M. Ed., Ed. S.
 Agency: Department of Health & Social Services

Changes in SSB 248 (STA)
 reflect NO FISCAL CHANGE from the original
 fiscal note. This fiscal note is appropriate.

3/11/94 [Signature]
 date Comte Aide (initial)

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Changes in SSB 248 (Fin)
 reflect NO FISCAL CHANGE from the original
 fiscal note. This fiscal note is appropriate.

3-23-94 [Signature]
 date Comte Aide (initial)

FISCAL NOTE

No. 2
 Full Version: SB 248
 (S) Publish Date: 1-14-94

STATE OF ALASKA
 1994 LEGISLATIVE SESSION

Revision Date: 1/10/94 Dept. Affected: Health and Social Services
 Title: Vulnerable Adults Protective Services BRU: Family & Youth Services
 Component: Northern Region
 Sponsor: Rules Committee
 Requestor: By Request of Governor COMPONENT SERIAL NO. 255

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	(68.0)					
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	(68.0)	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
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FUND SOURCE (Thousands of \$)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(68.0)					
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	(68.0)	0.0	0.0	0.0	0.0	0.0

Changes in CSSB 248 (RLS)
 reflect NO FISCAL CHANGE from the original
 fiscal note. This fiscal note is appropriate.
4-7-94 RLS
 date Comte Aide (initial)

POSITIONS:

FULL-TIME	1		
PART-TIME			
TEMPORARY			

Changes in CSSB 248 (HES)
 reflect NO FISCAL CHANGE from the original
 fiscal note. This fiscal note is appropriate.
2/16/94 hsh
 date Comte Aide (initial)

Estimate of current year (FY94) impact: None

ANALYSIS: (Attach a separate page if necessary)

One Adult Protective Services (APS) specialist is being transferred from the Division of Family and Youth Services (DFYS) Northern Region to the new Division of Senior Services to support the Protection of Vulnerable Adults Legislation.

When the existing Protection of the Elderly statute was passed in 1983, no funding was provided, other than 5.0 for brochures. The specialist position in Fairbanks was created from child protective services funds. Subsequent efforts to expand funding for a credible adult protective services program have not been fruitful. The Task Force that reviewed APS within DFYS recommended it be consolidated with other senior services where it is believed the program may be better supported and developed.

Prepared by: Deborah R. Wing, Director
 Division: Division of Family & Youth Services
Margaret R. Lowe
 Approved by Commissioner: Margaret Lowe, M. Ed., Ed. S.
 Agency: Department of Health & Social Services

Phone: 465-3191
 Date: 01/12/94
 Date: 1-13-94

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 F:

Changes in CSSB 248 (Fin)
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3-23-94 RL
 date Comte Aide (initial)

Changes in CSSB 248 (STA)
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3/11/94 STA
 date Comte Aide (initial)

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FISCAL NOTE

No. 3

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Bill Version: SB 248

(S) Publish Date: 1-14-94

Revision Date: 1/10/94 Dept. Affected: Health and Social Services
 Title: Vulnerable Adults Protective Services BRU: Family & Youth Services
 Component: Southcentral Region
 Sponsor: Rules Committee
 Requestor: By Request of Governor COMPONENT SERIAL NO. 254

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	(127.1)					
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	(127.1)	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(127.1)					
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	(127.1)	0.0	0.0	0.0	0.0	0.0

Changes in SSB 248 (RLS)
 reflect NO FISCAL CHANGE from original
 fiscal note. This fiscal note is appropriate.
4-14-94 JWT
 date Comte Aide (initial)

POSITIONS:

FULL-TIME	2				
PART-TIME					
TEMPORARY					

Changes in CS SB 248 (HES)
 reflect NO FISCAL CHANGE from the original
 fiscal note. This fiscal note is appropriate.
2/14/94 Kuh
 date Comte Aide (initial)

Estimate of current year (FY94) impact: None

ANALYSIS: (Attach a separate page if necessary)

Two Adult Protective Services (APS) specialists are being transferred from the Division of Family and Youth Services (DFYS) Southcentral Region to the new Division of Senior Services to support the Protection of Vulnerable Adults Legislation.

