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HOUSE COMMITTEE REPORT

(9)

Date Referred: January 14, 1994

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 2/9/94

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 376

HOUSE BILL NO. 376

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 _____ [] the same title
[] a new title

[] have attached amendments(s)

[] do pass

[] do not pass

[] no recommendations

[X] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

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

APPROVES PREVIOUS: ⁽³⁾ (Dept/Date)

[] fiscal impact _____

[X] fiscal note(s) Admin, H+SS 1/14/94

[X] zero fiscal note Public Safety

[X] zero fiscal note(s) Admin 1/14/94

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Car Bunde</i>	✓	<i>Pat. Test</i>		✓	
<i>[Signature]</i>	✓	<i>[Signature]</i>			X
<i>Betty Damm</i>		<i>[Signature]</i>		✓	
<i>Lrene Nicholas</i>	✓	<i>[Signature]</i>			
		<i>Hailey Olberg</i>		✓	

[Signature]

CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
 1994 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected Administration
 Title: An act relating to services for and protection BRU: Senior Services
of vulnerable adults. Component: Senior Services Administration
 Sponsor: _____
 Requestor: Governor CC COMPONENT SERIAL NO. 1981

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
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	285.9	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	593.9	605.7	617.8
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()						

FUND 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 current year (FY94) cost: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page in necessary)
 Future costs inflated at 2% annual increase.
 This fiscal note reflects the transfer of staff and support for Adult Protective 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 Phone: 563-5654
 Division: Older Alaskans Commission Date: _____
 Approved by Commissioner: [Signature] Date: 1/14/94
 Agency: Administration

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COMMITTEE COPY

Admin - Senior Services - Fiscal Note

Fiscal Note Analysis
Adult Protective Services

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 06-3714, 06-3426, and 06-3725.
Total = 195.1

2. Transfer from 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 Soc. Worker III (Fbks)	12	66.8	
2 PFT Soc. Worker III (Anch)	24	128.3	
1 PFT Soc. Worker I (Anch)	10	35.1	
1 PFT Clerk Typist (Anch)	10	<u>28.3</u>	
Total Personal Services			258.5

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

Travel	20.0
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Contractual:

Purchased protective services, adult foster/residential	190.0	
Lease space	33.0	
Telephone (800 number, 24 hr. 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. 4
 Bill Version: HB 376
 (H) Publish Date: 1/14/94

**STATE OF ALASKA
 1994 LEGISLATIVE SESSION**

Revision Date: _____ Dept. Affected: Administration
 Title: An act relating to services for and protection BRU: Senior Services
of vulnerable adults. Component: Pioneers' Homes
 Sponsor: _____
 Requestor: Governor COMPONENT SERIAL NO. 1950

Expenditures/Revenues (Thousands of Dollars)

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

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other						
Total	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY94) cost: \$ _____

POSITIONS:

FULL-TIME	(2)					
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page in necessary)

Two vacant positions will be transferred to the Senior Services Administration component.

Prepared by: Connie J. Sipe, Director Phone: 563-5654
 Division: Senior Services Date: _____
 Approved by Commissioner: NBC Date: 12/27/93
 Agency: Administration

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Admin - Senior Services - Pioneers' Homes - FN

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Bill Number: HB 376
Effective 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: 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						
-----------------------------	--	--	--	--	--	--

CHANGES IN REVENUES						
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FUND SOURCE

(Thousands of Dollars)

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

POSITIONS:

FULL-TIME	1					
PART-TIME						
TEMPORARY						

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 *Deborah R. Wing*
 Division: Division of Family & Youth Services

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

Approved by Commissioner: Margaret R. Lowe
 Agency: Department of Health & Social Services

Date: 1-13-94

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FISCAL NOTE

Nr 2
 Bill Version: HB 376
 (H) 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: 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

POSITIONS:

FULL - TIME	2					
PART - TIME						
TEMPORARY						

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. W. Director *Deborah R. W.* Phone: 465-3191
 Division: Division of Family & Youth Services Date: 01/10/94
 Approved by Commissioner: Margaret R. Lowe *Margaret R. Lowe* Date: 1-11-94
 Agency: Department of Health & Social Services

