

SB

248

WALTER J. HICKEL
GOVERNOR



P O Box 110001
Juneau, Alaska 99811-0001
907) 465-3500

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.

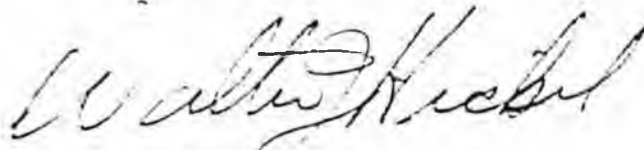
Section 7 sets out, in a more appropriate location, definitions for terms used in AS 47.24. The existing definition section is repealed in sec. 8. Section 8 of the bill also repeals existing statutes that address reports of abuse of elderly and disabled persons to the Department of Health and Social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



KOTZEBUE IRA

P.O. Box 296
Kotzebue, Alaska 99752
(907) 442 - 3467



February 10, 1994

Honorable Walter J. Hickel, Governor
State of Alaska
Office of the Governor
P.O. Box 110001
Juneau, Alaska 99811-0001

Dear Governor Hickel:

Kotzebue IRA Council is in receipt of your letter dated February 1, 1994 regarding your introduction of bills intended to provide better state services to our senior citizens, specifically, SB 248, and HB 376, SB 249 and and HB 377.

Kotzebue IRA Council wholeheartedly supports the bills as introduced. A separate department whose sole purpose is to oversee the needs of our elderly has been a long time in coming. We are aware that they require special care and attention and should be provided such without going through a bureaucracy that takes time and adds to the aggravation of the needs.

We would urge the legislators to act on these bills favorably and ensure their passage as quickly as possible.

We would like to commend you on your efforts to address the needs of our elders. Many times we forget the very people who have laid the foundation for our lives today have real needs and we, as their succeeding generations, owe it to them to pass legislation. Thank you for your efforts on behalf of Alaska's elders.

Sincerely,

Pete Schaeffer
Chairman

cc: Senate & House legislators

Hazel J. Edmands, Elder Care

Foster Care Facility P. O. Box 55 Kasilof, Alaska 99610

Ph. (907) 262-0496 Larry Edmands, Mgr.

Senate Committee for State Affairs
Chairman: Rick Halford

Reference Senate Bills 248, 249 and 250
House Bills 376,377 and 378

Senate Bill # 249

AS 47 Ch. 33 Sec 47.33.005 (2) "promote the establishment of homes that help (A). the elderly to age in place;" (3) establish standards that will protect residents of assisted living homes, while at the same time promoting an environment that will encourage resident growth and independence, without discouraging the establishment and continued operation of those homes;

It is apparent , by the underlined statement above, that some thought was given to the caregiver, however, specific instances of harassment require that the referenced bills should include some method of reducing the work load on the caregiver. ie. require the licensing agency to investigate alleged misconduct reporting to determine the validity of the reporter

Hazel J. Edmands, Elder Care

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To	S. STA	From	JLH LIO
Co.	Written Testimony	Co.	
Dept.		Phone #	
Fax #		Fax #	

Senate bill #248

It is apparent that the Legislative body as a whole is concerned about the treatment of our Older Alaskans, however , as a caregiver to my aged mother afflicted with Alzheimers Disease and related dementia it is also apparent that in Sect 47:24:120 that there are no provisions for curtailment of harassment by third parties who have devious desires in reporting " abandonment, exploitation, abuse, neglect, or self-neglect".

I would like to suggest to the legislative body that the above quoted section be amended to include the following statement (at least in content if not verbatim)

"INVESTIGATION OF SAID REPORTING INDIVIDUAL SHALL BE CONDUCTED BY THE AGENCY TO INSURE THAT THE REPORTING IS IN GOOD FAITH AND NOT RETALIATORY OR VINDICTIVE IN NATURE" INVESTIGATION SHALL BE DOCUMENTED AND EVIDENCE SHALL BE PRESENTED TO THE ACCUSED SO THAT REBUTIAL AND/OR REFUTING EVIDENCE MAY BE PRESENTED.

Hazel J. Edmands, Elder Care

Sec 47.33.430 COMPLAINT

(b) "The licensing agency shall investigate a complaint filed under this section unless the agency reasonably concludes that the complaint is without merit."