When the existing protection of the Elderly statute was passed in 1983, no funding was provided, other than 5.0 for brochures. The Adult Protective Services Specialist positions in Anchorage were created from child protective services funds. Subsequent efforts to expand funding for a credible adult protective services program have not been fruitful. The Task Force that reviewed APS within DFYS recommended it be consolidated with other senior services where it is believed the program may be better supported and developed.

Prepared by: Deborah R. Wing, Director *Deborah R. Wing*
 Division: Division of Family & Youth Services
 Approved by Commissioner: Margaret R. Lowe *Margaret R. Lowe*
 Agency: Department of Health & Social Services

Phone: 465-3191
 Date: 01/10/94
 Date: 1-11-94

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 For further

Changes in SB 248 (FIN)
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3-23-94 *[Signature]*
 date Comte Aide (initial)

Changes in CS SB 248 (STA)
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 fiscal note. This fiscal note is appropriate.
3/11/94 *[Signature]*
 date Comte Aide (initial)

(Rev. 10/93) 94file no. 248/DBR

FISCAL NOTE

No. 6

Bill Version: SB 248

(S) Publish Date: 2-18-94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Public Safety

Title: Assist & Protect Vulnerable Adults BRU: Alaska State Troopers

Component: Departments

Sponsor: S. RULES by Request

Requestor: S. HES COMPONENT SERIAL NO. 799

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

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

FUNDING: (Thousands of Dollars)

	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00	Date	Comte Aide (initial)
1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1006 GF/MHTIA								
Other								
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-		

Changes in CS SB 248 (Fin) have no fiscal impact. This fiscal note is appropriate.
3-23-94 pk

Estimate of current year (FY 94) impact: \$ _____

POSITIONS:

	FY 95	FY 96	FY 97
FULL-TIME	0	0	0
PART-TIME	0	0	0
TEMPORARY	0	0	0

Changes in CS SB 248 (STA) have no fiscal impact. This fiscal note is appropriate.
3-11-94 pk

ANALYSIS: (Attach a separate page if necessary.)
No significant fiscal impact upon the Alaska State Troopers is anticipated.

Changes in CS SB 248 (RLS) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.

Changes in CS SB 248 (HES) have no fiscal impact. This fiscal note is appropriate.
2/16/94 kah

Prepared By: Lee Ann Lucas
Division: Commissioner

Phone: 465-4322
Date: 2/2/94

Approved by Commissioner: [Signature]
Agency: Richard L. Burton, Dept. of Public Safety

Date: 2/2/94

Christian Science Committee on Publication for Alaska

P.O. Box 873452
Wusilla, Alaska 99687-3452
Telephone and fax (907)376-7413

April 26, 1994

To: Members of the House Finance Committee

Re: SB 248 Vulnerable Adults

I recently faxed to your office a letter regarding an amendment to SB 248. I have since found out that action had been taken on the floor of the Senate of which I was not aware. A slightly different version of my suggestion had been adopted by the Senate Rules Committee. However, that amendment was rejected by the Senate. This being the case, I was in error in stating that this amendment would have the support of Senator Halford, the Senate, and the Department of Administration. Furthermore, it has been brought to my attention that it was inappropriate for me to speak, as I did, for an elected official or the Administration. I have since offered an apology to Senator Halford and the Department of Administration for this mistake.

I regret this error and apologize if I have mislead you on this issue. I should have been fully informed of all that had transpired with this bill.

In spite of my inexperience in legislative matters, I hope that you will still consider supporting this amendment. I wouldn't want my lack of understanding of correct procedures to interfere with what I feel is a very important addition to this bill.



Ronald A. Mangelsdorf
Christian Science Committee on Publication for Alaska

Christian Science Committee on Publication for Alaska

P.O. Box 873452
Wasilla, Alaska 99687-3452
Telephone and fax (907)376-7413

April 22, 1994

Re: SB 248 (or House version HB 376)

Title: An Act relating to services for and protection of vulnerable adults

I represent the Christian Science churches in Alaska, and on their behalf, I have suggested the following amendment, which Representative Martin has agreed to offer:

Page 11, line 26:

Delete "a new section"
Insert "new sections"

Page 11, after line 26:

Insert new material to read:

"Sec. 47.24.130. TREATMENT THROUGH SPIRITUAL MEANS. This chapter may not be construed to mean that a person is abused, neglected, self-neglected, vulnerable, unable to consent, abandoned, exploited, or in need of emergency or protective services for the sole reason that the person relies on or is being furnished treatment by spiritual means through prayer alone in accordance with the tenets and practices of a church or religious denomination of which the person is a member or adherent.

