

HB

357

HFIN

FILE

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Letter of Intent
House Finance Committee
CSHB 357 (FIN)
Adopted February 13, 2006

The legislature intends to modernize the terminology in statutes in recognition of the ability of individuals with disabilities to contribute to society and to the state.

The legislature does not intend to alter in any manner the substantive provisions of the statutes in which the terminology is changed under this Act, including provisions relating to the Alaska Mental Health Trust, provisions defining who is a trust beneficiary arising under the Alaska Mental Health Enabling Act of 1956, or provisions relating to the mental health trust settlement in *Weiss v. State*, 4FA-82-2208 Civil, under ch. 66, SLA 1991; chs. 5 and 6, FSSLA 1994; and chs. 1 and 2, SSSLA 1994.

The Legislature does not intend for the provisions in this Act to alter the effect of any statute pertaining to compliance with federal law or state law relating to access for individuals with disabilities or rights for individuals with disabilities.

A handwritten signature in cursive script that reads "Kevin Meyer".

Representative Kevin Meyer
Co-Chairman, House Finance Committee

CS FOR HOUSE BILL NO. 357(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 2/1/06

Referred: Finance

Sponsor(s): REPRESENTATIVES WILSON, Hawker

*amended 2-13-06
add letter of intent*

A BILL

FOR AN ACT ENTITLED

1 "An Act updating the terminology in statutes for persons with disabilities; and
2 providing for an effective date."

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

4 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 LEGISLATIVE INTENT. The legislature intends to modernize the terminology in
7 statutes in recognition of the ability of individuals with disabilities to contribute to society and
8 to the state. The legislature does not intend to alter in any manner the substantive provisions
9 of the statutes in which the terminology is changed under this Act, including provisions
10 relating to the Alaska Mental Health Trust, provisions defining who is a trust beneficiary
11 arising under the Alaska Mental Health Enabling Act of 1956, or provisions relating to the
12 mental health trust settlement in Weiss v. State, 4FA-82-2208 Civil, under ch. 66, SLA 1991;
13 chs. 5 and 6, FSSLA 1994; and chs. 1 and 2, SSSLA 1994.

14 * Sec. 2. AS 14.30.630(b) is amended to read:

delete

1 (b) The agency shall

2 (1) provide special education services including

3 (A) itinerant outreach services to students who are deaf, deaf-
4 blind, mentally retarded, hearing impaired, blind and visually impaired,
5 orthopedically disabled, [HANDICAPPED, OTHER] health-impaired in
6 other ways, and [,] severely emotionally disturbed, and to [MULTI-
7 HANDICAPPED] students with multiple disabilities;

8 (B) special education instructional support and training of local
9 school district special education personnel; and

10 (C) other services appropriate to special education needs;

11 (2) provide for an annual audit of the agency;

12 (3) provide the department with a two-year plan of operation including
13 a description of the services to be offered by the agency, the method by which the
14 services will be evaluated, information on the number of students and school district
15 personnel to be served, a schedule of funds available to the agency from all sources,
16 and other information that may be required by the department by regulation;

17 (4) present an annual budget to the department.

18 * Sec. 3. AS 18.15.210 is amended to read:

19 Sec. 18.15.210. Testing for certain other heritable diseases. The department
20 shall administer and provide services for testing for other heritable diseases that lead
21 to mental retardation and physical disabilities [HANDICAPS] as screening programs
22 accepted by current medical practice and as developed.

23 * Sec. 4. AS 18.55.130(b) is amended to read:

24 (b) Except in the case of leased housing as provided in 42 U.S.C. 1437f, the
25 corporation shall fix the income limits for occupancy of its low-cost housing projects
26 and rents that are approved by the United States Department of Housing and Urban
27 Development after taking into consideration

28 (1) the family size, composition, age, physical disabilities
29 [HANDICAPS], and other factors that might affect the rent-paying ability of the
30 family; and

31 (2) the economic factors that affect the financial stability and solvency

1 of the project.

2 * Sec. 5. AS 23.15.080 is amended to read:

3 Sec. 23.15.080. Eligibility for vocational rehabilitation service. (a)
4 Vocational rehabilitation service shall be provided directly or through a public or
5 private instrumentality to an [A HANDICAPPED] individual with a disability who

6 (1) is a resident of the state at the time of application for the service
7 and whose vocational rehabilitation the agency determines after full investigation can
8 be satisfactorily achieved; or

9 (2) is eligible for the service under an agreement with another state or
10 with the federal government.

11 (b) In determining the types and extent of vocational rehabilitation services to
12 be provided to an [A HANDICAPPED] individual with a disability, the agency shall
13 take into consideration any similar benefits that may be available to the individual
14 under other programs. However, the agency may not take other benefits into
15 consideration when doing so would significantly delay the provision of needed
16 services to the [HANDICAPPED] individual with a disability. The agency need not
17 take other benefits into consideration when they are for

18 (1) diagnostic and related services, including transportation and
19 subsistence in connection with those services;

20 (2) counseling, guidance, and referral;

21 (3) training, including personal and vocational adjustment training, and
22 necessary training materials;

23 (4) services to members of families of [HANDICAPPED] individuals
24 with disabilities;

25 (5) job placement; and

26 (6) services necessary to assist [HANDICAPPED] individuals with
27 disabilities to maintain suitable employment.

28 * Sec. 6. AS 23.15.090 is amended to read:

29 Sec. 23.15.090. Priority as to eligibility. If vocational rehabilitation service
30 cannot be provided for all eligible [HANDICAPPED] individuals with disabilities
31 who apply, the agency shall provide by regulation for determining the order to be

1 followed in selecting those to whom the services will be provided.

2 * Sec. 7. AS 23.15.100 is amended to read:

3 Sec. 23.15.100. Powers and duties; vending facilities. (a) In carrying out
4 AS 23.15.010 - 23.15.210, the agency shall

5 (1) take the action it considers necessary or appropriate to carry out the
6 purposes of AS 23.15.010 - 23.15.210 [,] and adopt regulations in conformity with
7 these purposes;

8 (2) determine the eligibility of applicants for vocational rehabilitation
9 service;

10 (3) submit to the governor annual reports of activities and expenditures
11 and, before each regular session of the legislature, estimates of sums required for
12 carrying out AS 23.15.010 - 23.15.210 and estimates of the amounts to be made
13 available for this purpose from all sources;

14 (4) cooperate with public and private departments, agencies, and
15 institutions in providing for the vocational rehabilitation of [HANDICAPPED]
16 individuals with disabilities, studying the problems involved in providing this
17 rehabilitation, and establishing, developing, and providing, in conformity with the
18 purposes of AS 23.15.010 - 23.15.210, the programs, facilities, and services that may
19 be necessary or desirable;

20 (5) survey the potential for providing vending facilities on public
21 property and, when feasible, establish vending facilities operated by blind persons and
22 [SEVERELY HANDICAPPED] persons with severe disabilities on public property;

23 (6) license blind persons and [SEVERELY HANDICAPPED] persons
24 with severe disabilities in accordance with AS 23.15.133 for the operation of vending
25 facilities on public property, with blind persons having first priority for operation of
26 the vending facilities;

27 (7) provide the training and supervision necessary to enable blind
28 persons and [SEVERELY HANDICAPPED] persons with severe disabilities to
29 operate vending facilities;

30 (8) provide the equipment and initial stock necessary to enable blind
31 persons and [SEVERELY HANDICAPPED] persons with severe disabilities to

1 operate vending facilities.

2 (b) In carrying out AS 23.15.010 - 23.15.210, the agency may

3 (1) enter into agreements with other states to provide for the vocational
4 rehabilitation of residents of the states concerned;

5 (2) establish and operate rehabilitation facilities and workshops and
6 make grants to public and other nonprofit organizations for these purposes;

7 (3) supervise the operation of vending stands and other small
8 businesses established under AS 23.15.010 - 23.15.210 to be conducted by
9 [SEVERELY HANDICAPPED] individuals with severe disabilities;

10 (4) make studies, investigations, demonstrations, and reports, and
11 provide training and instruction, including the establishment and maintenance of the
12 research fellowships and traineeships with the stipends and allowances that are
13 considered necessary, in matters relating to vocational rehabilitation; and

14 (5) adopt regulations necessary for carrying out the provisions of
15 AS 23.15.010 - 23.15.210.