This subsection should be amended to include:

The licensing agency shall investigate the complainant to determine if reporting is in good faith and not retaliatory or malicious vindictiveness.

Sec 47.33.520 INVESTIGATION

A subsection under investigation should read:

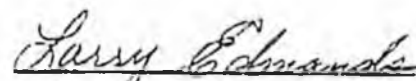
" The agency shall investigate all complainants to determine the validity of the complaint, if it is malicious in nature, or vindictive prior to subjecting the caregiver facility to rebuttal."

(e) Except as otherwise provided in AS 47.33.500(c), completed investigation reports and responses from homes are public records and should include complainant's name. (This is for the purpose of Investigation into Chronic complainants and those persons acting in bad faith or with malicious purpose)

Hazel J. Edmands, Elder Care

IT APPEARS THAT THE LAWMAKERS HAVE FORGOTTEN THAT THE RIGHTS OF THE ACCUSED, TO FACE THE ACCUSER, HAVE BEEN ABUSED.

I have been caring for my mother since 1986 but only since I requested licensing for a Foster Care Facility have I been subjected to harassment through anonymous accusations to the licensing facility . I have thus far answered all allegations to the satisfaction of the Agency .



Larry Edmands, Director

Branch Office:
3601 C St., Ste. 260
Frontier Bldg.
Anchorage, AK 99503
(907) 563-5654
FAX: 562-3040



Main Office
P.O. Box 11020
Juneau, AK 99811-0200
(907) 465-3200
FAX: 465-4700

Older Alaskans Commission

Position Paper Senate Bill 248

RELATING TO PROTECTION OF VULNERABLE ADULTS

The Older Alaskans Commission endorses SB 248 as introduced by Governor Hickel and strongly urges its passage. This bill improves the way protective services for vulnerable adults would be provided, redefines abuse, neglect and exploitation, and transfers responsibility for adult protective services to the Division of Senior Services. Passage of this bill is vital to both the consolidation of senior services and to the general improvement of services to seniors and vulnerable adults throughout Alaska.

Not only will this bill streamline abuse reporting, it will also reduce duplication of investigative efforts by state agencies. By incorporating willing local service provider agencies (such as senior centers) into the protective services network whenever possible, this bill will make reporting and investigation of abuse less threatening to the vulnerable adult and will insure that local agencies can monitor the on-going condition of the vulnerable adult. Because of these changes, the bill will also improve the response time to reports of abuse, thereby offering more protective services.

The Older Alaskans Commission believes that Senate Bill 248 forms an essential link between state government and services to senior citizens and vulnerable adults. The commission strongly urges passage of this bill.

Donald M. Hoover

Donald M. Hoover, Chairman
Older Alaskans Commission

Dated: 2/18/94

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSSB 248 (HES)

Revision Date: _____
Title: 'An Act relating to services for and protection of vulnerable adults.'
Sponsor: Rules Committee
Requestor: (S) STA

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	285.9	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	593.8	605.7	617.8

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	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 Usara
Agency: Department of Administration

Date: 3/19/94

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FISCAL NOTE

**STATE OF ALASKA
1994 LEGISLATIVE SESSION**

BILL NO. CSSB 248 (HES)

ANALYSIS: (continued)

Transfers:

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

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 the 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

DEPARTMENT OF ADMINISTRATION

CS FOR SENATE BILL NO. 248 (HES)
SERVICES AND PROTECTION FOR VULNERABLE ADULTS

Governor Hickel has 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 (HES) 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 between the departments

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. 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. 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, section 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 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. 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 retains current law's requirement that abuse regulations be provided for review to the Older Alaskans Commission before they are adopted.

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.

Definitions. Section 13 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.

FISCAL NOTE

No. 4

Bill Version: SB 248

(S) 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
CHANGE IN REVENUE* ()						

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			

Changes in CC B248 (HES) have no fiscal impact. This fiscal note is appropriate.