It is my hope that you will agree to support this proposal. As you may or may not know, Christian Scientists rely on spiritual treatment, based on prayer alone, for the healing of physical illness. Reliance on spiritual treatment for healing should not be considered abusive or neglectful simply because an individual chooses prayer in lieu of medical treatment.

Christian Science has been effectively practiced for over 100 years and has a very strong record of documented healings. It's practice is recognized in both federal and state legislation, as well as by most major insurance companies. Many other states have a similar provision in their statutes.

I have been told by Senator Halford's office that the Senate would not object to this suggestion, and if the House adopted this proposal, the Senate would concur with the amendment.

The commissioner of the Department of Administration, Nancy Usera, and the Executive Director of the Older Alaskans Commission, Connie Sipe, have already been advised of my proposal through Sen. Halford's office and they have no objection to it.

If you have any questions about this proposed amendment, please feel free to call me and I will be happy to answer any concerns you may have.



Ronald A. Mangelsdorf
Christian Science Committee on Publication for Alaska

DEPARTMENT OF ADMINISTRATION

CS FOR SENATE BILL NO. 248 (RLS)am

SERVICES AND PROTECTION FOR VULNERABLE ADULTS

Governor Hickel introduced this bill with the intent to make significant improvements in the way that protective services would be provided to vulnerable adults who are victims of abuse, neglect or exploitation. The bill would transfer the authority for adult protective services from the Department of Health & Social Services (Division of Family & Youth Services) to the Department of Administration (Division of Senior Services).

Briefly, here are the highlights of improvements and changes contained in the bill. A more detailed analysis follows. CSSB 248(RLS)am would:

- Combine protective services for the elderly and other adults
- Offer protection to the "vulnerable," without interfering with elderly or disabled adults capable of caring for themselves
- Streamline abuse reporting and reduce duplicative work by state investigating agencies
- Open a central information and referral service for all vulnerable adults and their caregivers
- Use local service providers as more "friendly" outreach workers wherever possible
- Honor a competent adult's refusal of services or request to terminate investigation
- Use family members as "surrogate decision makers" when abuse victim is not able to give consent to receipt of services
- Clarify when and for what relief the state may seek judicial intervention to protect a person
- Redefine abuse to focus on intentional or reckless - not accidental - harm to adults

DETAILED ANALYSIS OF BILL'S IMPROVEMENTS

Section 1 of the bill brings into conformity with the new bill a section of the existing licensing law for psychologists or psychological associates, AS 08.86.200(b). Under existing law, psychologists and associates must report "elder abuse," whereas SB 248 would require them to report incidents of abuse to "vulnerable adults," which is the new term used to define the protected class of citizens.

New perspective on who are "vulnerable adults" and what is "abuse." Section 2 of the bill amends the current AS 47.24.010 (a), and defines the protected class of persons as "vulnerable" adults who suffer abandonment, exploitation, abuse, neglect or self-neglect. This new definition in effect combines two formerly separate statutes: one for elder abuse and one for abuse of disabled persons. The definition also more correctly recognizes that not all elderly and not all disabled persons are "vulnerable." This section transfers the function of receiving reports to a new central information and referral service to be located in the Department of Administration.

Reporting of abuse updated and streamlined. Section 2 then amends the list of persons who are currently required by law to report their belief that a vulnerable adult is suffering from one of the listed types of abuse. Mostly the changes are to bring the language into compliance with the new reference to Department of Administration. One new category of required reporters is added: "caregivers." (For brevity's sake, this paper will use "abuse" generally to refer to the entire list of types of harm covered by the bill.)

Section 3 amends the existing AS 47.24.010(b) to replace references to "elder person" with the new bill language of "vulnerable adult."