16 * Sec. 8. AS 23.15.125(e)(2) is amended to read:

17 (2) "person with a disability" means [A HANDICAPPED
18 INDIVIDUAL OR] an individual having a physical or mental disability.

19 * Sec. 9. AS 23.15.133(a) is amended to read:

20 (a) The agency shall issue a license for the operation of a vending facility on
21 public property to a blind person or a [SEVERELY HANDICAPPED] person with a
22 severe disability who is a resident of the state at the time of application and who
23 qualifies for a license under

24 (1) 20 U.S.C. 107 - 107f [107(f)] ([THE] Randolph-Sheppard Act); or

25 (2) regulations adopted by the agency providing for licensing of blind
26 persons or [SEVERELY HANDICAPPED] persons with severe disabilities.

27 * Sec. 10. AS 23.15.134 is amended to read:

28 Sec. 23.15.134. Active participation by [SEVERELY HANDICAPPED]
29 licensees with severe disabilities. The agency shall adopt regulations that ensure the
30 opportunity for active participation by a [SEVERELY HANDICAPPED] licensee
31 with severe disabilities in the administration of vending facilities operated by

1 [SEVERELY HANDICAPPED] licensees with severe disabilities. The opportunity
 2 for active participation provided under this section must be at least as extensive as the
 3 opportunity for active participation provided for a blind licensee under AS 23.15.135.

4 * Sec. 11. AS 23.15.170 is amended to read:

5 Sec. 23.15.170. Maintenance not assignable. The right of an [A
 6 HANDICAPPED] individual with a disability to maintenance under AS 23.15.010 -
 7 23.15.210 is not transferable or assignable at law or in equity.

8 * Sec. 12. AS 23.15.180(b) is amended to read:

9 (b) A blind person or a [SEVERELY HANDICAPPED] person with a severe
 10 disability aggrieved by a decision or action of the agency under AS 23.15.133 -
 11 23.15.135 shall receive a hearing on request in accordance with AS 44.62.330 -
 12 44.62.630 (Administrative Procedure Act). A blind person may also file a complaint in
 13 accordance with 20 U.S.C. 107d-1 for arbitration of a grievance.

14 * Sec. 13. AS 23.15.210 is amended to read:

15 Sec. 23.15.210. Definitions. In AS 23.15.010 - 23.15.210,

16 (1) "active participation" means a process through which the
 17 Committee of Blind Vendors or a licensee is provided the opportunity to exert a major
 18 influence in program policies, standards, and procedures affecting the operation of
 19 vending facilities, with the commissioner of education and early development having
 20 final responsibility;

21 (2) "agency" means the division of vocational rehabilitation;

22 (3) "blind person" means a person whose central visual acuity does not
 23 exceed 20/200 in the better eye with correcting lenses, or whose visual acuity, if better
 24 than 20/200, is accompanied by a limit to the field of vision in the better eye to such a
 25 degree that its widest diameter subtends an angle of not [NO] greater than 20 degrees;
 26 an examination by an ophthalmologist or by an optometrist is necessary before a
 27 person is found to be blind;

28 (4) [REPEALED

29 (5)] "director" means the director of the division of vocational
 30 rehabilitation;

31 (5) "individual having a physical or mental disability" means an

1 individual who has a physical or mental condition that materially limits,
 2 contributes to limiting, or, if not corrected, will probably result in limiting the
 3 individual's activities or functioning;

4 (6) "[HANDICAPPED] individual with a disability" means an
 5 individual having a physical or mental disability that [WHICH] for that individual
 6 constitutes or results in a substantial barrier [HANDICAP] to employment and who
 7 can reasonably be expected to benefit in terms of employability from the provision of
 8 vocational rehabilitation services;

9 (7) ["INDIVIDUAL HAVING A PHYSICAL OR MENTAL
 10 DISABILITY" MEANS AN INDIVIDUAL WHO HAS A PHYSICAL OR MENTAL
 11 CONDITION THAT MATERIALLY LIMITS, CONTRIBUTES TO LIMITING, OR,
 12 IF NOT CORRECTED, WILL PROBABLY RESULT IN LIMITING THE
 13 INDIVIDUAL'S ACTIVITIES OR FUNCTIONING;

14 (8) "licensee" means a blind person or a [SEVERELY
 15 HANDICAPPED] person with a severe disability licensed by the division of
 16 vocational rehabilitation under 20 U.S.C. 107 - 107b and 107d - 107f ([THE]
 17 Randolph-Sheppard Act), AS 23.15.133, and regulations adopted under federal or
 18 state law;

19 (8) "person with a severe disability" means a person who has one
 20 or more physical or mental disabilities that seriously limit the person's functional
 21 capacities in terms of regular employment and whose vocational rehabilitation
 22 requires multiple vocational rehabilitation services over an extended period of
 23 time;

24 (9) "public property" means real or personal property owned or leased
 25 by the state or federal government [,] or an agency of the state or federal government;

26 (10) ["SEVERELY HANDICAPPED PERSON " MEANS A
 27 PERSON WHO HAS ONE OR MORE PHYSICAL OR MENTAL DISABILITIES
 28 THAT SERIOUSLY LIMIT THE PERSON'S FUNCTIONAL CAPACITIES IN
 29 TERMS OF REGULAR EMPLOYMENT, AND WHOSE VOCATIONAL
 30 REHABILITATION REQUIRES MULTIPLE VOCATIONAL REHABILITATION
 31 SERVICES OVER AN EXTENDED PERIOD OF TIME;

1 (11) "vending facility" means a vending machine, cafeteria, snack bar,
 2 shelter, cart, or counter where food, tobacco, newspapers, periodicals, and other
 3 articles are offered for sale to the general public and dispensed automatically or
 4 manually whether prepared on or off the premises; and excludes a facility in a
 5 hospital, school, or other institution where food or other articles are offered for sale
 6 only to patients, inmates, and persons enrolled in or employed by the institution;

7 (11) [(12)] "vocational rehabilitation service" means goods and
 8 services, including diagnostic and related services, necessary to enable an [A
 9 HANDICAPPED] individual with a disability to engage in gainful employment;

10 (12) [(13)] "workshop" means a rehabilitation facility engaged in a
 11 production or service operation that is operated for the primary purpose of providing
 12 gainful employment or professional services to persons with disabilities [THE
 13 HANDICAPPED] as an interim step in the rehabilitation process for those who cannot
 14 readily be absorbed in the competitive labor market or during times when employment
 15 opportunities for them in the competitive labor market do not exist.

16 * Sec. 14. AS 29.60.120(f)(1) is amended to read:

17 (1) "health facility"

18 (A) means a facility that is licensed or certified by the state or
 19 approved under regulations adopted by the department and that is owned or
 20 operated or both by a municipality or by a nonprofit corporation or other
 21 nonprofit sponsor;

22 (B) includes a public health center, maternity home,
 23 community mental health center, facility for persons with mental or physical
 24 disabilities [THE MENTALLY OR PHYSICALLY HANDICAPPED],
 25 nursing home, convalescent center, domestic violence or sexual assault shelter
 26 qualified to receive a grant or contract under AS 18.66, or alcohol or drug
 27 abuse facility that meets standards established under AS 47.37;

28 (C) excludes a facility operated or wholly supported by the
 29 state or the federal government;

30 * Sec. 15. AS 35.10.015(a) is amended to read:

31 (a) The department shall prepare, adopt, and enforce regulations governing the

1 construction of public buildings and facilities by or for the state, including the
 2 University of Alaska, and its political subdivisions, whether financed in whole or in
 3 part by federal funds, to ensure that public buildings and facilities are accessible to [,]
 4 and usable by persons with disabilities and by the [, THE PHYSICALLY
 5 HANDICAPPED,] aged [,] or infirm. The regulations of the department must conform
 6 to a standard comparable to applicable provisions of federal law, regulations, and
 7 standards.

8 * Sec. 16. AS 35.10.015(c) is amended to read:

9 (c) All ferries owned or operated by the state shall be equipped with elevators
 10 or other passenger lifting equipment, ramps, or other facilities and devices to ensure
 11 that these vessels are accessible to and usable by persons with disabilities and by
 12 [PHYSICALLY HANDICAPPED,] aged or infirm passengers. In this subsection,
 13 "accessible to and usable by" means that a person with a disability or an [A
 14 PHYSICALLY HANDICAPPED,] aged or infirm passenger can board, disembark and
 15 move between decks and about the public areas aboard a state ferry with personal
 16 comfort and safety [,] and with safety to [,] other passengers and members of the crew.

