

SB

86

<TARGET><BILL>SB 86</BILL><SUBJECT>SB
86</SUBJECT><COMM>SFIN27</COMM></TARGET>

SENATE FINANCE COMMITTEE REPORT

DATE: 4/14/11

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Finance Committee considered SENATE BILL NO. 86

SB 86 PROTECTION OF VULNERABLE ADULTS/MINORS

"An Act relating to the protection of property of persons under disability and minors; relating to the crime of violating a protective order concerning certain vulnerable persons; relating to aggravating factors at sentencing for offenses concerning a victim 65 years or older; relating to the protection of vulnerable adults; amending Rule 12(h), Alaska Rules of Criminal Procedure; amending Rule 45(a), Alaska Rules of Criminal Procedure; amending Rule 65, Alaska Rules of Civil Procedure; amending Rule 17, Alaska Rules of Probate Procedure; amending Rule 9, Alaska Rules of Administration; and providing for an effective date."

and recommends:

- adopt previous CS SB 86 (JUD) Same Title New Title
- adopt previous CS _____ (_____) Same Title New Title
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

Dept Abbr.	
ADM	LEG
CED	LAW
COR	LWF
CRT	MVA
EED	DNR
DEC	DPS
DFG	REV
GOV	DOT
DHS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
DHS			✓	
ADM			✓	
LAW			✓	
DPS	✓			
DPS			✓	
COR			✓	
CRT			✓	

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	No REC	AMEND
	Thomas	✓			
	Egan	✓			
	McDevie	✓			
	Olson			✓	
	Ellis	✓			
CO-CHAIR:	Hoffman	✓			
CO-CHAIR:	Stedman	✓			

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version CSSB086(JUD)
 Fiscal Note Number _____
 () Publish Date _____

Identifier (file name) SB086CS(JUD)-DHSS-SDSA-12-30-11 Dept. Affected Health and Social Services
 Title Protection of Vulnerable Adults/Minors Appropriation Senior and Disabilities Services
 Allocation Sr. and Disabilities Services Admin
 Sponsor Rules by Request of the Governor
 Requester Senate Finance Committee OMB Component Number 2663

Expenditures/Revenues (Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES	FY13	FY13	FY14	FY15	FY16	FY17	FY18
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS

Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES

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Estimated **SUPPLEMENTAL (FY12) operating costs** _____ (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY13) costs** _____ (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Updated fiscal note to reflect the current fiscal year.

Prepared by Duane Mayes, Director
 Division Senior and Disabilities Services
 Approved by Nancy Rolfzen, Assistant Commissioner
DHSS Finance & Management Services

Phone 269-2083
 Date/Time 12/30/11 4:00 PM
 Date 12/30/2011

FISCAL NOTE

**STATE OF ALASKA
2012 LEGISLATIVE SESSION**

BILL NO. CSSB086(JUD)

Analysis

This legislation provides additional protections to seniors and other vulnerable adults. The proposed changes in the vulnerable adult statutes add the concept of undue influence as a potential harm. This bill provides additional legal and investigatory tools to the department in order to respond to reports of harm and establish protective services to individuals who need them. There is no fiscal impact anticipated.

FISCAL NOTE

STATE OF ALASKA cost # codes
 2012 LEGISLATIVE SESSION

Bill Version SB086
 Fiscal Note Number _____
 Publish Date _____

Identifier (file name) SB086-DOA-OPA-12-12-2011 Dept. Affected Administration
 Title Protection of Vulnerable Adults/Minors Appropriation Legal and Advocacy Services
 Allocation Office of Public Advocacy
 Sponsor Rules by Request of the Governor
 Requester Senate Finance OMB Component Number 43

Expenditures/Revenues (Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS								
Full-time								
Part-time								
Temporary								

CHANGE IN REVENUES								

Estimated SUPPLEMENTAL (FY12) operating costs _____ (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs _____ (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Update for session.

Prepared by Richard Allen, Director
 Division Office of Public Advocacy
 Approved by John Cramer, Deputy Commissioner
Department of Administration

Phone 907-269-3504
 Date/Time 11/28/2011 2:24 p.m.
 Date 12/12/2011

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. SB086

Analysis

This bill will enhance the legal protections against fraud and financial abuse available to elders and vulnerable adults. The Office of Public Advocacy wishes to highlight two portions of the bill that will provide new emergency procedures to protect vulnerable adults who may be served by the agency's Elder Fraud or Probate practices.