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FISCAL NOTE

No. 1
 Bill Version: HB 376
 (H) 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: Purchased Services
 Component: Adult Services
 Sponsor: Rules Committee
 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						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(342.9)					
1005 GF/Program Receipts						
1006 GF/MHTIA	(21.6)					
Other						
TOTAL	(364.5)	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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 *Deborah R. Wing*
 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

Date: _____

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO: HB 376

Revision Date: _____ Dept. Affected: Public Safety
 Title: Assist & Protect Vulnerable Adults BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: H. RULES by Request

Requestor: H. 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 () <small>Revenue Code</small>	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

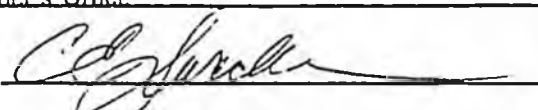
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

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

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.)
 No significant fiscal impact upon the Alaska State Troopers is anticipated.

Prepared By: Lee Ann Lucas Phone: 465-4322
 Division: Commissioner's Office Date: 2/2/94
 Approved by Commissioner:  Date: 2/2/94
 Agency: Richard L. Burton, Dept. of Public Safety

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Public Safety - AK State Troopers - Fiscal Note

HOMER**SENIOR****CITIZENS**

January 9, 1994

Representative Cynthia Toohey, Co-Chair
 Representative Con Bunde, Co-Chair
 Health, Education and Social Services
 Room 106
 Juneau, Ak 99811

Ref: HB 376

The PURPOSE of this bill has the wholehearted endorsement of this Corporation which is pursuing at this time a loan from Alaska Housing Finance Corporation to build 40 units of AFFORDABLE assisted senior living housing. In order to assure that the housing will be affordable to all income groups, this Corporation has the philosophy that services already available in the community should not be duplicated by staff at its apartments. Such costs would be passed onto all tenants who may not need the services provided. This Corporation further has the philosophy that as landlords renting apartments which will become the tenants home, it has the responsibility to allow those service providers access to the tenants home to provide services.

In designing this proposed facility, the State Fire Marshall's Office REQUIRED this Corporation to sign a letter of intent that this Corporation would provide NO nursing services or allow long term bed ridden tenants in the facility BEFORE that office would allow the architects to design the facility under residential requirements in lieu of the more costly institutional requirements.

The heavy emphasis on medical terms and procedures in the "admissions" section could possibly cause this Corporation to forgo licensing of the facility as an assisted living facility. This Corporation recommends that friendly amendments to be made to those sections where such terms and procedures are included. Specifically sections in SB 249 that are the same in HB 377 that could be changed are:

- Sec. 47.33.210 ADMISSION CONTRACTS - to "Lease Agreement"
- " " " " (b)(4) "discharge of resident" - to
 termination of the lease agreement"
- Sec. 47.33.220 (3) "administrator of the home" - to "lessor"
- Sec. 47.33.240 EVALUATION OF ASSISTED LIVING PLAN -change
 "resident admitted" to "lease holder"; it is
 assumed that persons requiring assisted
 living will probably have health problems
 and it is questioned as to why the
 distinction in evaluation times
 considerations

Letter to CoChairs Toohney & Bundy 02/09/94

page 2

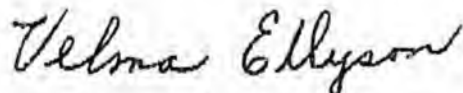
An additional section questioned by this Corporation:

Sec. 47.33.220 in which the home "shall ensure" a plan but in Section 47.33.230 (d) the home "shall prepare" the plan. This Corporation is hopeful that the tenant, tenants representative, etc. would be allowed to use the services of the Care Coordinator of South Peninsula Hospital to prepare the plan and avoid the duplication and additional cost of having to pay for a staff person at the home to also prepare one.