Section 4 amends the existing AS 47.24.010(c) to clarify the Department of Administration's responsibility to report to the Department of Law any of the listed required "reporters" of abuse who fail to comply with the mandatory reporting law. This section updates current law to replace references to "harm" with the new list of abandonment, exploitation, abuse, neglect, or self-neglect. Failure to report remains a "non-criminal violation" under AS 11.81.900(b), which carries a penalty of a fine only.

Section 5 amends current law, AS 47.24.010(d), to add the new list of types of abuse and shortens the section while still retaining its intent, namely that any of the required reporters in the list mentioned above, as well as "any other person" may report any abuse that has come to that person's attention, whether or not it comes to a required reporter "in the performance of their professional duties."

Section 6 amends the existing section AS 47.24.010(e), to clarify that when an abuse victim is in imminent risk of serious physical harm, the reporting person may contact a local police officer if the reporter is unable to contact the department's central information and reporting service. As under current law, the police officer is then obligated to take action to protect the vulnerable adult. A new addition to this section forbids anyone to bring a legal action for damages against a police officer or the state or a political subdivision based on a decision made whether or not to take protective action. In addition, if the police take protective

action, no damages action may be brought based on the protective action taken unless the action was grossly negligent or involved intentional misconduct. In any event, damages in such as suit are limited to only "direct economic compensatory damages for personal injury."

Section 7 is an addition to existing law, a new subsection, AS 47.24.010(f). Section 7 states that a person who observes abuse in an out-of-home care facility may fulfill the person's duty to report by making a report to the long term care ombudsman (of the Older Alaskans Commission) or the Department of Health & Social Services (the licensing section of the Medical Assistance Division or the Division of Mental Health & Developmental Disabilities).

Department of Administration's new system for serving vulnerable adults who are abused. Section 8, AS 47.24.011, describes the duties of the department under the amended law. The Department of Administration will compile information on abuse, maintain a central information and referral (I & R) line, run a statewide system to serve abused adults.

More coordination with local service providers. AS 47.24.011 also allows the department to designate other (willing) state agencies or community-based service providers to deliver some or all of the supportive and protective services needed. This would be a major improvement over the current system, as the Department could use local provider agencies more familiar and less threatening to the alleged victim of abuse, such as the outreach worker from the local senior center to make initial contact and offer services. If cases involve serious abuse, the department might immediately send its social worker, or the social worker could pick up the case after the local senior center's first contact and assessment of the situation.

Reducing duplicate investigations by state agencies. Section 8, subsection 47.24.013, is one of the bill's major improvements over the current delivery system. Currently, an allegation that abuse has occurred in a nursing home or hospital requires reporting to the Division of Family & Youth Services and to the Certification and Licensing Unit of Medical Assistance. In addition, the Long Term Care Ombudsman has jurisdiction under federal and state law to investigate the same situation if the office is called. Facilities often find themselves dealing with three to five state agencies over one allegation.

The bill, at section 47.24.013(a), improves this inefficient use of state resources by stating that when a facility is licensed by Health & Social Services (nursing homes, hospitals) and the victim is over the age of 60, then the report of abuse will be transferred for investigation and action to the appropriate licensing unit in DH&SS and the long term care ombudsman's office, which will be required under 47.24.013(c) to investigate, coordinate their investigations and responses, and to provide a report of the results to the central I & R service of Administration within 60 days.

Similarly, in section 47.24.013(b), when the alleged victim of abuse in a licensed out-of-home care facility is under age 60, the case will still be transferred to the appropriate licensing agency within DH&SS, and the protective services unit in Administration will not be required to duplicate efforts by investigating the same case.

Investigative duties. The new section 47.24.015 outlines how the Department of Administration will be required to take action on reports of possible abuse. The department is required to initiate a prompt investigation, which must include a face-to-face interview with the subject of the report, unless a personal interview would endanger the vulnerable adult. Note that the department may use a designee agency to conduct this work. The department's investigation must be summarized in a written report, including a summary of services to be provided.

Victim's request to drop investigation. Under subsection 47.24.015(c), if the subject of the report requests that the investigation cease, the department or its designee must terminate the investigation. However, in an improvement over current law, the department is not forced to abandon the case altogether upon the alleged victim's request. Rather, when the investigation to date has already resulted in "reasonable cause to believe that the vulnerable adult is in need of protective services," the department may either petition the court for certain protective services or may report the case for criminal investigation.