In Section 7, the bill creates two emergency judicial proceedings to stop and prevent financial exploitation of vulnerable adults. The first is a process for the appointment of temporary conservators. This will allow the court to impose emergency conservatorships to assist vulnerable individuals with their financial affairs to prevent imminent waste or fraudulent dissipation of their estates.

The second creates a process for the imposition of financial protective orders. Individual victims or other concerned parties will be able to apply for the protections of 20 day ex parte protective orders to stop or prevent financial exploitation. The initial ex parte order may be extended for up to six months after notice and a hearing at which the respondent may be heard.

This bill also provides for expanded reporting of financial abuse and enhanced penalties in criminal cases when there is an elderly victim. Additionally, the bill criminalizes violations of the financial protective orders.

The agency does not believe that this will result in significant cost increases to the agency. Accordingly, the Agency is submitting a zero impact fiscal note.

FISCAL NOTE

STATE OF ALASKA cost # codes
2012 LEGISLATIVE SESSION

Bill Version SB 86
Fiscal Note Number _____
Publish Date _____

Identifier (file name) SB086CS(JUD)-LAW-CIV-12-02-11 Dept. Affected Law
Title An Act relating to property of persons; crime of violating Appropriation Civil
order; aggravating factors at sentencing; protection... Allocation Human Services
Sponsor (S) RLS by Request of the Governor
Requester _____ OMB Component Number 2962
(S) FIN

Expenditures/Revenues (Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS

Full-time								
Part-time								
Temporary								

CHANGE IN REVENUES

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Estimated **SUPPLEMENTAL (FY12) operating costs** _____ (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY13) costs** _____ (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Updated for new fiscal year form.

Prepared by Eileen Donahue, Division Operations Manager
Division Administrative Services
Approved by John J. Burns, Attorney General
Department of Law

Phone 465-5427
Date/Time 12/02/11 10:00AM
Date 12/2/2011

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. SB 86

Analysis

This bill adopts 20-day and six-month protective orders for vulnerable adults who are victims of a financial fraud, and a temporary conservatorship process when the need exists during the pendency of a regular petition for conservatorship. The bill also expands the list of mandatory reporters of harm to a vulnerable adult, adds the harm of undue influence, and expands the investigative powers of the Office of Adult Protective Services, including the authority to issue subpoenas, conduct interviews and examine financial and health care records. The bill also amends the crime of violating a protective order by adding the crime of violating a protective order issued to protect a vulnerable adult under AS 13.26.180 or 13.26.209. Violating a protective order is a class A misdemeanor.

There is no anticipated fiscal impact to Department of Law.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version SB086
Fiscal Note Number _____
() Publish Date _____

Identifier (file name) SB086CS(JUD)-DPS-DSS-12-30-11 Dept. Affected Public Safety
Title "An Act relating to the protection of property of persons under disability and minors; vulnerable adults..." Appropriation Statewide Support
Allocation Records & Identification
Sponsor Senate Rules by Request of the Governor
Requester (S) FIN OMB Component Number 1190

Expenditures/Revenues (Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES								
Personal Services								
Travel	16.0							
Services	32.0							
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	48.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF	48.0						
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		48.0	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS								
Full-time								
Part-time								
Temporary								

CHANGE IN REVENUES								

Estimated **SUPPLEMENTAL (FY12) operating costs** _____ (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY13) costs** _____ (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Updated on new fiscal note form.

Prepared by Kelly Howell
Division Office of the Commissioner
Approved by Joe Masters, Commissioner
Department of Public Safety

Phone (907) 269-5591
Date/Time 12/30/11 8:31 AM
Date 12/15/2011

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. SB086

Analysis

This bill treats AS 13 protective orders in the same manner as stalking, sexual assault, and domestic violence protective orders under AS 18 and will require the development of new protective order forms with substantial collaboration between DPS, the Alaska Court System, DHSS, the Office of Public Advocacy, and the Department of Revenue. The findings and orders for these new AS 13 protective orders will differ from the AS 18 orders in the existing protection order registry, which address violence and domestic violence situations.

Once the forms are developed, APSIN programming changes will be required to accommodate new fields and types of information required. A separate version of the APSIN central registry must be developed to accommodate these new orders. Note: these new orders do not meet the necessary criteria for entry into the national registry of protection, stalking and sexual assault orders (NCIC) because they do not necessarily involve physical violence.