17 * Sec. 17. AS 35.10.015(d) is amended to read:

18 (d) After June 25, 1976, a ferry may not be constructed, lengthened,
 19 completely renovated, or purchased for use or entered into service by the division of
 20 marine transportation of the department as a part of the Alaska marine highway system
 21 that does not include adequate facilities and devices to ensure that the vessel is
 22 accessible to and usable by persons with disabilities and by [PHYSICALLY
 23 HANDICAPPED,] aged or infirm passengers. Some staterooms and all restrooms,
 24 indoor passageways, outdoor weather decks, and other public areas aboard the vessel
 25 shall be so designed and constructed as to permit access and use by persons with
 26 disabilities and by [PHYSICALLY HANDICAPPED,] aged [,] or infirm passengers,
 27 including [BUT NOT LIMITED TO] those persons occupying a wheelchair.

28 * Sec. 18. AS 35.10.015(e) is amended to read:

29 (e) After June 25, 1976, a [NO] public building or facility in the state may not
 30 be planned, designed, financed, constructed, opened to public use, or otherwise placed
 31 in operation unless it meets the standards established under this section. If the

1 standards for a public building or facility are not provided for in federal statute
 2 [LAW], regulation, or standards, the department shall determine the extent of, and
 3 adopt regulations setting the standards for, access to and use of the public building or
 4 facility by persons with disabilities and by the [PHYSICALLY HANDICAPPED,]
 5 aged [,] or infirm.

6 * Sec. 19. AS 36.30.040(b) is amended to read:

7 (b) The commissioner shall adopt regulations pertaining to

- 8 (1) suspension, debarment, and reinstatement of prospective bidders
 9 and contractors;
- 10 (2) bid protests;
- 11 (3) conditions and procedures for the procurement of perishables and
 12 items for resale;
- 13 (4) conditions and procedures for the use of source selection methods
 14 authorized by this chapter, including single source procurements, emergency
 15 procurements, and small procurements;
- 16 (5) the opening or rejection of bids and offers, and waiver of
 17 informalities in bids and offers;
- 18 (6) confidentiality of technical data and trade secrets submitted by
 19 actual or prospective bidders or offerors;
- 20 (7) partial, progressive, and multiple awards;
- 21 (8) storerooms and inventories, including determination of appropriate
 22 stock levels and the management of agency supplies;
- 23 (9) transfer, sale, or other disposal of supplies;
- 24 (10) definitions and classes of contractual services and procedures for
 25 acquiring them;
- 26 (11) providing for conducting price analysis;
- 27 (12) use of payment and performance bonds in connection with
 28 contracts for supplies, services, and construction;
- 29 (13) guidelines for use of cost principles in negotiations, adjustments,
 30 and settlements;
- 31 (14) conditions under which an agency may use the services of an

1 employment program;

2 (15) a bidder's or offeror's duties under this chapter; and

3 (16) the elimination and prevention of discrimination in state
4 contracting because of race, religion, color, national origin, sex, age, marital status,
5 pregnancy, parenthood, disability [HANDICAP], or political affiliation.

6 * Sec. 20. AS 36.30.990(11) is amended to read:

7 (11) "employment program" means a nonprofit program to increase
8 employment opportunities for individuals with physical or mental disabilities that
9 constitute substantial barriers [HANDICAPS] to employment;

10 * Sec. 21. AS 39.25.160(f) is amended to read:

11 (f) Action affecting the employment status of a state employee or an applicant
12 for state service, including appointment, promotion, demotion, suspension, or removal,
13 may not be taken or withheld on the basis of unlawful discrimination due to race,
14 religion, color, [OR] national origin, age, disability [HANDICAP], sex, marital status,
15 change in marital status, pregnancy, or parenthood. In addition, action affecting the
16 employment status of an employee in the classified service, including appointment,
17 promotion, demotion, suspension, or removal, may not be taken or withheld for a
18 reason not related to merit.

19 * Sec. 22. AS 41.21.027(b) is amended to read:

20 (b) The state may not enter into a concession contract under (a) of this section
21 if the proposed contract involves estimated annual gross receipts of more than
22 \$100,000, construction of facilities, a term longer than four years, or the provision of
23 services other than those normally provided at similar facilities managed by the state,
24 unless the commissioner finds that the proposed concession contract

25 (1) will implement the purposes of the park unit and is authorized by
26 the park management plan, if any, that applies to the park unit;

27 (2) will enhance public use and enjoyment of the park unit while
28 maintaining a high quality environment and the opportunity for high quality
29 recreational experiences;

30 (3) will provide services or facilities that are not feasible or affordable
31 for the state to provide directly;

- 1 (4) will not create unacceptable adverse environmental effects;
- 2 (5) is based on a need and desire of the public;
- 3 (6) recognizes and accommodates, at no cost, ordinary uses in a park
- 4 unit;
- 5 (7) requires the contractor to hire residents of the state, to the extent
- 6 available and qualified, when hiring persons to work in the park under the contract;
- 7 (8) provides the state with a fair and equitable portion, in money or
- 8 services, of the contractor's receipts from the provision of the service or the operation
- 9 of the facility;
- 10 (9) provides that the department retains control over the level of fees
- 11 and the design and appearance of any facility to be constructed;
- 12 (10) encourages the contractor to accommodate visitors with special
- 13 circumstances, including [HANDICAPPED] persons with disabilities, senior citizens,
- 14 and school children; and
- 15 (11) provides that the contract may be terminated if the contractor fails
- 16 to fulfill the requirements of this section or the contract.

17 * Sec. 23. AS 47.14.100(d) is amended to read:

18 (d) In addition to money paid for the maintenance of foster children under (b)

19 of this section, the department

20 (1) shall pay the costs of caring for [PHYSICALLY OR MENTALLY

21 HANDICAPPED] foster children with physical or mental disabilities, including the

22 additional costs of medical care, habilitative and rehabilitative treatment, services and

23 equipment, and special clothing, and the indirect costs of medical care, including child

24 care and transportation expenses;

25 (2) may pay for respite care; in this paragraph, "respite care" means

26 child care for the purpose of providing temporary relief from the stresses of caring for

27 a foster child; and

28 (3) may pay a subsidized guardianship payment under AS 25.23.210

29 when a foster child's foster parents or other persons approved by the department

30 become court-appointed legal guardians of the child.

31 * Sec. 24. AS 47.75.060(2) is amended to read:

1 (2) "social services" means child care services, protective services for
 2 children and adults, services for children and adults in foster care, services related to
 3 the management and maintenance of the home, day care services for adults,
 4 transportation services, training and related services, employment services,
 5 information, referral, and counseling services, the preparation and delivery of meals,
 6 health support services, a full range of legal services, and appropriate combinations of
 7 services designed to meet the special needs of children, the aged, persons with
 8 developmental disabilities, persons who are [THE DEVELOPMENTALLY
 9 DISABLED, THE] blind, persons with mental illness, persons with physical
 10 disabilities [THE MENTALLY ILL, THE PHYSICALLY HANDICAPPED], and
 11 persons with substance abuse disorders [ALCOHOLIC AND DRUG ADDICTS].

12 * Sec. 25. AS 47.80.010 is amended to read:

13 Sec. 47.80.010. Rights of persons with disabilities [HANDICAPS]. Persons
 14 with disabilities [HANDICAPS] have the same legal rights and responsibilities
 15 guaranteed all other persons by the Constitution of the United States and federal laws
 16 and by the constitution and laws of the state. An otherwise qualified person may not
 17 be excluded, by reason of having a disability [HANDICAP], from participation in, be
 18 denied the benefits of, or be subjected to discrimination under, any program or activity
 19 that receives public funds. Some persons with disabilities [HANDICAPS] may be
 20 unable, due to the severity of their disability [HANDICAP], to exercise for
 21 themselves all of their rights in a meaningful way; for others modification of some or
 22 all of their rights is appropriate. The procedure used for modification of rights must
 23 contain proper legal safeguards against every form of abuse, must be based on an
 24 evaluation of the social capability of the person by qualified experts, and must be
 25 subject to periodic reviews and to the right of appeal to higher authorities.