This new procedure recognizes the reality of many cases where the alleged victim is too scared or threatened by the perpetrator to be willing to cooperate with any investigation, or where the victim appears to be temporarily or permanently incapable of making an informed decision about his or her own safety and affairs.

Sharing of information with reporter of abuse. New subsection 47.24.015(d) will cure a problem in the current delivery system for protective services for adults. This section explicitly requires the department to notify the person who made the abuse report about the status of the investigation regarding the vulnerable adult. This will improve relations with reporters who are ongoing caregivers for the subject adult, as these caregivers need to know whether the person is safe and how the caregiver can best interact with the subject adult in the future.

The new subsections 47.24.015(e) will forbid any person from bringing a damages action for decisions by the department whether or not to offer protective services to a vulnerable adult. Subsection .015(f) will forbid damages actions based on the provision of protective services unless the legal action is based on gross negligence or intentional misconduct, and in any event, damages are limited to only direct economic compensatory damages for personal injury.

New use of surrogate decision makers. A new official recognition of "surrogate decision makers" for vulnerable adults is included in the new section 47.24.016. Under this section, when the department finds that a vulnerable adult needs protective services, but the adult victim lacks decision making capacity or is "unable to consent" due to illness, coercion, fear of reprisal from or dependency on the perpetrator, then the department may seek consent from a guardian or attorney in fact for the victim. Under this new law, if there is no guarding, the department may select from the statute's list of surrogate decision makers for the person, for the purpose of deciding whether the person will "consent" to receiving protective or supportive services.

The surrogate decision maker selection process in the bill is modeled after similar acts in several other states. It allows the department to use --in the priority order listed--the consent of the vulnerable adult's spouse, domestic partner, adult child, parent, sibling, or close adult friend or relative. An incompetent person or an alleged perpetrator of the abuse may not be used as a surrogate. If more than one willing surrogate exists at the chosen priority level--like three adult children--then those persons may choose among themselves or make surrogate decisions by a majority vote.

Allowing surrogate decision making will allow the department to more quickly move ahead with protective services in many situations, and will avoid the expense of petitioning the court for orders or for a guardianship in those many situations here the crisis is only temporary and can be remedied by health care treatments or movement to a new safer environment. (Remember that this power can not be used when the vulnerable adult victim retains capacity and capability to make his or her own consent decisions.)

The last subsection, 47.24.016(d) clarifies that if the vulnerable adult regains the ability to consent or the capacity to make decisions, then the department must get the adult's consent before continuing to provide protective services.

Delivery of protective services. Sec. 47.24.017 discusses service delivery. When the department determines that a vulnerable adult needs protective services, and the person or appropriate surrogate has consented, the department will provide services within 10 days, to the extent of resources available from all sources (department, client, other agencies). When an emergency situation exists the department may provide protective

services without consent. Services are always to be delivered in a culturally relevant manner that protects the adult's right to live in the "least restrictive environment" and maximizes the person's own decision making capabilities.

Petitioning the court for protective services. Section 47.24.019 gives the department authority to petition the court for appointment of a guardian in order to decide if the person will consent to services, or to petition for involuntary commitment when the person is mentally ill and likely to seriously harm self or others, or to petition the court to issue an injunction against any caregiver who is interfering with the person's receiving services which the person has consented to receive.

Monitoring. Section 9 of the bill reenacts AS 47.24.040, to state that when the department provides ongoing protective services, that the department will monitor the situation until it determines that protective services are no longer needed.

Confidentiality and disclosure of reports. Section 10 of the bill amends AS 47.24.050. Under the proposed bill, confidential reports about investigations may be shared with "appropriate agencies or individuals," not just governmental agencies. The department must delineate who is appropriate and how information will be shared, but this section would ease a problem in the current law where confidentiality requirements can be so strictly interpreted that , for example, a local service provider such as an adult day care center which cares for a senior five days a week can not be asked to help monitor the status of a client who is living with a perpetrator who was abusive before the department intervened .