Programming and analysis for APSIN changes will require 280 hours of contractual work @ \$100/hr to evaluate and make recommendations regarding statewide implementation of new processes and procedures for entering and maintaining these new orders into existing APSIN. Additionally, 40 hours of contractual work (at \$100/hr) will be required to integrate these new orders into APSIN.

Statewide training will then be required on the new forms and APSIN procedures. Statewide training costs are included.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version SB086
 Fiscal Note Number _____
 () Publish Date _____

Identifier (file name) SB086CS(JUD)-DPS-DET-12-30-11 Dept. Affected Public Safety
 Title "An Act relating to the protection of property of persons under disability and minors; vulnerable adults..." Appropriation Alaska State Troopers
 Allocation AST Detachments
 Sponsor Senate Rules by Request of the Governor
 Requester (S) FIN OMB Component Number 2325

Expenditures/Revenues (Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES	FY13	FY13	FY14	FY15	FY16	FY17	FY18
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							

Estimated SUPPLEMENTAL (FY12) operating costs _____ (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs _____ (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Updated on new fiscal note form.

Prepared by Kelly Howell
 Division Office of the Commissioner
 Approved by Joe Masters, Commissioner
Department of Public Safety

Phone (907) 269-5591
 Date/Time 12/30/11 8:33 AM
 Date 12/15/2011

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. SB086

Analysis

This bill makes several changes to AS 13.26 and AS 47.24 concerning vulnerable adults. It adds fraud as a reason that might necessitate a conservatorship, and as a basis for seeking an ex parte financial protective order. This bill also adds the concept of undue influence to the list of reportable harms and adds certain individuals as mandatory reporters of harm to vulnerable adults. Finally, this bill expands the investigatory authority of the Adult Protective Services Office.

Passage of this legislation will have no fiscal impact on the division.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

cost # codes

Bill Version

CSSB86(JUD)

Fiscal Note Number

Publish Date

Identifier (file name) CSSB086(JUD)-DOC-OC-12-22-2011

Dept. Affected DOC

Title "An Act relating to the protection of property of persons under disability and minors; relating to the crime of violating

Appropriation

Admin & Support

Allocation

Commissioner's Office

Sponsor Rules Committee by Request of the Governor

Requester Senate Finance Committee

OMB Component Number

694

Expenditures/Revenues

(Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES	FY13	FY13	FY14	FY15	FY16	FY17	FY18
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE

(Thousands of Dollars)

1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS

Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES

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Estimated **SUPPLEMENTAL (FY12) operating costs** 0.0 (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY13) costs** 0.0 (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Several technical amendments were made to the bill. Updated to reflect current fiscal year.

Prepared by Leslie Houston, Director
 Division Department of Corrections - Administrative Services
 Approved by Joseph D. Schmidt, Commissioner
Department of Corrections

Phone 907-465-3339
 Date/Time 12/22/11 3:45 PM
 Date 12/22/2011

FISCAL NOTE

**STATE OF ALASKA
2012 LEGISLATIVE SESSION**

BILL NO. CSSB86(JUD)

Analysis

This legislation creates a crime of violating protective orders of victims 65 years or older. Violation of this law does not require a mandatory arrest and therefore would have little to no impact on the Department of Corrections.