26 * Sec. 26. AS 47.80.020 is amended to read:

27 Sec. 47.80.020. Protection and advocacy of rights. The department shall
 28 establish a system to protect and advocate rights of persons with disabilities
 29 [HANDICAPS]. The system

30 (1) has the authority to pursue legal, administrative, and other
 31 appropriate remedies to assure the protection of the rights of persons with disabilities

1 [HANDICAPS]; and

2 (2) shall be independent of any state agency that provides treatment,
3 services, or habilitation of persons with disabilities [HANDICAPS].

4 * Sec. 27. AS 47.80.040(f) is amended to read:

5 (f) In the appointment of all members other than state agency members, due
6 regard shall be given to geographically balanced representation of areas of the state
7 and to representation of persons with a variety of different mental and physical
8 disabilities [HANDICAPS].

9 * Sec. 28. AS 47.80.100(a) is amended to read:

10 (a) The Department of Health and Social Services, the Department of
11 Education and Early Development, and other departments of the state as appropriate,
12 shall, in coordination, plan, develop, and implement a comprehensive system of
13 services and facilities for persons with disabilities [HANDICAPS,] that is consistent
14 with the state plan adopted under AS 47.80.090(5) and is dispersed geographically
15 within the state.

16 * Sec. 29. AS 47.80.100(b) is amended to read:

17 (b) The services required in (a) of this section are specialized services or
18 special adaptations of services available to the general population and shall be directed
19 toward the social, personal, physical, or economic habilitation or rehabilitation of
20 persons with disabilities [HANDICAPS].

21 * Sec. 30. AS 47.80.110 is amended to read:

22 Sec. 47.80.110. Program principles. The system of services and facilities
23 required under AS 47.80.100 shall accord with the principles that service providers
24 shall

25 (1) make services available at times and locations that enable residents
26 of the provider's service area to obtain services readily;

27 (2) ensure each client's right to confidentiality and treatment with
28 dignity;

29 (3) establish staffing patterns that reflect the cultural, linguistic, and
30 other social characteristics of the community and that incorporate multidisciplinary
31 professional staff to meet client functional levels and diagnostic and treatment needs;

1 (4) promote client and family participation in formulating, delivering,
2 and evaluating treatment and rehabilitation;

3 (5) design treatment and habilitation to maximize individual potential
4 and minimize institutionalization; and

5 (6) provide services in the least restrictive setting, enabling a person to
6 live as normally as possible within the limitations of the disability [HANDICAP].

7 * Sec. 31. AS 47.80.120 is amended to read:

8 **Sec. 47.80.120. Habilitation plans.** A state agency, contractor, or grantee who
9 is directly responsible for providing services to persons with disabilities
10 [HANDICAPS] shall develop an individual habilitation plan for each person whose
11 program of services utilizes state funds. The plan shall be completed in writing and
12 furnished to the department within 30 days of admission of a client to the program of
13 services. The plan, its renewals, and any changes of it [.] shall have the written
14 concurrence of the client, or the client's parent or guardian when appropriate, and the
15 agency or contractor responsible for providing services. The development and content
16 of a plan shall conform to requirements established by the department by regulation.
17 Insofar as practicable, the requirements shall conform to those established for
18 individual habilitation plans under P.L. 91-517 or P.L. 94-103, as amended. Each plan
19 shall be time-limited, evaluated, and renewed at least annually.

20 * Sec. 32. AS 47.80.130(a) is amended to read:

21 (a) The department shall

22 (1) develop budgets and receive and distribute appropriations and
23 funds under this section;

24 (2) adopt regulations regarding standards of services and facilities for
25 persons with disabilities [HANDICAPS] and the quality of services and the process
26 by which services are to be delivered;

27 (3) adopt any other regulations necessary to implement this chapter;

28 (4) provide technical assistance to public and private agencies in
29 planning, developing, and implementing programs to serve [HANDICAPPED]
30 persons with disabilities;

31 (5) operate programs and facilities [.] and enter into agreements,

1 contracts, or grants necessary to provide services required under this chapter;

2 (6) take the actions and undertake the obligations that are necessary to
3 participate in federal grant-in-aid programs and accept federal or other financial aid
4 for the study, examination, care, and treatment of persons with disabilities [THE
5 HANDICAPPED].

6 * Sec. 33. AS 47.80.150(a) is amended to read:

7 (a) A person with a disability [HANDICAP] or the person's legal
8 representative acting in a representative capacity, the person's spouse, or the person's
9 parents if the person is a minor [,] shall pay or contribute to the payment of the
10 charges for the care or treatment in accordance with the fee schedule adopted under
11 AS 44.29.022. The order of the department relating to the payment of charges shall be
12 prospective in effect and may relate only to charges to be incurred, except that, if a
13 person intentionally conceals ability to pay, the person shall be ordered to pay to the
14 extent of the person's ability to pay the charges accruing during the period of the
15 concealment. The order of the department relating to the payment of charges by the
16 person with a disability [HANDICAP] or the person's legal representative, or the
17 person's spouse or parents, shall be issued within six months of the date on which the
18 charge was incurred. The department may make necessary investigations to determine
19 the ability to pay. The order shall remain in full force and effect unless modified by
20 subsequent court or department orders.

21 * Sec. 34. AS 47.80.150(b) is amended to read:

22 (b) As used in (a) of this section, the term "actual cost of the care and
23 treatment" means the lesser of (1) the rate provided for by a contract entered into
24 under this chapter, (2) the fee established under AS 44.29.022 for services provided
25 under this chapter or, (3) if the person is under the age of 18, the cost of care of a
26 person of the same age who is not a person with a disability [HANDICAP] and who
27 resides with a parent or guardian, and includes expenses of transportation incidental to
28 treatment and carrying out the intent of this chapter. In establishing fees for services
29 under this chapter, the commissioner shall consider the income and family size of the
30 responsible party, age of the person receiving the services, and other factors that relate
31 to the ability to pay. Fees may not exceed the actual cost of the care or treatment.

1 * Sec. 35. AS 47.80.150(e) is amended to read:

2 (e) All money paid to the department by the person with a disability
3 [HANDICAP] or on the person's behalf, under this section, shall be deposited in the
4 general fund.

5 * Sec. 36. AS 47.80.150(f) is amended to read:

6 (f) If an order of payment is entered by the department under this section and
7 delinquency in the payment of any amount due the state under the order continues for
8 a period of more than 30 days after the notification by the department to the person,
9 the legal representative, parent, or spouse of the person with a disability
10 [HANDICAP], the state may proceed to collect the amounts due by appropriate
11 proceedings. Actions to enforce the collection of payments may only be brought
12 within three years after the date of notification of a delinquent payment.

13 * Sec. 37. AS 47.80.900(3) is amended to read:

14 (3) "facilities for persons with disabilities [HANDICAPS]" means
15 publicly or privately operated facilities, or specified portions of facilities, designed
16 primarily for the delivery of services to those persons; the term includes [BUT IS
17 NOT LIMITED TO] residential facilities;

18 * Sec. 38. AS 47.80.900(4) is amended to read:

19 (4) "habilitation" means education or training for persons with
20 disabilities [THE HANDICAPPED] to enable them to function better in society;

21 * Sec. 39. AS 47.80.900(5) is amended to read:

22 (5) "least restrictive setting" means a residential or other setting for
23 meeting the needs of a person with a disability that [HANDICAPPED PERSON
24 WHICH] requires the least amount of restriction of personal liberty by enabling the
25 person to function in as normal an environment as possible and to live as normally as
26 possible, within the limitations of the disability [HANDICAP];

27 * Sec. 40. AS 47.80.900(6) is amended to read:

28 (6) "person with a disability [HANDICAP]" means a person with a
29 developmental disability as defined in (7) of this section or a person who is hard of
30 hearing, deaf, speech impaired, visually impaired [HANDICAPPED], seriously
31 emotionally disturbed, orthopedically or otherwise health impaired, or who has a

1 specific learning disability; the term includes a child with a disability as defined in
2 AS 14.30.350;

3 * Sec. 41. AS 47.80.900(8) is amended to read:

4 (8) "residential facility" means a publicly or privately operated facility
5 that provides 24-hour care for four or more persons with disabilities [HANDICAPS],
6 excluding family, foster family, or adoptive homes;

7 * Sec. 42. AS 47.80.900(9) is amended to read:

8 (9) "substantial disability [HANDICAP]" means a disability that
9 prevents or substantially impedes the person's participating in and benefiting from the
10 social, economic, educational, recreational, or other opportunities generally available
11 to peers in the community who are not similarly disabled [HANDICAPPED].