2/1/94 bah
 date Comte Aide(initial)

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: [Signature] Date: 1-27-93
 Agency: Administration

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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

CHANGES IN REVENUES

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	

Changes in CFR = 18,145 reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.
 date 1/10/94 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
 Division: Division of Family & Youth Services
 Approved by Commissioner: Margaret R. Lowe
 Agency: Department of Health & Social Services

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

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FISCAL NOTE

No. 2

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: 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

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	

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

Estimate of current year (FY94) impact: None

1/13/94
date Comte Aide (initial)

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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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
 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

CHANGES IN REVENUES

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	

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

1/10/94 Lab
date Comptroller (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 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. CSSB 248 (HES)

Revision Date: _____
Title: 'An Act relating to services for and protection of vulnerable adults.'
Sponsor: Rules Committee
Requestor: (S) STA

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
CHANGE IN REVENUES ()	0	0	0	0	0	0

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 Usura
Agency: Department of Administration

Date: 2/18/94

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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:

Personal Services.	<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
--------	------

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		<u>12.0</u>
<u>Total Transferred In for Protective Services</u>		<u>559.6</u>

No. 6

Bill Version: SB 248

(S) Publish Date: 2-18-94

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Public Safety

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

Component: Detachments

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 () Revenue Code	-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.

Changes in CS SB 248 (HES) have no fiscal impact. This fiscal note is appropriate.

2/16/94 eah
date Comptroller (initial)

Prepared By: Lee Ann Lucas Phone: 465-4322

Division: Commissioner's Office Date: 2/2/94

Approved by Commissioner: [Signature] Date: 2/2/94

Agency: Richard S. Burton, Dept. of Public Safety

CS FOR SENATE BILL NO. 248(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 2/18/94
Referred: STA, FIN

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

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

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

4 * Section 1. AS 08.86.200(b) is amended to read:

5 (b) Notwithstanding (a) of this section, a psychologist or psychological
6 associate shall report to the appropriate authority incidents of child abuse or neglect
7 as required by AS 47.17.020, incidents of [ELDER] abuse of a vulnerable adult as
8 required by AS 47.24.010, and incidents of abuse of disabled persons disclosed to the
9 psychologist or psychological associate by a client. In this subsection "disabled
10 person" means a person who has a physical or mental disability or a physical or mental
11 impairment, as defined in AS 18.80.300.

12 * Sec. 2. AS 47.24.010(a) is amended to read:

13 (a) Except as provided in (e) and (f) of this section, the [THE] following
14 persons who, in the performance of their professional duties, have reasonable cause to

1 believe that a vulnerable adult suffers from abandonment, exploitation, abuse,
2 neglect, or self-neglect [AN ELDERLY PERSON HAS SUFFERED HARM] shall,
3 not later than 24 hours after first having cause for the belief, report the belief to the
4 department's central information and referral service for vulnerable adults
5 [HARM TO THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES]:

- 6 (1) a physician or other licensed health care provider;
- 7 (2) a mental health professional as defined in AS 47.30.915(11) and
8 including a marital and family therapist licensed under AS 08.63;
- 9 (3) a pharmacist;
- 10 (4) an administrator of a nursing home, residential care or health care
11 facility;
- 12 (5) a guardian or conservator;
- 13 (6) a police officer;
- 14 (7) a village public safety officer;
- 15 (8) a village health aide;
- 16 (9) a social worker;
- 17 (10) a member of the clergy;
- 18 (11) a staff employee of a project funded by the Department of
19 Administration for the provision of services to older Alaskans, the Department of
20 Health and Social Services, or the Council on Domestic Violence and Sexual
21 Assault [OLDER ALASKANS COMMISSION];
- 22 (12) an employee of a personal care [HOMEMAKER PROGRAM] or
23 home health aide program;
- 24 (13) an emergency medical technician or a mobile intensive care
25 paramedic;
- 26 (14) a caregiver of the vulnerable adult.

27 * Sec. 3. AS 47.24.010(b) is amended to read:

28 (b) A report [OF HARM] made under this section may include the name and
29 address of the reporting person [REPORTING THE HARM] and must [SHALL]
30 include

- 31 (1) the name and address of the vulnerable adult [ELDERLY

1 PERSON];

2 (2) information relating to the nature and extent of the abandonment,
3 exploitation, abuse, neglect, or self-neglect [HARM];

4 (3) other information that the reporting person [REPORTING THE
5 HARM] believes might be helpful in an investigation of the case or in providing
6 protection for the vulnerable adult [ELDERLY PERSON].

7 * Sec. 4. AS 47.24.010(c) is amended to read:

8 (c) The department or its designees shall report to the Department of Law
9 any person required by (a) of this section to report who fails to comply with this
10 section. A person listed in (a) of this section who, because of the circumstances,
11 should have had reasonable cause to believe that a vulnerable adult suffers from
12 abandonment, exploitation, abuse, neglect, or self-neglect but who fails to comply
13 with this section is guilty of a violation as defined in AS 11.81.900(b).