Section 11 of the bill repeals and reenacts the current law's requirement that abuse regulations be provided for review to the Older Alaskans Commission before they are adopted, AS 47.24.070.

Immunity from liability or retaliation This existing statutory protection for persons who make good faith reports of abuse is maintained in the bill, section 12, AS 47.24.120.

Definitions. Section 13, 47.24.900, contains many definitions which are different from or additions to current law. The most important changes are highlighted here.

"Abuse" will no longer mean any harm to an elder or disabled person. The proposed bill says that abuse is the wilful, intentional or reckless infliction of injury or mental distress, or sexual assault. The new definition will eliminate current investigations of purely accidental harm where other professionals who witness the accidental harm (such as in a nursing home) feel compelled by law to make a formal report of the abuse.

(One actual case that could have been ignored under this new definition was the accidental dropping from two feet above to the bed by one of two nurses' aides doing a difficult transfer of a resident with a recent hip surgery. Although everyone saw the aide crying in remorse over the accident, and the aide had no history of carelessness or abuse, under the current statute, the elder was "harmed" and other employees felt the technical incident of "abuse" had to be reported.)

"Designee" of the department, who or which can assist with investigation or provision of services to vulnerable adults includes state agencies, community-based programs, individuals, or providers of supportive services licensed or authorized by agreement with the department .

"Exploitation" will include unjust or improper use of either the vulnerable person or his or her resources for another person's profit or advantage.

"Neglect" will mean the intentional failure by a caregiver to provide essential care, and not just the financial or physical inability of the caregiver to render care.

"Protective services" can include protective placement or other services intended to prevent or alleviate harm.

"Unable to consent," as discussed earlier, will be broader than just those persons who are permanently incapacitated from decision making, and will include persons who are unable to consent due to coercion, fear, dependency, or inability to perceive the imminent and substantial risk of death or irreparable injury if the person refuses assistance.

"Vulnerable adult" means a person over age 18 who, because of physical or mental impairment, is unable to meet his or her own needs, or is unable to seek help. Note that the bill would change the current law's presumption that all elderly persons and all physically, developmentally or mentally disabled persons are vulnerable and subject to special scrutiny , protection and possible interference in their affairs by state protective services.

General provisions of the bill. Section 14 repeals the existing "abuse of the disabled" law, because these persons are included, as appropriate, under the definition of vulnerable adult.

Section 15 specifies how the transition and transfer of resources, cases, and ongoing contracts will be handled between agencies upon the effective date of the Act. The bill authorizes the Department of Administration to proceed with regulations while awaiting the effective date of the Act.

Section 16 states that the transition section, section 15 of the bill, has an immediate effective date upon the Governor's signature.

Section 17 states that the rest of the bill would be effective July 1, 1994.

DEPARTMENT OF ADMINISTRATION

COMPARISON OF COMPANION BILLS

CSHB 376 (JUD) AND CSSB 248 (RLS) am

RELATING TO SERVICES AND PROTECTION FOR VULNERABLE ADULTS

These bills transfer the authority for adult protective services from the Department of Health & Social Services (Division of Family & Youth Services) to the Department of Administration (Division of Senior Services).

The two committee substitutes both amended the original bills. For the majority of the amendments, the changes are not to the same sections of the bill. It therefore does not appear that any of the changes made in either house would be contradictory to the changes made by the other house.

DIFFERENCES IN THE BILLS:

1. Change to Section 2

• AS 47.24.010(a):

Senate: (a)(2) was amended to re-insert the marital and family therapists as required reporters of abuse.

The deletion of the therapists now appears to have been a premature assumption during the 1993 drafting of the governor's bill, based on the expected passage of another bill which would have included the family therapists in the states' general definition of mental health professional. The Senate amendment appropriately makes this re-insertion.

2. Changes to Section 6.

• AS 47.24.010(e):

The Senate inserted the words "of serious physical harm" in the third line of this subsection. This was done to make a clear statement of when a person with duty to report abuse may contact and set into motion the local public safety system to protect a vulnerable adult when the department's social worker protective system may be unavailable or too far away to take appropriately quick action.