12 * Sec. 43. The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 CONFORMING INSTRUCTIONS. (a) The revisor of statutes is instructed to change
15 the catch line of AS 47.80.100 from "Programs for persons with handicaps" to "Programs for
16 persons with disabilities."

17 (b) Throughout the Alaska Administrative Code, the regulations attorney is instructed
18 to change the terms "handicapped," "handicap," and "handicaps," as appropriate, in a manner
19 consistent with the changes made in secs. 2 - 42 of this Act.

20 * Sec. 44. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 357(HES)
(H) Publish Date: 2/1/06

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: Statutory References to Disabilities RDU: Vocational Rehabilitation
Sponsor: Representative Wilson Component: Vocational Rehabilitation
Requester: House HES Component Number: 292
Administration

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: None
Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

POSITIONS	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Full-time						
Part-time						
Temporary						

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

There is no anticipated financial impact to the department as a result of this legislation.

Prepared by: Gale Sinnott, Director Phone: 465-6927
Division: Division of Vocational Rehabilitation Date/Time: 1/17/06 2:55 PM
Approved by: Greg O'Claray, Commissioner Date: 1/17/2006
Agency: Department of Labor and Workforce Development

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 357(HES)
 (H) Publish Date: 2/1/06
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title UPDATING TERMINOLOGY IN STATUTES FOR RDU Senior and Disabilities Svcs
PERSONS WITH DISABILITIES
 Component Community DD Grants

Sponsor WILSON

Requester HOUSE (HES)

Component No. 309

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES (0)						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Division of Senior and Disabilities Services does not anticipate any financial impact as a result of HB 357.

Prepared by: Rod Moline, Director
 Division Senior & Disabilities Services
 Approved by: Karleen Jackson, Commissioner
 Agency Department of Health and Social Services

Phone 465-3372
 Date/Time 01/20/2006
 Date 01/20/2006



Alaska State Legislature

Representative Peggy Wilson

House District 2

Putting Alaska's Families First

SPONSOR STATEMENT

HB 357 "Updating the terminology in statutes for persons with disabilities"

After the Americans with Disabilities Act of 1990, most states modified their statutes to reflect a positive reference- changing the word "handicapped" to "person with a disability". This bill changes all Alaska State Statutes to rid them of this archaic reference that has negative and demoralizing connotations in reference to a person's ability and potential. Using "a person with a disability" reflects language that is in Federal legislation- the Federal Workforce Investment Act, the American's with Disabilities Act, the Civil Rights Act of 1991; The Individuals with Disabilities Education Act (IDEA) and the Rehabilitation Act of 1973 as amended in 1992 and 1998.

These changes are being proposed in consultation with the Department of Labor, other state agencies, and along with the Governor's Council on Disabilities and Special Education. There is support for this bill from numerous other organizations such as the South-East Alaska Independent Living Center, which represent people with disabilities. This bill is not designed to modify any existing requirements or exemptions, nor will it be changing any existing requirements or exemptions with the new terminology. This bill is designed to serve the constituents of everyone across the state that are affected by this existing negative and demeaning terminology.

I ask for your support of HB 357 to update and modernize the language that is in our Alaska Statutes.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 11, 2006

SUBJECT: HB 357, a bill updating the terminology in statutes for persons with disabilities (Work Order No. 24-LS1407A)

TO: Representative Peggy Wilson
Attn: Aaron

FROM: *JB*
Theresa Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Provides legislative intent for the bill. Indicates that the legislature intends to modernize the terminology in the statutes without altering substantive provisions.

Section 2. Amends AS 14.30.630(b) to replace two occurrences of "handicapped" with forms of "disabled."

Section 3. Amends AS 18.15.210 to replace "handicaps" with "disabilities."

Section 4. Amends AS 18.55.130(b) to replace "handicaps" with "disabilities."

Section 5. Amends AS 23.15.080 to replace the occurrences of "handicapped" with a form of "disability."

Section 6. Amends AS 23.15.090 to replace "handicapped" with "with disabilities" and "severely handicapped" with "with severe disabilities."

Section 7. Amends AS 23.15.100 to replace "handicapped" and "severely handicapped" with "with disabilities" and "with severe disabilities."

Section 8. Amends AS 23.15.125(e)(2) to delete a reference to a "handicapped individual."

Section 9. Amends AS 23.15.133(a) to replace "severely handicapped" with forms of "severe disability" and to make a technical correction of a citation to federal law.

Section 10. Amends AS 23.15.134 to replace "severely handicapped" with "with severe disabilities."

Section 11. Amends AS 23.15.170 to replace "handicapped " with "with a disability."

Section 12. Amends AS 23.15.180(b) to replace "severely handicapped" with "with a severe disability."

Section 13. Amends AS 23.15.210(1) and (3) to make technical changes. Amends AS 23.15.210 to move the definition of "individual having a physical or mental disability" from (7) to (5). Amends (6) to replace the defined term, "handicapped individual," with "individual with a disability," makes a technical change, and changes "handicap" to "barrier." Rewrites former (8) to replace the reference to "severely handicapped " with "severe disability" and makes a stylistic change. Moves the definition for "severely handicapped person" at (10) to the definition of "person with a severe disability" at the new (8). In (11) and (12), replaces "handicapped" with forms of "disability."

Section 14. Amends AS 29.60.120(f)(1) to replace a reference to "the mentally or physically handicapped" with "persons with mental or physical disabilities."

Section 15. Amends AS 35.10.015(a) to replace "the physically handicapped" with "persons with disabilities and by the" and to make related stylistic changes.

Section 16. Amends AS 35.10.015(c) to replace "physically handicapped" with "persons with disabilities and by" and "person with a disability or an." Makes some stylistic changes.

Section 17. Amends AS 35.10.015(d) to replace "physically handicapped" with "persons with disabilities and by." Makes some stylistic changes.

Section 18. Amends AS 35.10.015(e) to replace "physically handicapped" with "persons with disabilities and by." Makes some stylistic changes.

Section 19. Amends AS 36.30.040(b)(16) to replace "handicap" with "disability."

Section 20. Amends AS 36.30.990(11) to replace "handicaps" with "barriers."

Section 21. Amends AS 39.25.160(f) to replace "handicap" with "disability" and to make a stylistic change.

Section 22. Amends AS 42.21.027(b)(10) to replace "handicapped" with "with disabilities."

Section 23. Amends AS 47.14.100(d)(1) to replace "physically or mentally handicapped" with "with physical or mental disabilities" and adds "and."

Section 24. Amends AS 47.75.060(2) to make a stylistic change and to replace "the physically handicapped" with "persons with physical disabilities."

Section 25. Amends AS 47.80.010 to replace forms of "handicap" with forms of "disability."

Section 26. Amends AS 47.80.020 to replace "handicaps" with "disabilities."

Section 27. Amends AS 47.80.040(f) to replace "handicaps" with "disabilities."

Section 28. Amends AS 47.80.100(a) to replace "handicaps" with "disabilities."

Section 29. Amends AS 47.80.100(b) to replace "handicaps" with "disabilities."

Section 30. Amends AS 47.80.110(6) to replace "handicap" with "disability."

Section 31. Amends AS 47.80.120 to replace "handicap" and "handicapped" with words and phrases using "disabilities."

Section 32. Amends AS 47.80.130(a) to replace "handicaps" with "disabilities."

Section 33. Amends AS 47.80.150(a) to replace "handicap" with "disability."

Section 34. Amends AS 47.80.150(b) to replace "handicap" with "disability."

Section 35. Amends AS 47.80.150(e) to replace "handicap" with "disability."

Section 36. Amends AS 47.80.150(f) to replace "handicap" with "disability."

Section 37. Amends AS 47.80.900(3) to replace "handicaps" with "disabilities" and to make a technical change.

Section 38. Amends AS 47.80.900(4) to replace "the handicapped" with "persons with disabilities."

Section 39. Amends AS 47.80.900(5) to replace forms of "handicap" with "disability."