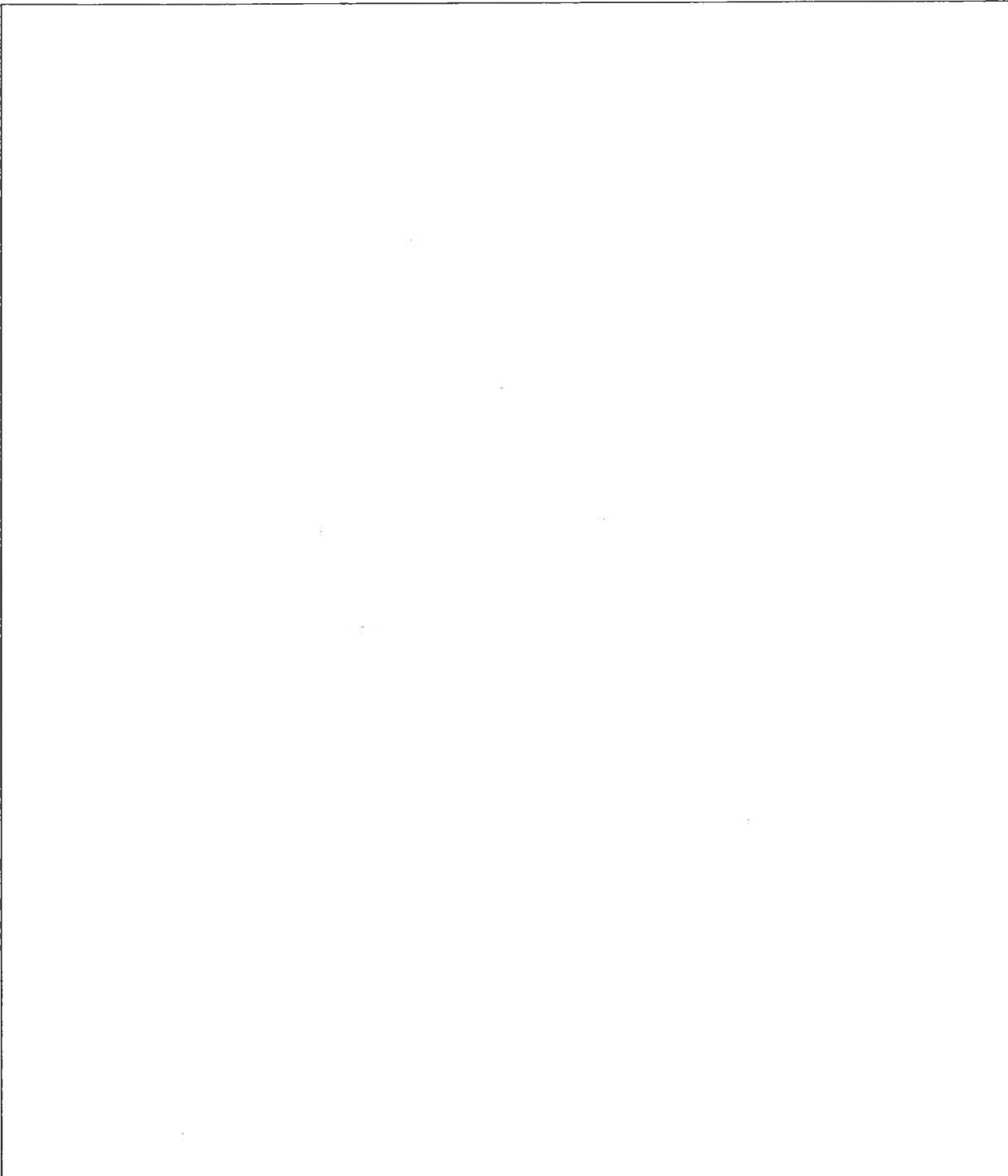
There is no anticipated fiscal impact to the Department of Corrections.

FISCAL NOTE

**STATE OF ALASKA
2012 LEGISLATIVE SESSION**

BILL NO. CSSB86(JUD)

Analysis Continued



FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

cost # codes

Bill Version CSSB 86(JUD)

Fiscal Note Number _____

Publish Date _____

Identifier (file name) 12 CSSB86(JUD)-ACS-TRC-1-14-12

Dept. Affected _____

Title _____ Appropriation Alaska Court System

Allocation Trial Courts

Sponsor _____ Senate Rules Committee

Requester _____ Governor

OMB Component Number 768

Expenditures/Revenues

(Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES	FY13	FY13	FY14	FY15	FY16	FY17	FY18
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							

Estimated **SUPPLEMENTAL (FY12) operating costs** _____ (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY13) costs** _____ (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

This note is updated to reflect a new fiscal year and changed section citations.

Prepared by Doug Wooliver, Deputy Administrative Director
 Division Alaska Court System
 Approved by Doug Wooliver for Christine Johnson, Administrative Director
Alaska Court System

Phone 907-463-4750
 Date/Time 1-14-12 @ 11:00 am
 Date 1/14/2012

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. CSSB 86(JUD)

Analysis

Committee Substitute for Senate Bill 86 (JUD) makes several changes to the statutes that govern protective proceedings. Two of those changes will likely impact the court system, though the extent of the impact is too speculative to support a fiscal note and, in any event, may not be felt immediately.