• AS 47.24.010(e):

The Senate added new language at the end of this subsection which prohibits a legal cause of action for damages against the police, VPSO, the state or any political subdivision, based on a decision whether or not to take immediate protective action. It further prohibits a legal cause of action for damages based on the protective actions taken, unless the actions are performed with gross negligence or intentional misconduct, and limits damages to only direct economic compensatory damages for personal injury.

3. Change to Section 8.

• AS 47.24.015 (a):

The House inserted at line 18, the words "the vulnerable adult who is" before "the subject of the report." House Judiciary felt that these words were needed to clarify with whom the state's investigator must conduct a face-to-face interview.

- AS 47.24.015(d):

The House inserted the word "procedural" before the word "status" on the second line of this subsection. This subsection entitles the person who initially made the report of abuse to request and receive notice from the department about the status of the investigation. The House amendment is meant to clarify that the information which the reporter may receive back is not all of the confidential information about the vulnerable adult, but only information about the "procedural status" of the investigation.

- AS 47.24.015:

The Senate CS adds two subsections, (e) and (f), to this section.

Subsection (e) prohibits the bringing of a cause of action for damages based on a decision by the department or any of its designees whether or not to offer protective services to a particular adult.

Subsection (f) forbids an action for damages based on the provision of services unless the action is due to gross negligence or intentional misconduct, and further limits the damages to only direct economic compensatory damages for personal injury.

- 47.24.016:

The Senate CS adds a subsection (d) to this section on surrogate decision makers for vulnerable adults. This Senate amendment adds additional protection for the civil liberties of the vulnerable adult by clearly stating that when the department has started to provide protective services to an abuse victim who was unable to consent for his or her self, with the department relying on the consent of an appropriate surrogate person under this section, that, should the victim re-gain capacity to make his or her own decisions, the department must either obtain the victim's own consent or cease to provide the services.

• 47.24.017 (b):

Subsection .017(b) as originally drafted stated that in an emergency situation, the department could provide protective services regardless of whether the vulnerable adult or any other person had given consent to the services.

The House made two insertions in the second line of 47.24.017(b) and one insertion in the third line. The first insertion is that the emergency situation must be "life threatening." The second and third insertions add the word "temporary" in two places to specify that provision of the protected services without consent must be temporary in nature.

In practice, this amendment would mean that the department could take action to alleviate life threatening situations on only a temporary basis, and would be compelled to quickly proceed to either obtain the consent of the recipient of the services or a surrogate decision maker, or else to go to court to obtain a guardianship order.

1-15-248

WALTER J. HICKEL
GOVERNOR



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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 14, 1994

The Honorable Rick Halford
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to services for and protection of vulnerable adults. This bill will place responsibility for the delivery of services to vulnerable adults within the Department of Administration. This bill also extends the scope of existing adult protective services to include all vulnerable adults who are in need of such services.

Section 1 of the bill clarifies the circumstances that give rise to a duty to make a report of a vulnerable adult. The circumstances are abandonment, exploitation, abuse, neglect, or self-neglect. Under this section, the report will be made to the Department of Administration. This section also deletes the existing liability immunity provisions, which are later reestablished in sec. 6 of the bill.

Section 2 sets out the duties of the Department of Administration regarding services and protection for vulnerable adults. The duties include establishing a central information and referral service for vulnerable adults, establishing criteria and procedures for the delivery of community-based services, designation of local service providers as department designees to meet local service needs, and adoption of regulations to implement the program.

Section 2 also sets out provisions regarding certain reports of abandonment, exploitation, abuse, neglect, or self-neglect, and regarding the action that is to be taken on all reports. The investigation required to be done by the Department of Administration includes a face-to-face interview and a written report of findings. Section 2 also provides for delivery of protective services and assures that, to the extent practicable, the services will be delivered in a timely and culturally relevant manner.

The Honorable Rick Halford
January 14, 1994
Page 2

Section 2 provides authorization for family members or friends to be surrogate decision makers for a vulnerable adult who is in need of protective services but is unable to consent to services. This provision allows for the delivery of necessary protective services without the necessity of seeking an emergency guardianship in adult abuse cases. Section 2 also sets out the procedures available for providing protective services when court action to protect the adult is necessary.