14 * Sec. 5. AS 47.24.010(d) is amended to read:

15 (d) This section does not prohibit a person listed in (a) of this section, or any
16 other person, from reporting cases of abandonment, exploitation, abuse, neglect, or
17 self-neglect of a vulnerable adult [ECONOMIC OR PHYSICAL HARM TO AN
18 ELDERLY PERSON] that have come to the person's attention [IN A
19 NONPROFESSIONAL CAPACITY. THIS SECTION DOES NOT PROHIBIT ANY
20 OTHER PERSON FROM REPORTING ECONOMIC HARM TO AN ELDERLY
21 PERSON THAT THE PERSON HAS REASONABLE CAUSE TO BELIEVE IS A
22 RESULT OF THEFT, FRAUD, OR COERCION BY A CARETAKER OF THE
23 ELDERLY PERSON, OR PHYSICAL HARM TO AN ELDERLY PERSON THAT
24 THE PERSON HAS REASONABLE CAUSE TO BELIEVE IS A RESULT OF
25 ABUSE, NEGLECT, OR ABANDONMENT].

26 * Sec. 6. AS 47.24.010(e) is amended to read:

27 (e) If a person making a report under this section believes that immediate
28 action is necessary to protect the vulnerable adult [ELDERLY PERSON] from
29 imminent risk of serious physical harm due to abandonment, exploitation, abuse,
30 neglect, or self-neglect and the reporting person cannot immediately contact the
31 department's central information and referral service for vulnerable adults

1 [HARM], the reporting person may [SHALL] make the report [OF HARM] to a
2 police officer or a village public safety officer. The police officer or village public
3 safety officer shall take immediate action to protect the vulnerable adult [ELDERLY
4 PERSON] and shall, at the earliest opportunity, notify the department. A person may
5 not bring an action for damages against a police officer, village public safety
6 officer, the state, or a political subdivision of the state based on a decision under
7 this subsection to take or not to take immediate action to protect a vulnerable
8 adult. If a decision is made under this subsection to take immediate action to
9 protect a vulnerable adult, a person may not bring an action for damages based
10 on the protective actions taken unless the protective actions were performed with
11 gross negligence or intentional misconduct; damages awarded in the action may
12 include only direct economic compensatory damages for personal injury.

13 * Sec. 7. AS 47.24.010(f) is repealed and reenacted to read:

14 (f) A person listed in (a) of this section who reports to the long term care
15 ombudsman under AS 44.21.232, or to the Department of Health and Social Services,
16 that a vulnerable adult has been exploited, abused, or neglected in an out-of-home care
17 facility is considered to have met the duty to report under (a) of this section.

18 * Sec. 8. AS 47.24 is amended by adding new sections to read:

19 Sec. 47.24.011. DUTIES OF THE DEPARTMENT REGARDING SERVICES
20 AND PROTECTION FOR VULNERABLE ADULTS. In order to facilitate the
21 provision of supportive and protective services for vulnerable adults, the department
22 shall

23 (1) compile information on available supportive and protective services
24 for vulnerable adults in the state;

25 (2) establish, publicize, and maintain a central information and referral
26 service for vulnerable adults;

27 (3) develop and coordinate a statewide system to serve vulnerable
28 adults who are in need of protective services;

29 (4) establish criteria and procedures for the authorization and
30 supervision of other state agencies or community-based service providers to serve as
31 designees of the department under this chapter;

Jaylon
amendment
to delete.
#1 passes

1 (5) in accordance with this chapter, designate other state agencies or
2 community-based service providers to deliver supportive and protective services to
3 vulnerable adults who are in need of protective services;

4 (6) develop within the central information and referral service for
5 vulnerable adults a central registry for reports of vulnerable adults in need of protective
6 services;

7 (7) maintain confidentiality of records as provided for in AS 47.24.050;
8 and

9 (8) adopt regulations to carry out the purposes of this chapter.