Because this bill will cover not only assisted living facilities for all age groups and a varying number of "beds" in the facility, this Corporation recommends that the sections which contain medical terms and procedures be review as if a homeowner in a small village such as Port Graham across the Kachemak Bay wished to become licensed under this bill. Because this Corporation with experience managing an independent living senior housing complex would have difficulty with achieving a license by these requirements, it has great sympathy for those persons who will be providing fewer beds and living in even more rural areas than Homer.

Thank you for your consideration in this matter.

Sincerely,



Velma Ellyson
Executive Director

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF FAMILY AND YOUTH SERVICES

P.O. BOX 110630
JUNEAU, ALASKA 99811-0630
PHONE: (907) 465-3170

February 16, 1994

Honorable Cynthia Toohey, Co-Chair
House Education and Social Services Committee
State Capitol
Juneau, Alaska 99801-1182

Dear Representative Toohey:

This is written to respond to questions raised by various committee members in the hearing last Wednesday on HB 376, relating to Vulnerable Adults. Patricia O'Brien of my staff was testifying when questions were raised. I would appreciate it if you could see that each committee member receives a copy of these responses.

Question: What does the department do in support of a person who has been sued for making a report of abuse or neglect under the existing Protection of the Elderly Law?

Response: The department has to its knowlege no experience with such a situation. We are awaiting additional information from Representative Bettye Davis, who believes there is such a case, and will provide follow up if one is found.

Question: What would be the state's protocol if such a case presented itself?

Response: Each case would be examined in consultation with the State's Division of Risk Management and the State Attorney General's Office. Sections AS 47.24.010 and 120 provide immunity from civil or criminal liability for a report of harm made in good faith. The law does not provide that the state indemnify and defend people making reports of harm. Possible reasons for being sued include allegations that the report was not made in good faith or that the report was not timely or was knowingly delayed. The immunity provisions are intended to help shield persons who report from being sued. Consequently there may be situations where the state would defend a reporter to ensure that others continue to report abuse and neglect in the future.

Question: What is the penalty for failure to report under the child protection reporting law?

Response: Failure to report is a class B misdemeanor. Under AS 12.55.035 that is a fine of up to \$1,000 and 90 days. For an organization under AS 12.55.135.(b) that is up to \$25,000 and 90 days.

Representative Toohey
February 15, 1994
Page 2

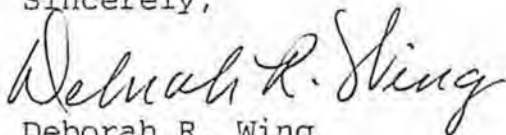
Question: Have there ever been any prosecutions/convictions of health care professionals who failed to report harm under AS 47.24?

Response: No

Correction: In response to the question on the clergy being included as a required reporter, the information given that the clergy are included in the child protection reporting statute was in error, though clergy often do report.

I hope this information is useful to you. Please let me know if any further information is needed.

Sincerely,



Deborah R. Wing
Director

cc: Elmer Lindstrom
Special Assistant
Office of the Commissioner

Connie Sipe
Director
Division of Senior Services
Department of Administration

Susan Cox
Assistant Attorney General
Department of Law



Alaska State Legislature

House of Representatives

COMMITTEE ON HEALTH, EDUCATION
AND SOCIAL SERVICES

DATE: ~~2/8~~ 2/9/94

PLACE: Capitol Room 106

SUBJECT OF MEETING:
 * HB 3716: ASSIST & PROTECT VULNERABLE ADULTS
 * HB 3717: REGULATIONS OF ASSISTED LIVING HOMES
 (* FIRST PUBLIC HEARING)

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
1 Dennis Murray	LHS	Soldotna, AK 232 Rockwell	99669	202-2545		Y N	377
1 Dave W. Williams	DMA/DWS	P.O. Box 660 Juneau	99811-0660	465-3355	465-3355	(Y) N	377
1 Tom Bohring	Se of Providence	4900 Eagle Ave	99503	345-5870	762-0220	(Y) N	377
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

WALTER J. HICKEL
GOVERNOR



HB 376
P O Box 110001
Juneau Alaska 99811-0001
(907) 465-3500

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 14, 1994

The Honorable Ramona Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Barnes:

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.