Section 3 repeals and reenacts an existing statute to provide for monitoring of vulnerable adults who are receiving ongoing protective services. Section 4 addresses the confidentiality of reports made under these provisions; sec. 5 requires that regulations being adopted by the Department of Administration be provided to the Older Alaskans Commission; and sec. 6 provides for immunity from liability for individuals who make reports of vulnerable adults.

Section 7 sets out, in a more appropriate location, definitions for terms used in AS 47.24. The existing definition section is repealed in sec. 8. Section 8 of the bill also repeals existing statutes that address reports of abuse of elderly and disabled persons to the Department of Health and Social Services.

Section 11 provides a July 1, 1994 effective date for the statutory changes made by the bill.

If this bill is enacted into law, the revisor of statutes will need to make appropriate changes to the existing article structure of AS 47.24.

I urge your support of this important legislation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Walter J. Hickel".

Walter J. Hickel
Governor

Christian Science Committee on Publication for Alaska

P.O. Box 873452
Wasilla, Alaska 99687-3452
Telephone and fax (907)376-7413

April 26, 1994

To: Members of the House Finance Committee

Re: SB 248 Vulnerable Adults

I recently faxed to your office a letter regarding an amendment to SB 248. I have since found out that action had been taken on the floor of the Senate of which I was not aware. A slightly different version of my suggestion had been adopted by the Senate Rules Committee. However, that amendment was rejected by the Senate. This being the case, I was in error in stating that this amendment would have the support of Senator Halford, the Senate, and the Department of Administration. Furthermore, it has been brought to my attention that it was inappropriate for me to speak, as I did, for an elected official or the Administration. I have since offered an apology to Senator Halford and the Department of Administration for this mistake.

I regret this error and apologize if I have misled you on this issue. I should have been fully informed of all that had transpired with this bill.

In spite of my inexperience in legislative matters, I hope that you will still consider supporting this amendment. I wouldn't want my lack of understanding of correct procedures to interfere with what I feel is a very important addition to this bill.



Ronald A. Mangelsdorf
Christian Science Committee on Publication for Alaska

Christian Science Committee on Publication for Alaska

P.O. Box 873452
Wasilla, Alaska 99687-3452
Telephone and fax (907)376-7413

April 22, 1994

Re: SB 248 (or House version HB 376)

Title: An Act relating to services for and protection of vulnerable adults

I represent the Christian Science churches in Alaska, and on their behalf, I have suggested the following amendment, which Representative Martin has agreed to offer:

Page 11, line 26:

Delete "a new section"
Insert "new sections"

Page 11, after line 26:

Insert new material to read:

"Sec. 47.24.130. TREATMENT THROUGH SPIRITUAL MEANS. This chapter may not be construed to mean that a person is abused, neglected, self-neglected, vulnerable, unable to consent, abandoned, exploited, or in need of emergency or protective services for the sole reason that the person relies on or is being furnished treatment by spiritual means through prayer alone in accordance with the tenets and practices of a church or religious denomination of which the person is a member or adherent.

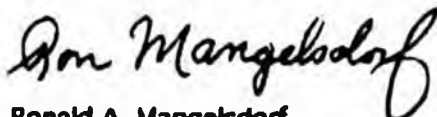
It is my hope that you will agree to support this proposal. As you may or may not know, Christian Scientists rely on spiritual treatment, based on prayer alone, for the healing of physical illness. Reliance on spiritual treatment for healing should not be considered abusive or neglectful simply because an individual chooses prayer in lieu of medical treatment.

Christian Science has been effectively practiced for over 100 years and has a very strong record of documented healings. Its practice is recognized in both federal and state legislation, as well as by most major insurance companies. Many other states have a similar provision in their statutes.

I have been told by Senator Halford's office that the Senate would not object to this suggestion, and if the House adopted this proposal, the Senate would concur with the amendment.

The commissioner of the Department of Administration, Nancy Usera, and the Executive Director of the Older Alaskans Commission, Connie Sipe, have already been advised of my proposal through Sen. Halford's office and they have no objection to it.

If you have any questions about this proposed amendment, please feel free to call me and I will be happy to answer any concerns you may have.



Ronald A. Mangelsdorf
Christian Science Committee on Publication for Alaska