Sections 8 and 10 allow for temporary conservators to be appointed within 72 hours of the filing of the petition and section 10 further allows for ex parte protective orders when a person believes that an order is necessary to protect a vulnerable person from fraud.

The court's experience with temporary guardianships (AS 13.26.140) and ex parte protective orders in other contexts suggests that passage of this bill will result in more cases being filed that must be heard on short notice. If that increase becomes significant, and it likely will in the future, the court system may need to return to the legislature for additional funding. At this point, however, the number of conservatorship petitions filed each year is not great enough to warrant a fiscal note.

STATE OF ALASKA

DEPARTMENT OF REVENUE
Alaska Mental Health
Trust Authority

SEAN PARNELL, GOVERNOR

Office of the Long Term Care Ombudsman

3745 Community Park Loop, Suite 200
Anchorage AK 99508
Phone (907) 334-4480
Fax (907) 334-4486

January 13, 2012

Senator Bert Stedman
Senator Lyman Hoffman
Senate Finance Committee
State Capitol, Juneau AK 99801-1182

Re: SB 86

Dear Senators:

I am writing to voice my strong support for Senate Bill 86. I can tell you from firsthand experience how urgently our state needs the strengthened protections this bill offers for vulnerable adults.

The Long Term Care Ombudsman is authorized under AS 47.62 and AS 47.24 to investigate and resolve complaints made by or on behalf of older Alaskans in long term care facilities. In Fiscal Year 2011, our office received 824 complaints, a 70% increase in complaints as compared to FY 2010. Every week we conduct investigations in facilities all across Alaska, resulting in substantiations of abuse, neglect, exploitation, or violation of basic human rights.

Most frustrating for us are the cases of financial exploitation. Perpetrators can drain seniors' assets before the State has time to complete investigations and substantiate wrongdoing. Our current statutes do not give the State the authority it needs to freeze financial transactions for the protection of vulnerable seniors. I believe that SB 86 will remedy that problem. No senior should end up on a Medicaid waiver because his assets were stolen by unscrupulous individuals.

Thank you for giving SB 86 your careful consideration for the good of Alaska's most vulnerable citizens.

Sincerely,

Diana Weber

Diana Weber, MS
Long Term Care Ombudsman

STATE OF ALASKA

DEPARTMENT OF REVENUE
Alaska Mental Health
Trust Authority

SEAN PARNELL, GOVERNOR

Office of the Long Term Care Ombudsman

3745 Community Park Loop, Suite 200
Anchorage AK 99508
Phone (907) 334-4480
Fax (907) 334-4486

February 18, 2011

Senators French, Wielechowski, Paskvan, McGuire, and Coghill
Alaska State 27th Legislature
State Capitol
Juneau, AK

Re: SB 86 "Protection of vulnerable adults"

Dear Senators:

The Office of the Long Term Care Ombudsman investigates and resolves complaints made by, or on behalf of, older Alaskans in long term care facilities. In the first seven months of FY 2011, our office received 13 complaints alleging financial exploitation of seniors in assisted living or nursing homes. These cases can involve a family member or caregiver

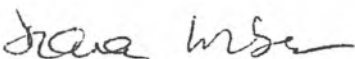
- exerting undue influence over a senior's decision-making to access bank accounts.
- charging the senior for services and goods he or she did not receive.
- failing to provide a senior with needed care, so as to save the "family" inheritance, or
- forcing a senior to sign over deeds on houses or land.

While 13 cases may not seem significant, even a few instances of exploitation of seniors can lead to hundreds of thousands of dollars in lost assets.

The frustrating thing about these cases is that the exploitation happens so quickly that the State cannot step in fast enough to preserve the seniors' assets. Not only is it wrong for seniors to be taken advantage of in this way, but once the seniors' assets are gone, Medicaid or General Relief pick up the cost of the care. The State is essentially footing the bill for these losses.

I support SB 86, especially the provisions for financial protective orders, emergency conservatorships, and the addition of "undue influence" as a reportable harm. I hope you will give your support to this bill and protect our older Alaskans from financial predators.

Sincerely,



Diana Weber, MS
State of Alaska Long Term Care Ombudsman
3745 Community Park Loop, Suite 200
Anchorage, AK 99508



AARP Alaska
3601 C Street
Suite 1420
Anchorage, AK 99503

T 1-866-227-7447
F 907-341-2270
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www.aarp.org/ak

February 18, 2011

The Honorable Hollis French, Chair
Senate Judiciary Committee
Alaska State Capitol, Room 417
Juneau, AK 99801-1182

RE: SB 86 (Governor Parnell)--Support

Dear Chair French:

On behalf of the members of AARP in Alaska, we encourage you and your colleagues on the Senate Judiciary Committee to support SB 86, sponsored by the Senate Rules Committee at the request of Governor Parnell.