Section 40. Amends AS 47.80.900(6) to replace forms of "handicap" with "disability" and "disabled."

Section 41. Amends AS 47.80.900(8) to replace "handicaps" with "disabilities."

Section 42. Amends AS 47.80.900(9) to replace forms of "handicap" with "disability" and "disabled."

Representative Peggy Wilson

January 11, 2006

Page 4

Section 43. Directs the revisor of statutes to change the heading ("heading" should be changed to "catchline") for AS 47.80.100. Directs the regulations attorney to change versions of the term "handicap" in the Alaska Administration ("Administration" should be changed to "Administrative") Code in a manner consistent with this bill.

Section 44. Gives the bill an immediate effective date.

If I may be of further assistance, please advise.

TLB:ljw
06-009.ljw

Taken from: http://www.hofstra.edu/studentserv/advise/adv_phedvac.cfm

STUDENTS WITH DISABILITIES: A VOCABULARY LESSON

Handicap vs. Disability

The language in Section 504 uses the generic term "handicap," referring in later paragraphs to the conditions rendering a person handicapped; those individuals for whom the regulations were written strongly prefer the term "disability," making a clear distinction between the two words. A **disability** is a physical or mental impairment that substantially limits one or more major life activities (functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working). The disability can be caused by a disease, accident or defective gene, but it is a residual effect, not the disease or injury itself. Only when the disability interacts with a particular set of environmental conditions is the person **handicapped**. A flight of stairs preventing a person in wheelchair from reaching his/her destination on an upper floor of a building renders that person handicapped; the presence of a working, accessible elevator removes the handicap. A print exam renders an individual with a visual impairment handicapped; an oral exam removes that barrier and hence, the handicap. Federal and state regulations, and a strong appreciation of the rights of all individuals, disabled or not, serve to eliminate or reduce handicapping situations.

Barriers: Architectural vs. Attitudinal

No environment is barrier-free. Architectural barriers can for the most part be eliminated, by providing ramps, curb cuts, handicapped parking, appropriate lighting, elevators with lowered panels, electric doors, modified and plentiful bathroom facilities, and a host of other physical changes to an environment. Most modifications, while perhaps made specifically to accommodate a person with a disability, also end up benefiting many others, so the cost is justifiable. Attitudinal barriers are much more difficult to eradicate, and can be found in all areas of academic and social life. They can show up with a condescending pat on the head to a person in a wheelchair, with the impatient completing of a sentence for a person with a speech impairment who is trying to ask or state something, with an unwillingness to take seriously a job applicant who has a disability, with the reticence of an instructor to fail a poor student just because that person has a disability or, conversely, the unwillingness to allow an appropriate accommodation that might just allow that student to earn an A. They surface when a nondisabled person uses a handicapped parking space, saying "I'll only be a minute," and an individual with a disability is therefore unable to find a slot wide enough to allow egress from his/her vehicle. The English language demonstrates an array of patronizing and demeaning attitudes, simply by its use of words like: afflicted, courageous, crippled, deaf-and-dumb, deformed, inspiring, victim, wheelchair-bound/confined to a wheelchair. Unless the term "college-bound" is a description of students who are chained to their seats in freshman composition class (nice idea, perhaps!), "wheelchair-bound" is not a description of students strapped into their wheelchairs; rather than being confined by their chairs, these students use the wheelchairs as a vehicle to give them independence and mobility, getting them out of the classroom and into the gym, discos and, yes, the library as well.

Visible vs. Invisible Disabilities

Ironically, individuals with rather obvious physical disabilities are often more easily recognized as having particular needs, and therefore meet with more success in negotiating with faculty, staff and other students. They fit the stereotype. Individuals with invisible disabilities can be handicapped by societal attitudes precisely because others expect them to be "normal" (whatever that term means). A student with a hearing loss who chooses not to wear an obvious hearing aid

may be regarded as aloof or antisocial. A person with arthritis may have trouble convincing a faculty member that the pain in her fingers means she needs more time to complete her exams. Someone with Tourette syndrome may be ostracized by his classmates because of uncontrollable tics and vocalizations. Most learning disabled students have, to the untrained eye, no outward manifestations of their disability, until they attempt to put pen to paper or take an oral exam. The moral of the story: never assume. You can ask that documentation be submitted to the PHED or PALS office (as appropriate) if you have a healthy skepticism, but recognize that different learning styles and physical needs come in widely differing packages.

Accommodation vs. Independence

Section 504 provides guidelines about certain appropriate accommodations to make a disability less of a handicap. Making an accommodation is the crucial first step, but barrier-removal alone is insufficient. It is not enough to say, "Well, we put in a ramp. The door at the top may be heavy, but another student will usually be around to open it." Or push a high elevator button. Or make a call from a too-high pay phone. Or help with a transfer into a narrow toilet. Or go inside to tell the store guard that someone in a wheelchair is waiting outside in the rain to be let into the service entrance or between the pillars that are placed to prevent shopping cart theft. In all of these situations, well-meaning businesses are only removing half of the barrier, because they are assuming that someone nondisabled will always be accompanying the individual with a disability. The person in the wheelchair is not given the choice of when to enter or exit a building, or when to study or take care of human needs, and is, instead, dependent on the charity of others. By contrast, providing the means for a person with a disability to do his/her own writing and eating and moving around campus independently without having to use a separate entrance or push a doorbell is not an issue of convenience. Rather, it is a matter of human dignity.

Fair vs. Same

Evaluations of student progress in a class take many forms. Some faculty members, especially those constrained by heavy course loads and large classes, use multiple-choice/true-false objective tests; others have more subjective and comprehensive essay examination formats. Class participation may possibly be a factor in grading, as is a level of understanding and scholarship demonstrated in term papers. While students with disabilities should never be held to lower standards than those by which their classmates are judged, they may on occasion need different avenues to show what they have learned. As an obvious example, a legally blind student asked to take a written exam without the aid of special equipment, a reader, extended time, enlarged print, or other appropriate accommodation may fail that test, not showing a lack of understanding of the material, but merely proving that (s)he has a visual impairment. A student with a communication disorder should never be discouraged from asking questions in class, but, depending upon the nature and intelligibility of his/her speech, perhaps should have the class participation grade reflect only the quality of the questions, not the frequency. In both of these situations, provision of a substitute testing form or alternate ways of demonstrating daily classroom comprehension and vitality are appropriate. If the instructor keeps in mind that the goal of student evaluation is to give the student an opportunity to demonstrate what (s)he knows, then being fair to all students does not necessarily mean treating all students exactly the same.

http://www.hofstra.edu/studentserv/advise/adv_phedvac.cfm

Defending Your Rights

Disability Rights:

Manual Of Style For Depicting People With Disabilities

This brochure is one response to a need identified by people with disabilities. The way we portray people with disabilities and our attitudes toward them are critical to their future...and to ours.

Disability vs. Handicap

A disability is a condition caused by accident, trauma, genetics or disease which may limit a person's mobility, hearing, vision, speech or mental function. Some people have one or more disabilities.

A handicap is a physical or attitudinal constraint imposed upon a person, regardless of whether that person has a disability. Webster's Ninth New Collegiate Dictionary defines the handicap as "to put at a disadvantage."

People with disabilities prefer to be called just that: people with disabilities. They are not conditions or diseases. For example, an individual is not "an epileptic," but rather "a person with epilepsy."

When writing a story or advertisement, the writer should use the term "people with disabilities" exclusively or, at a minimum, as the initial reference. Subsequent references can use terms like "person with a disability" or "individuals with disabilities."

In certain circumstances, the terms "persons with disabilities" or "individuals with disabilities" may, for grammatical or narrative reasons, be more appropriate than "people with disabilities." Generally, however, "people with disabilities" is the preferred initial reference.

Written Communications

Copywriters should portray people with disabilities as they would anyone else - with all human strengths and weaknesses. In all advertising, writers should depict people with disabilities in an appropriate and non-judgmental manner. Never refer to people with disabilities as "disabled" simply to fill space or to accommodate design layouts.

Interviewing Techniques

When talking with a person with a disability, speak directly to that person rather than through a companion or interpreter. Conduct interviews in a manner that emphasizes abilities, achievements and individual qualities.

Address people who have disabilities by their first names only when calling everyone present by their first name.

If you offer assistance, wait until the offer is accepted before acting. Then listen to or ask for instructions.