10 Sec. 47.24.013. REPORTS OF ABANDONMENT, EXPLOITATION, ABUSE,
11 NEGLECT, OR SELF-NEGLECT OF VULNERABLE ADULTS IN OUT-OF-HOME
12 CARE FACILITIES. (a) If a report received under AS 47.24.010 regards the
13 abandonment, exploitation, abuse, neglect, or self-neglect of a vulnerable adult who is
14 60 years of age or older that is alleged to have been committed by or to have resulted
15 from the negligence of the staff or a volunteer of an out-of-home care facility,
16 including a facility licensed under AS 18.20, in which the vulnerable adult resides, and
17 if the Department of Health and Social Services licenses that type of facility, the
18 Department of Administration shall transfer the report for investigation to the long
19 term care ombudsman under AS 44.21.232 and the Department of Health and Social
20 Services.

21 (b) The department shall transfer to the Department of Health and Social
22 Services, for investigation, a report received under AS 47.24.010 regarding the
23 abandonment, exploitation, abuse, neglect, or self-neglect of a vulnerable adult who is
24 less than 60 years of age that is alleged to have been committed by or to have resulted
25 from the negligence of the staff or a volunteer of an out-of-home care facility in which
26 the vulnerable adult resides, if the Department of Health and Social Services licenses
27 that type of facility.

28 (c) Upon receipt of a report from the department under (a) or (b) of this
29 section, the long term care ombudsman and the Department of Health and Social
30 Services shall

31 (1) conduct an investigation as appropriate under AS 44.21.232 or

1 AS 47, respectively;

2 (2) coordinate and cooperate in their responses to and investigations of
3 the report if their jurisdictions overlap;

4 (3) provide the results of their actions or investigations to the central
5 information and referral service of the department within 60 days after the receipt of
6 the report.

7 (d) If the long term care ombudsman or the Department of Health and Social
8 Services receives directly a report regarding the abandonment, exploitation, abuse,
9 neglect, or self-neglect of a vulnerable adult in an out-of-home care facility, the
10 ombudsman or the Department of Health and Social Services shall provide the report,
11 and the results of their actions or investigations regarding the report, to the central
12 information and referral service of the Department of Administration. The Department
13 of Administration may investigate the report as described in AS 47.24.015 if the
14 department determines that action is appropriate.

15 (e) If the results of an investigation by the long term care ombudsman or the
16 Department of Health and Social Services are provided to the Department of
17 Administration under (c) or (d) of this section, the Department of Administration may
18 make a final determination as described in AS 47.24.015(b), based on the investigation
19 results provided, regarding services to be offered to the vulnerable adult.

20 Sec. 47.24.015. ACTION ON REPORTS. (a) Upon the department's receipt
21 of a report under AS 47.24.010 that is not transferred under AS 47.24.013, the
22 department, or its designee, shall promptly initiate an investigation to determine
23 whether the vulnerable adult who is the subject of the report suffers from
24 abandonment, exploitation, abuse, neglect, or self-neglect. The department, or its
25 designee, shall conduct a face-to-face interview with the subject of the report unless
26 that person is unconscious or the department, or its designee, has determined that a
27 face-to-face interview could further endanger the vulnerable adult.

28 (b) After the department conducts an investigation under (a) of this section,
29 the department shall prepare a written report of the investigation, including findings,
30 recommendations, and a determination of whether and what kind of supportive or
31 protective services are needed by and are to be offered to the vulnerable adult. After

1 the department's designee conducts an investigation under (a) of this section, the
2 designee shall prepare a written report of the investigation, including findings,
3 recommendations, and a proposed determination of whether and what kind of
4 supportive or protective services are to be offered to the vulnerable adult. The
5 department shall prepare, and attach to the designee's report, a final determination
6 regarding services to be offered to the vulnerable adult.

7 (c) The department, or its designee, shall immediately terminate an
8 investigation under this section upon the request of the vulnerable adult who is the
9 subject of the report made under AS 47.24.010. However, if the investigation to that
10 point has resulted in reasonable cause to believe that the vulnerable adult is in need
11 of protective services,

12 (1) the department may petition the court as set out in AS 47.24.019;
13 or

14 (2) the department or its designee may refer the report made to the
15 department under AS 47.24.010 to a police officer for criminal investigation.

16 (d) Upon request, a person who made a report to the department under
17 AS 47.24.010 regarding a vulnerable adult shall be notified of the status of the
18 investigation conducted under (a) of this section regarding that vulnerable adult.