Governor's Transmittal Letter

The Honorable Ramona Barnes

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

DEPARTMENT OF ADMINISTRATION

HOUSE BILL 376 SERVICES AND PROTECTION FOR VULNERABLE ADULTS

House Bill 376 has been introduced by Governor Hickel 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).

The Department of Administration worked as part of Governor Hickel's Interagency Task Force on Senior Services to develop this bill. Briefly, here are the highlights of improvements and changes contained in the bill. A more detailed analysis follows.

House Bill 376 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
- Promote more coordination with local service provider agencies to the same population
- Use local service providers as more "friendly" outreach workers wherever possible
- Honor a competent adult's refusal of services or request to terminate investigation
- Share appropriate information on status of investigation with the reporter of the abuse
- 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
- Redefine neglect to focus on intentional failure to provide care, not inability to care
- Redefine exploitation to include exploitation of the victim's person as well as resources
- Provide for a smooth transition and transfer between the departments

DETAILED ANALYSIS OF BILL'S IMPROVEMENTS

New perspective on who are "vulnerable adults" and what is "abuse." The first section of the bill, at page 1, lines 5 -13, 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. As the first section continues onto page 2, the bill amends the list of persons who are required by this law to report their belief that a vulnerable adult is suffering from one of the listed types of abuse. (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 1, subsections (c) and (d), page 2, l. 31 through page 3, l.16, bring the reporting requirements into compliance with the new assignment to Administration and with the new terminology in the bill regarding vulnerable adults and the types of abuse covered.

Section 1, subsection (e), page 3., ll.17 -25 clarify that when a victim is in imminent risk, the reporting person may contact a local police officer if the reporter is unable to contact the department, so that the police officer may take action to protect the vulnerable adult.

Section 1, subsection (f) , starting page 3, l. 26, clarifies 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).

The deletions from subsection (f), shown on page 3, ll.30 -31 and page 4, ll. 1 -21, simply delete duplicative language on protections for reporting persons, as that subject is covered later in Section 6 of the bill.

Department of Administration's new system for serving vulnerable adults who are abused.

Section 2, starting on page 4, l. 22, 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. The Department would be able 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. Sec. 47.24.013, starting page 5, l. 14, 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 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 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, 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. Sec. 47.24.015, starting at page 6, l. 24, outlines how the Department of Administration is 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. 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 of 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. Page 7, lines 20 - 22, are also an attempt to 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.

New use of surrogate decision makers. A new official recognition of "surrogate decision makers" for vulnerable adults is included in sec. 47.24.016, which starts at page 7, l. 23. 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 guardian, 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. (Note that this power can not be used when the vulnerable adult victim retains capacity and capability to make his or her own consent decisions.)

Delivery of protective services. Sec. 47.24.017, starting page 8, l. 28 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, starting at page 9, l. 20., 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.

Confidentiality and disclosure of reports. Section 4 of the bill amends AS 47.24.050, as shown at page 10, ll. 12 - 29. Under the proposed bill, confidential reports about investigations may be shared with "appropriate agencies or individuals." The department must delineate who is appropriate and how information will be shared. 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 use its professional staff to help monitor the status of a client who is living with a caregiver who has abused the client in the past.

Immunity from liability or retaliation. This protection in the current law is maintained in the bill, section 6, on page 11.

Definitions. Many of the definitions are improvements to current law. The most important changes are highlighted here. Definitions are found on pages 11 - 13 of the bill draft.

"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. 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 compelled to report this technical incident of "abuse.")

"Designee" of the department, 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 "incompetent," i.e. permanently incapacitated from decision making. Unable to consent will include persons who are unable to consent due to coercion, fear, dependency, or temporary 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 protection and possible interference in their affairs by state protective services.

General provisions of the bill. Section 8, page 13, lines 12 -13 repeals the existing abuse of the disabled law . Section 9, page 13, starting line 14, specifies how the transition of resources, cases, and ongoing contracts will be transferred 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. The transition section has an immediate effective date upon the Governor's signature, and the rest of the bill would be effective July 1, 1994.