Disability: related terms and their meanings

Blind/Visual Impairment. Blind refers to a total loss of vision. Visual impairment indicates partial vision, also referred to as partial sight.

Cerebral Palsy. A group of conditions resulting from damage to the central nervous system. Do not assume that a person with cerebral palsy also has mental retardation; the two do not necessarily or typically occur together.

Congenital Disability. A physical impairment existing since birth.

Deaf/Hard of Hearing. Deaf refers to a total loss of hearing. Hard of hearing refers to partial hearing loss ranging from slight to severe.

Developmental Disability. Any mental or physical disability manifested by the age of 22 that may continue indefinitely and result in substantial limitation in three or more of the following: self-care, receptive and expressive language, learning, mobility, self-direction, independent living or economic sufficiency.

Epilepsy. Term for various disorders marked by electrical disturbances of the central nervous system and typically manifested by seizures, which are involuntary muscular contractions.

Learning Disability. Condition affecting the understanding or use of spoken or written language.

Mental Illness/Mental Impairment. A psychiatric disability caused by numerous factors including a biological, physiological or psychological disorder or a chemical disorder of the brain.

Mental Retardation. Condition causing significantly below-average intellectual functioning.

Paraplegia/Hemiplegia/Quadriplegia. Paraplegia: paralysis of lower half of body. Involves partial or total loss of function of both legs. Hemiplegia: full or partial paralysis of one side of body caused by brain damage due to disease, trauma or stroke. Quadriplegia: paralysis of body involving partial or total loss of function in both arms and legs.

Service Animals. Any guide dog, signal dog or other animal individually trained to provide assistance to a person with a disability.

Speech Impairment. Limited or difficult-to-understand speech patterns.

Specific Terms You Should Avoid Using...

Overused Terms

The following are examples of terms that are frequently used incorrectly as stereotypes to depict people with disabilities:

brave
challenged
courageous
disabled
handi-capable
inspirational

Inappropriate Terms

Never use any of the following terms when referring to people with disabilities:

afflicted by/afflicted with
crip/cripple/crippled/the crippled/cripling
deaf and dumb
deformed
homebound employment (use instead "employed in the home")
invalid
normal (as the opposite of having a disability)
unfortunate, pitiful, poor
victim
wheelchair bound/confined to a wheelchair (use instead "uses a wheelchair")

Disability Rights Bureau:

Springfield

500 South Second Street
(217) 524-2660
TTY: (217) 785-2771

Chicago

100 West Randolph Street
Chicago, Illinois 60601
(312) 814-5684
TTY: (312) 814-3374

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TOP



Powering Independent Living

DISABILITY FACTS

Disability is fundamental in the human experience. People can become disabled at any point in their lives. Disability may be present from birth, or result from an accident, a work-related injury, a disease or medical condition, or the natural aging process.

[more about Disability Facts](#)

GLOSSARY OF TERMINOLOGY

Since the 1960s, people with disabilities in the US have created a civil rights movement to change the country and break down the barriers to their living independently in the community. The physical barriers are coming down but significant attitudinal barriers persist. The way we speak and the words that we use to describe people who have disabilities is a critical element in eliminating prejudice, fear, insensitivity, stereotyping and discrimination.

This glossary serves as a guideline for terminology that best portrays people with disabilities.

[more about Glossary of Terminology](#)

GLOSSARY OF TERMINOLOGY

Since the 1960s, people with disabilities in the US have created a civil rights movement to change the country and break down the barriers to their living independently in the community. The physical barriers are coming down but significant attitudinal barriers persist. The way we speak and the words that we use to describe people who have disabilities is a critical element in eliminating prejudice, fear, insensitivity, stereotyping and discrimination.

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people with disabilities.

- **Access and Accessibility**
- **Assistive Services**
- **Disability**
- **Disabled vs Handicapped**
- **Handicapped Parking/Seating**
- **Independent Living**
- **Normal**
- **Person with a Disability**
- **Victim of...Suffers from...**
- **Wheelchair-bound**

Access and Accessibility refer to physical structures, products and equipment, communication systems, services, organizations and other social networks. When something is accessible, it is open or available to all. For example, a building that is accessible may have wide doors with easy-to-operate levers. It may have ramps, non slip floors and good lighting. An accessible film has closed captioning or video description. An accessible school play may offer a sign language interpreter.

Assistive Services assistance with daily living activities such as getting in and out of bed, bathing, dressing and cooking which make it possible for people with disabilities to live independently.

Disability a condition that interferes with a person's ability to do something independently.

Disabled vs Handicapped not synonyms. A disabling condition may or may not be handicapping. This person is handicapped when faced with a set of stairs where there is no ramp available. The word handicapped says The Associated Press Stylebook, "should be avoided in describing a disability".

Handicapped Parking, Handicapped Seating is incorrect wording, if what is meant is parking for people with disabilities, or seating for patrons who use wheelchairs.

Independent Living services focusing on goals including self determination, de-institutionalization and universal access to all opportunities in the community.

Normal is what most people, including people with disabilities,

consider themselves.

Person with a Disability is a more accurate term than "disabled person" because it does not suggest that the person is defined or labeled by the disability. The emphasis is on the "person" first and foremost.

Victim of...Suffers from...inaccurate and inappropriate to describe a person with a disability. These terms should not be used.

Wheelchair-bound should not be used since a person may use a wheelchair only occasionally. Using the wheelchair for independent mobility is liberating for people with disabilities -providing them with mobility and freedom rather than restricting or "binding" them.

MILESTONES

Disability is a significant aspect of our lives and communities. Given the numbers of people with disabilities in the population, it is one of the most significant public health issues. Throughout the second half of the twentieth century, awareness around disability issues has been rapidly growing.

ABOUT THIS WEB SITE

Alpha One's website has been built to give people up to date and accurate information about issues of concern to people with disabilities. We believe that information empowers and that access to this vital information is essential to living independently.

Our goal is to employ the latest technology to provide understandable information easily accessible to everyone. Your ideas and input can help keep this site up to date and useful. Let us know what you think - we welcome your ideas.

Contact the Editorial Staff webmaster@alphaonenow.com

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GUIDE TO DISABILITY ORGANIZATIONS



There have been many responses to the needs of people with disabilities from governments at all levels, as well as from private sources including

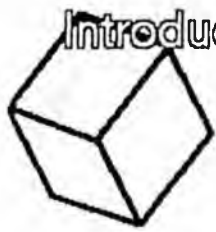


A WAY WITH WORDS

Guidelines and Appropriate Terminology For the Portrayal of Persons With Disabilities

Produced By:
Status of Disabled Persons Secretariat
Department of the Secretary of State of Canada
Ottawa, Ontario K1A 0M5
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Terminology Guide Concerning Persons With Disabilities



Language is a powerful and important tool in shaping ideas, perceptions, and ultimately, public attitudes.

Words are a mirror of society's attitudes and perceptions. Attitudes can be the most difficult barrier persons with disabilities must face in gaining full integration, acceptance and participation in society.

Careful presentation of information about persons with disabilities can help overcome negative attitudes and shape positive ones. The standing Committee on the Status of Disabled Persons found in its report *No News is Bad News* that vocabulary can create perception. Demeaning, belittling or negative words are a barrier to greater understanding and can trivialize genuine support given by a community to persons with disabilities.

Language use is changing as persons with disabilities claim their individual and collective right to participate fully in society.

Dated and disparaging words are being replaced with precise, descriptive terms which have specific meanings that are not interchangeable.

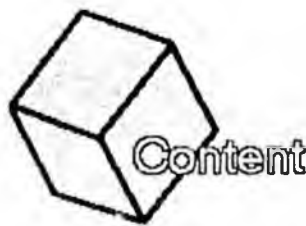
Persons with disabilities are asking, just as women and minority groups are asking, that the media use respectful terms in writing about them or issues that affect their lives.

Individuals with disabilities are working to achieve equality, independence and full participation in our society. The ways in which issues are reported and the use of proper terminology can help persons with disabilities reach the goals.

This booklet suggests current and appropriate terminology to reflect the increased participation by Canadians with disabilities in our society.



This booklet is intended to encourage and promote fair and accurate portrayal of persons with disabilities. It is primarily designed for print and broadcast media professionals writing and reporting about issues of concern to persons with disabilities.