19 (e) A person may not bring an action for damages based on a decision under
20 this section to offer or not to offer protective services to a vulnerable adult.

21 (f) A person may not bring an action for damages based on the provision of
22 protective services under this section unless the action is based on gross negligence or
23 intentional misconduct. The damages awarded in an action under this section may
24 include only direct economic compensatory damages for personal injury.

25 Sec. 47.24.016. SURROGATE DECISION MAKERS FOR VULNERABLE
26 ADULTS. (a) If the department determines under AS 47.24.015 that a vulnerable
27 adult is in need of protective services, but the department cannot obtain the vulnerable
28 adult's consent to receive the services because the vulnerable adult is unable to consent
29 or lacks decision making capacity, and has no guardian or attorney in fact to serve as
30 the vulnerable adult's surrogate decision maker, the department may select from the
31 following list, in the order of priority listed, an individual who is willing to be the

1 vulnerable adult's surrogate decision maker for the purpose of deciding whether to
2 consent to the vulnerable adult's receipt of protective services:

3 (1) the vulnerable adult's spouse, unless

4 (A) the vulnerable adult and the spouse have separate domiciles;

5 or

6 (B) the vulnerable adult or the spouse have initiated divorce or
7 dissolution proceedings;

8 (2) an individual who lives with the vulnerable adult in a spousal
9 relationship or as a domestic partner and who is 18 years of age or older;

10 (3) a son or daughter of the vulnerable adult who is 18 years of age or
11 older;

12 (4) a parent of the vulnerable adult;

13 (5) a brother or sister of the vulnerable adult who is 18 years of age
14 or older; or

15 (6) a close friend or relative of the vulnerable adult who is 18 years of
16 age or older.

17 (b) An individual from the list in (a) of this section may not be selected as a
18 surrogate decision maker if

19 (1) the department determines that individual does not possess decision
20 making capacity; or

21 (2) there are allegations that individual is a perpetrator of the
22 abandonment, exploitation, abuse, or neglect of the vulnerable adult.

23 (c) If the department intends to select a surrogate decision maker from a
24 priority level in the list in (a) of this section and there is more than one individual at
25 that priority level who is willing to be the surrogate decision maker, those individuals

26 (1) may select from amongst themselves, by majority vote, an
27 individual to serve as the surrogate decision maker; or

28 (2) as a group may serve as the surrogate decision maker and reach
29 decisions by consensus.

30 (d) The department may not continue to provide protective services to a
31 vulnerable adult based on the consent of a surrogate decision maker serving under this

1 section if the department determines that the vulnerable adult has become able to
2 consent or has regained decision making capacity since the surrogate's consent was
3 given. The department may continue protective services to a vulnerable adult who has
4 become able to consent or has regained decision making capacity only if the vulnerable
5 adult consents.

6 Sec. 47.24.017. DELIVERY OF PROTECTIVE SERVICES FOR
7 VULNERABLE ADULTS. (a) If the department determines under AS 47.24.015 that
8 a vulnerable adult is in need of protective services and either the vulnerable adult, the
9 vulnerable adult's guardian or attorney in fact, or a surrogate decision maker selected
10 under AS 47.24.016 consents to receipt of the protective services, and to the extent
11 that resources are available, the department shall ensure that the protective services for
12 the vulnerable adult are provided by the department or its designee within 10 working
13 days after the department received the report under AS 47.24.010 regarding the
14 abandonment, exploitation, abuse, neglect, or self-neglect of the vulnerable adult.
15 However, if circumstances beyond the control of the department or the department's
16 designee make it impossible to provide the protective services within the 10 working
17 days, the department shall ensure that the services are provided as soon as possible
18 after that time.

19 (b) Notwithstanding (a) of this section, if the department determines that an
20 emergency situation exists that necessitates provision of protective services to a
21 vulnerable adult, the department may provide the necessary protective services in a
22 manner determined by the department to be the most appropriate in light of the
23 emergency situation, regardless of whether the vulnerable adult or any other person has
24 consented to receipt of the services.

25 (c) To the extent practicable, protective services provided under this section
26 shall be delivered in a culturally relevant manner that protects the vulnerable adult's
27 right to the least restrictive environment and maximizes that person's own decision
28 making capabilities.