House Bill 376

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

Senior Legislative Package

This bill is part of a legislative package intended to consolidate and improve services for seniors. The package includes amendments to support a Division of Senior Services within the Department of Administration (HB 378), protection of vulnerable adults (HB 376/SB 248), and licensing of adult facilities (HB 377/SB 249). By divesting itself of adult services, DFYS will be fully focused on services to children, youth and families. Key department staff participated in drafting the content of the package. We believe that moving Adult Protective Services and licensing of adult facilities out of DFYS will improve services to the elderly and to vulnerable adults as the functions are relocated to divisions specializing in those populations. The department urges review and passage of this bill as well as the remaining bills in the package.

Background for Change

In the 1992 legislative session, the department recommended that a Task Force be created to address adult protective services issues which were raised in legislation. The department stated:

DFYS activity in APS is so understaffed that neighbors of victims do not know help is possible and professionals fail to report, assuming an inadequate investigative response. In 1983 the Protection of the Elderly reporting statute was passed, but not funded. Ten years later

- We don't have a full protective services system.
- We don't provide the same level of protection to elderly and vulnerable 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?

Community members tend to report incidents of suspected abuse or neglect to elderly and vulnerable adult victims, if they perceive the protective services agency as able to effectively respond. Reports of harm have grown from 78 the first year after the reporting law was passed to around 440 in recent years. This is in line with the national average, but we believe that confidence in DFYS' response to adults in need is not there. Since only one in eight cases of abuse or neglect are reported, community confidence in the responding agency is critical.

There are only three workers specializing in Adult Protective Services (two in Anchorage and one in Fairbanks). In all other areas of the state (35 field offices) adult protective services are provided by staff who are assigned to provide protective services to both children and adults. DFYS also relies heavily on other agencies to provide services to adults following the investigation and disposition of a report of harm. The APS program in DFYS has been on the frontage road rather than on the expressway.

This administration created a two tiered collaborative effort in the fall of 1992 to address APS and related issues. Members included an eight member Deputy Commissioner and Director level policy working group from the departments of Administration and Health and Social Services and a separate task force of program specialists. This bill is an outcome of those deliberations. Passage would respond to the concern of the department expressed in 1992. We believe that over time re-locating protective services for adults will result in development of a professional response system.

DEPARTMENTS POSITION

The department strongly supports this bill.

Recommended:

Deborah R. Wing

Date:

1/21/94

Deborah R. Wing, Director
Division of Family and Youth Services

Approved:

Margaret R. Lowe

Date:

1-24-94

Margaret R. Lowe, M.Ed., Ed.S.
Commissioner
Department of Health and Social Services

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Older Alaskans Commission

October 7, 1993

The Honorable Nancy Bear Usera
Commissioner
Department of Administration
P.O. Box 110200
Juneau, AK 99811-0200

Re: Governor's Proposal
for Senior Reorganization

Dear Commissioner Usera:

On behalf of the Commission, I want to express our appreciation of the opportunity to review, with Deputy Commissioner Waldron, Governor Hickel's proposal to reorganize senior services in state government, including the summaries of the three proposed bills.

The commission fully endorses the concepts behind the three bills, and the plan to create a new division of senior services by administrative order. We appreciate your leadership in initiating the Task Force last year, and believe that your choice and direction of Task Force members led directly to this excellent proposal for a new approach to senior services.

The commission plans to work, both as a group and individually, to understand the bills in both concept and detail, and will advocate for their support among the seniors in our local and regional areas. We would like to receive a copy of the actual bills' language as soon as they are public.

The commission has three comments or suggestions for the bill regarding the Commission and the Pioneers' Homes Advisory Board:

1. We think the increased linkage of the two boards, by the designation of a voting seat on each board for the chairman of the other board, is an excellent improvement.
2. While we support the new voting power given to the three departmental commission members from the administration, we would urge addition of language that the chairman of the Alaska Commission on Aging must be selected from among the seven layperson members appointed by the Governor.