This booklet has two sections and a removable insert. **GENERAL GUIDELINES** has information on terminology and portrayal of persons with disabilities.

MEDIA COVERAGE OF PERSONS WITH DISABILITIES deals with reporting on issues of concern to persons with disabilities. The removable insert suggests appropriate terminology.

1. **I**t is important to remember that each word in today's terminology has a precise meaning and that the words are not interchangeable.
2. "Disabled" and "handicapped" are not the same thing. A disability is a functional limitation or restriction of an individual's ability to perform an activity. A "handicap" is an environmental or attitudinal barrier that limits the opportunity for a person to participate fully. Negative attitudes or inaccessible entrances to buildings are examples of handicaps.
3. The word "disables" is an adjective, not a noun. People are not conditions. Do not use "the disabled; use"persons with disabilities".
4. Focus on the issue rather than the disability. If the disability is not relevant to the story, it is not necessary to report it.
5. Try to avoid categorizing persons with disabilities as either super-achievers or tragic figures. Choose words that are non-judgemental, non-emotional and are accurate descriptions. Avoid using "brave", "courageous", "inspirational" or other similar words that are routinely used to describe a person with a disability. Remember that the majority of persons with disabilities are average and typical of the rest of the population. Similarly, references which cause discomfort, guilt, pity, or insult, should be avoided. Words like "suffers from", "stricken with", "afflicted by", "patient", "disease", or "sick" suggest constant pain and a sense of hopelessness. While this may be the case for some individuals, a disability is a condition that does not necessarily cause pain or require medical attention.
6. Avoid the use of words such as "burden", "incompetent", "defective", "special", etc. which suggest that persons with disabilities should be treated differently or be excluded from activities generally available in the community.
7. Be particularly careful with terminology used in headlines. Remember that headlines make the first impression.
8. Refer to technical aids in factual, non-emotional terms. Avoid prolonged focus on support equipment.
9. Persons with disabilities are comfortable with the terminology used to describe daily living activities. Persons who use wheelchairs go for "walks", people with visual impairments "see" what you mean, etc. A disability may just mean that some things are done in a different manner; however, that does not mean the words used to describe the activity must be different.
10. Remember that although some disabilities are not visible, it does not mean they are less real. Individuals with invisible disabilities such as epilepsy, hemophilia, mental health, learning,



or developmental disabilities also encounter negative attitudes and barriers.

Media Coverage of Persons with Disabilities

Researching, Writing and Reporting

1. **T**oo often, when a person with a disability is featured in a story that has several possible angles, the human interest story line dominates, e.g. how the individual has overcome great goals.
 2. There are few examples of in-depth coverage of issues of particular importance to persons with disabilities (e.g., lack of physical access to facilities, employment, poverty, etc.).
 3. Persons with disabilities are seldom asked for their views on stories dealing with transportation, the environment, child care, etc.
- The media can help create and reinforce positive attitudes towards persons with disabilities. Progress had been made in recent years and media professionals are asking advice on how to report on, discuss, and write about disability.

Bridging the Communications Gap

Here are some suggestions to improve communications with persons with disabilities.

1. When talking with a person with a disability speak directly to him/her rather than through a companion who may be there.
2. Avoid putting persons with disabilities on a pedestal and using patronizing terms. Interview a person with a disability as you would any other person.
3. Do not unnecessarily emphasize differences. Having a "one of them" versus a "one of us" attitude only serves to reinforce barriers.
4. In visual treatments (e.g., television, photographs), do not dwell on technical aids or adaptive devices unless, of course, the purpose is to introduce or discuss a particular aid or device.

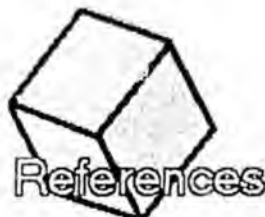
Following an interview, ask yourself:

1. Am I writing this piece because it involves a person with a disability or because the issue and related circumstances are relevant to the general population? If it did not involve a person with a disability, would I still want to write it?
2. Is a reference to a disability necessary to the story? If it is, am I using the correct terminology (e.g., "uses a wheelchair", and not "confined to a wheelchair")?
3. Is this piece accurate and unbiased? Have I avoided sensationalism?

Journalists can contribute to a more positive and accurate image of persons with disabilities. The information provided to the general public,



and the ways in which this information is presented, often create a framework for the attitudes people have and the ways in which they interact with individuals with disabilities. If the coverage of disability-related issues is done in a non-emotional, factual and integrative manner, the public will no doubt begin to question the prejudices and stereotypes that still exist.



- *Editing Canadian English*. Prepared for the Freelance Editors Association of Canada
- *Guidelines for Reporting and Writing About People with Disabilities*. Archalert, Volume 4, No. 7.
- *No News is Bad News*. Standing Committee on the Status of Disabled Persons, House of Commons.
- *Portraying People with Disabilities*. National Easter Seal Society (Chicago, Illinois).
- *"Watch Your Language. Words Shape Attitudes"*. Francis Strong (appeared in the Rehabilitation Digest, winter, 1989).
- *Word Choices. A lexicon of preferred terms for disability issues*. Office for Disabled Persons, Government of Ontario.
- *Words of Dignity*. Ontario March of Dimes.
- *Worthless or Wonderful: The Social Stereotyping of Persons with Disabilities*. Status of Disabled Persons Secretariat, Department of the Secretary of State of Canada.

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Canadian Association of the Deaf (CAD)
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(613)526-4785

Canadian Hard of Hearing Association (CHHA)
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Canadian National Institute for the Blind (CNIB)
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Canadian Council of the Blind (CCB)
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Canadian Mental Health Association (CMHA)
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Canadian Paraplegic Association (CPA)
520 Sutherland Drive
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Coalition of Provincial Organizations
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National People First
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National Education Association
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Canadian Friends of Schizophrenics
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STATE OF ALASKA

Department of Labor and Workforce Development
Division of Vocational Rehabilitation
Governor's Committee on Employment & Rehabilitation
Of People with Disabilities

FRANK H. MURKOWSKI, GOVERNOR

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FAX: (907) 465-2856

January 23, 2006

Representative Peggy Wilson
State Capitol Building
Juneau, AK 99801

Dear Representative Wilson:

The Governor's Committee on Employment & Rehabilitation of People with Disabilities strongly supports HB 357. We believe this Bill mirrors the intent and purpose of the Rehabilitation Act, as amended.

Thank you for sponsoring this important Bill.

Sincerely,

Pam Stratton
by CAS
Pam Stratton
Chair, GCERPD

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(907) 235-6236 (FAX)

Joyanna Geisler
Director

Representative Peggy Wilson
State Capitol, Room 108
Juneau, AK 99801-1182

January 23, 2006

Honorable Representative Wilson:

I am writing in support of House Bill 357, "An Act Updating the Terminology in Statutes for Persons with Disabilities; and providing for an Effective Date".

The terms that are used to reference groups of people are always weighted with the stereotypes those terms bring to mind. Whether consciously or not those stereotypes affect the way members of groups are viewed by others.

It is time for the Great State of Alaska to place people first in statutes that reference disability. By removing the stereotypical terms handicapped and handicap, we acknowledge that people with disabilities are first of all people.

Sincerely, Jim Brady

Independent Living Center, Homer, Alaska.
CC: Gale Sinnott



INDEPENDENT LIVING CENTER

P.O. Box 1907 ● Soldotna, Alaska 99669

HOMER

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HOPE

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ISLAND

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CHAIN

Representative Peggy Wilson
State Capitol, Room 108
Juneau, Alaska 99801-1182

January 23, 2006

Honorable Representative Wilson:

Please support House Bill 357, "An Act of Updating the Terminology in Statutes for Persons with Disabilities; and providing for an Effective Date".

The present use of the term "handicapped" is a negative stereotype that implies that an individual is somehow "lacking" or "less-than".

By removing stereotypical terms we can begin to change how groups of individuals are viewed. There is a big difference between the statements "This is a handicapped person" and "This is a person with a disability".

Thank you for your attention in this matter.

Sincerely,

Nadine Hatch

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Soldotna, Alaska

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Cc: Gale Sinnott



2.21 comply with sections 1 and 2. Language changes made according
2.22 to sections 1 and 2 shall not expand or exclude eligibility to
2.23 services.

Please direct all comments concerning issues or legislation
to your House Member or State Senator.

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General questions or comments.