29 Sec. 47.24.019. PETITIONING COURT FOR CERTAIN PROTECTIVE
30 SERVICES. (a) If, after investigation under AS 47.24.015, the department has
31 reasonable cause to believe that a vulnerable adult is in need of protective services and

1 is an incapacitated person, the department may petition the court under AS 13.26 for
2 appointment of a guardian or temporary guardian for the vulnerable adult for the
3 purpose of deciding whether to consent to the receipt of protective services for the
4 vulnerable adult.

5 (b) If, after an investigation under AS 47.24.015, the department has
6 reasonable cause to believe that a vulnerable adult is mentally ill and as a result either
7 is likely to cause serious harm to self or others or is gravely disabled, the department
8 may petition the court under AS 47.30.700 to initiate an involuntary commitment
9 proceeding.

10 (c) If a vulnerable adult who has consented to receive protective services, or
11 on whose behalf consent to receive protective services has been given, is prevented by
12 a caregiver from receiving those services, the department may assist the vulnerable
13 adult or the person who consented to the vulnerable adult's receipt of the services to
14 petition the superior court for an injunction restraining the caregiver from interfering
15 with the provision of protective services to the vulnerable adult.

16 * Sec. 9. AS 47.24.040 is repealed and reenacted to read:

17 Sec. 47.24.040. MONITORING. If ongoing protective services are provided
18 to a vulnerable adult under AS 47.24.017, the department shall monitor the adult's
19 situation, as the department considers appropriate, until the department determines that
20 the protective services are no longer needed.

21 * Sec. 10. AS 47.24.050 is amended to read:

22 Sec. 47.24.050. CONFIDENTIALITY OF REPORTS. (a) Investigation
23 reports and reports of the abandonment, exploitation, abuse, neglect, or self-neglect
24 of a vulnerable adult [HARM] filed under this chapter [AS 47.24.010 - 47.24.100]
25 are confidential and are not subject to public inspection and copying under
26 AS 09.25.110 - 09.25.125. However, in accordance with this chapter [AS 47.24.010
27 - 47.24.100] and regulations adopted under this chapter [AS 47.24.010 - 47.24.100],
28 investigation reports may be used by appropriate [GOVERNMENTAL] agencies or
29 individuals inside and outside the state, in connection with investigations or judicial
30 proceedings involving the abandonment, exploitation, abuse, neglect, or self-neglect
31 of a vulnerable adult [HARM TO AN ELDERLY PERSON].

1 (b) The department shall disclose a report of the abandonment, exploitation,
2 abuse, neglect, or self-neglect of a vulnerable adult [HARM] if the vulnerable adult
3 [ELDERLY PERSON] who is the subject of the report consents in writing. The
4 department shall, upon request, disclose the number of verified reports of
5 abandonment, exploitation, abuse, neglect, or sel-neglect of a vulnerable adult
6 [HARM] that occurred at an institution that provides [FOR] care for vulnerable
7 adults [OF THE ELDERLY].

8 * Sec. 11. AS 47.24.070 is repealed and reenacted to read:

9 Sec. 47.24.070. REGULATIONS. Before adoption by the department,
10 regulations to implement this chapter shall be provided to the Older Alaskans
11 Commission (AS 44.21.200) for review.

12 * Sec. 12. AS 47.24.120 is amended to read:

13 Sec. 47.24.120. IMMUNITY FROM LIABILITY; RETALIATION
14 PROHIBITED. (a) A person who in good faith makes a report under AS 47.24.010
15 [AS 47.24.110], regardless of whether the person is required to do so, is immune from
16 civil or criminal liability that might otherwise be incurred or imposed for making the
17 report.

18 (b) An employer or supervisor of a person who in good faith makes a report
19 under AS 47.24.010 [AS 47.24.110] may not discharge, demote, transfer, reduce pay
20 or benefits or work privileges of, prepare a negative work performance evaluation of,
21 or take other detrimental action against the person because the person made the report.
22 The person making the report may bring a civil action for compensatory and punitive
23 damages against an employer or supervisor who violates this subsection. In the civil
24 action there is a rebuttable presumption that the detrimental action by the employer or
25 supervisor was retaliatory if it was taken within 90 days after the report was made.