Correspondence

Commissioner Nancy Bear Usera
Page 2
October 7, 1993

3. We strongly feel that because commissioners are either selected by or retained at the pleasure of the current governor, the members of the commission should choose their own chairman. The citizen-led impetus to create a commission in 1980 appears to still reflect the general sentiment in our state that the wisdom and experience of seniors should be recognized by allowing them a strong role in managing senior affairs in our state government.

Finally, we wish to note our concern that there be adequate fiscal and personnel resources to successfully carry out the two important new functions of the new Division of Senior Services, namely, the licensing of Assisted Living homes and Adult Protective Services.

Again, thank you for the chance to comment upon this proposal. Please convey to Governor Hickel our strong support of his plan.

Sincerely,



Donald M. Hoover, Chairman
Older Alaskans Commission



Bringing lifetimes of experience and leadership to serve all generations.

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December 15, 1992

Connie J. [unclear]
Executive Director
Older Alaskans Commission
P.O. Box 110209
Juneau, Alaska

Dear Connie,

During the December meeting of the State Legislative Committee of A.A.R.P., the proposed consolidation of Senior Services was discussed.

If and when such a centralization should become a reality, the members of the Alaska State Legislative Committee go on record favoring the establishment of a Division of Senior Services within the Department of Community and Regional Affairs.

Thank you for this opportunity to express our opinion on this matter.

Sincerely,
Mary Lou Meiners, Chair
Alaska State Legislative Committee

AGENET

Alaska
Geriatric
Exchange
NETwork

January 27, 1993

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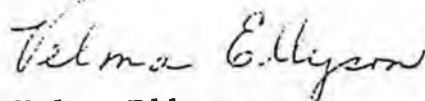
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Interagency Task Force
c/o Older Alaskans Commission
3602 C Street Suite 260
Anchorage, Ak 99503

Dear Interagency Task Force,

We, the association of programs providing senior services through Older Alaska Commission grants, are in favor of a Division of Senior Services. This reorganization of programs that serve Older Alaskans into a combined Division of Senior Services will greatly assist us in being about to provide efficient, cost effective services to Alaskan seniors.

Sincerely,



Velma Ellyson
President

JAN 27 1993
OLDER ALASKANS COMMISSION

PIONEERS' HOMES ADVISORY BOARD

Amos "Joe" Alter, Chairman

October 15, 1993

P.O. Box 110211

Juneau, AK 99811-0211



Nancy Bear Usera, Commissioner
Alaska Department of Administration
P O Box 110200
Juneau, AK 99811-00200

Dear Nancy:

You and your hospitality are great and I am sure I speak for each and all of our Board Members as I thank you.

The opportunity to meet with you and discuss Administration priorities and concern was an excellent way for us to start our home visits. In the Board role of communicating your concerns to Pioneers' Homes residents and the public and visa versa we have the following findings to report to you:

1. The Board, residents, and the public are generally supportive of Administration proposals for reorganization of senior programs within a new division of aging with one exception. Predominate opinion prefers Board selection of its own chairman.
2. The proposed rate increases are generally acceptable.
3. More Mental Health Trust funds should be provided to complement current appropriations for Pioneers' Homes. Current efforts to serve the special needs of Alzheimer and related dementia needs of residents is commendable but inadequate. Planned staff training designed to enhance service to these special residents is essential and appreciated. A closer working relationship between this Board and the Mental Health Board is recommended.
4. Appropriate revisions should be made in current conditions governing employment of qualified part time staff to enhance availability of such staff.
5. There is general opposition to privatization of the homes.

Robert Gore, Board Member
John Dapceovich, Board Member

Vallie Byrdsong, Board Member
Stella Odsather, Board Member

Robert Kallenburg, Board Member
Peggy Arness, Board Member

6. Great appreciation and a minimum of dissatisfaction with the system was obvious. We urge continuing restructuring of the service model to address those future needs not met otherwise.

We thank you again for the opportunity to work with you and your dedicated Pioneers' Home staff.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joe".

Amos J. Alter