26 * Sec. 13. AS 47.24 is amended by adding a new section to read:

27 Sec. 47.24.900. DEFINITIONS. In this chapter,

28 (1) "abandonment" means desertion of a vulnerable adult by a
29 caregiver;

30 (2) "abuse" means

31 (A) the wilful, intentional, or reckless nonaccidental, and

- 1 nontherapeutic infliction of physical pain, injury, or mental distress; or
- 2 (B) sexual assault under AS 11.41.410 or 11.41.420;
- 3 (3) "caregiver" means
- 4 (A) a person who is providing care to a vulnerable adult as a
- 5 result of a family relationship, or who has assumed responsibility for the care
- 6 of a vulnerable adult voluntarily, by contract, or by court order; or
- 7 (B) an employee of an out-of-home care facility who provides
- 8 care to one or more vulnerable adults;
- 9 (4) "decision making capacity" means the ability to understand and
- 10 appreciate the nature and consequences of a decision and the ability to reach and
- 11 communicate an informed decision;
- 12 (5) "department" means the Department of Administration;
- 13 (6) "designee" means another state agency or a community-based
- 14 program, individual, or provider of supportive services that has been licensed, or
- 15 authorized by agreement with the department, to provide one or more services to
- 16 vulnerable adults;
- 17 (7) "exploitation" means unjust or improper use of another person or
- 18 another person's resources for one's own profit or advantage;
- 19 (8) "incapacitated person" means a person whose ability to receive and
- 20 evaluate information or to communicate decisions is impaired to the extent that the
- 21 person lacks the ability to provide or arrange for the essential requirements for the
- 22 person's physical health or safety without court-ordered assistance;
- 23 (9) "neglect" means the intentional failure by a caregiver to provide
- 24 essential care or services necessary to maintain the physical and mental health of the
- 25 vulnerable adult;
- 26 (10) "police officer" has the meaning given in AS 18.65.290;
- 27 (11) "protective services" means services that are intended to prevent
- 28 or alleviate harm resulting from abandonment, exploitation, abuse, neglect, or self-
- 29 neglect and that are provided to a vulnerable adult in need of protection; "protective
- 30 services" includes protective placement;
- 31 (12) "self-neglect" means an act or omission by a vulnerable adult that

1 results, or could result in the deprivation of essential services necessary to maintain
2 minimal mental, emotional, or physical health and safety;

3 (13) "supportive services" means the range of services delivered by
4 public and private organizations and individuals that assist the elderly and vulnerable
5 adults with their social, health, educational, recreational, transportation, housing,
6 nutritional, financial, legal, or other needs;

7 (14) "unable to consent" means refusal to, or inability to, accept
8 services because

9 (A) the person is an incapacitated person or apparently is an
10 incapacitated person;

11 (B) of coercion by or fear of reprisal from the perpetrator of
12 abandonment, exploitation, abuse, or neglect;

13 (C) of dependency on the perpetrator of abandonment,
14 exploitation, abuse, or neglect for services, care, or support; or

15 (D) of an inability to perceive that refusal to consent results in
16 an imminent and substantial danger of death or irreparable harm to self or
17 others;

18 (16) "vulnerable adult" means a person 18 years of age or older who,
19 because of physical or mental impairment, is unable to meet the person's own needs
20 or to seek help without assistance.

21 * Sec. 14. AS 47.24.010(g), 47.24.010(h), 47.24.020, 47.24.030, 47.24.060, 47.24.075,
22 47.24.100, and 47.24.110 are repealed.

23 * Sec. 15. TRANSITION. (a) Contracts, rights, liabilities, and obligations created by or
24 under a law repealed by this Act and in effect on June 30, 1994, remain in effect
25 notwithstanding this Act's taking effect. Records, equipment, appropriations, and other
26 property of agencies of the state whose functions are transferred under this Act shall be
27 transferred to implement the provisions of this Act.

28 (b) Litigation, hearings, investigations, and other proceedings pending under a law
29 repealed by this Act, or in connection with functions transferred by this Act, continue in effect
30 and may be continued and completed notwithstanding a transfer, amendment, or repeal
31 provided for in this Act.

1 (c) The Department of Administration may proceed to adopt regulations necessary to
2 implement the changes made by this Act. The regulations may not take effect before July 1,
3 1994.

4 * Sec. 16. Section 15(c) of this Act takes effect immediately under AS 01.10.070(c).

5 * Sec. 17. Sections 1 - 14, 15(a), and 15(b) of this Act take effect July 1, 1994.