The aging of Alaska's population, particularly the growth in the numbers of our citizens over age 75, presents unique challenges for our criminal justice system.

The National Center on Elder Abuse indicates that 23.4% of substantiated reports of mistreatment of older adults were financial exploitation, another 17% was physical abuse, and 32.5% was caregiver neglect. Emotional/verbal/psychological abuse accounted for 23.6% of the substantiated reports and sexual abuse/other accounted for 3.6%.

Elder abuse occurs without reference to race, religion, income, education, place of residence, or living arrangement. It is real and, unfortunately, all too common.

Detecting and preventing elder abuse involves increasing awareness among the general public and professionals.

Although SB 86 addresses the problems of abuse and exploitation on minors, we will focus on the benefits that we perceive will help older Alaskans.

The bill identifies "mandated reporters." This is very significant and will undoubtedly stop people from "looking the other way" and will also protect them from reporting incidents that might involve supervisory staff over them.

SB 86 also creates vehicles for new emergency procedures to allow courts to immediately protect individuals from financial abuse with temporary conservators and financial protective orders.

Unfortunately there are incidents of trusted advisors like guardians, agents under durable power of attorney, and other fiduciaries who have also committed elder abuse. Adding the concept of "undue influence" should help address this issue.

SB 86 also requires cooperation with Adult Protective Services, DHSS training of investigators, and mandates release of relevant financial and health records necessary for an investigation.

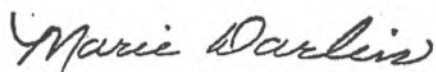
Will SB 86 prevent all elder abuse? No. But it will go a long way in preventing it and punishing those who commit it. It's a strong bill that will help vulnerable older Alaskans, younger Alaskans with disabilities, and minors.

AARP requests an "AYE" vote on SB 86.

Should you have any questions about our position, please feel free to contact me (586-3637) or Patrick Luby, AARP Advocacy Director (907-762-3314).

Thank you for your consideration.

Sincerely,



Marie Darlin, Coordinator
AARP Capital City Task Force
415 Willoughby Avenue, Apt. 506
Juneau, AK 99801
586-3637 (voice)
463-3580 (fax)

CC: Vice-Chair Bill Wielechowski
Senator Joe Paskvan
Senator Lesil McGuire
Senator John Coghill
Governor Sean Parnell

STATE OF ALASKA

DEPT. OF HEALTH & SOCIAL SERVICES

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Alaska Commission on Aging

January 13, 2012

The Honorable Lyman Hoffman, Co-Chair
The Honorable Bert Stedman, Co-Chair
Senate Finance Committee
Alaska State Capitol, Rooms 518 & 516
Juneau, AK 99801-1182

Subject: Support for SB 86, Protection of Vulnerable Adults

Dear Chair Stedman & Chair Hoffman:

The Alaska Commission on Aging (ACoA) is pleased to offer our support of SB 86, a bill sponsored by the Senate Rules Committee at the request of Governor Parnell, to enhance protection of vulnerable older adults and persons with disabilities against acts of abuse and financial exploitation. As the number of older Alaskans continues to increase, especially those of the "oldest old" (age 85 and older), so has the number of substantiated reports of harm to Adult Protective Services (APS), the Office of Long-Term Care Ombudsman (OLTCO) and the Office of Elder Fraud and Assistance (OEFA). Legislation is needed to increase safeguards for vulnerable adults who are at increased risk of abuse and financial exploitation. Older people with dementia and other cognitive impairments, those who are confined to their beds, and isolated seniors are particularly vulnerable to elder mistreatment.

Reports of harm against older Alaskans are on the rise. There are several factors responsible that include more awareness of protection resources, a growing senior population, and more prevalent fraud and abuse. According to data from Adult Protective Services, there has been a 90% increase in the number of reports received from FY 2009 to FY 2011. Since cases are often underreported, particularly if the abuser is a family member, it is likely that the magnitude of the problem is far greater than what is reported. Similarly, the OLTCO (2012) reports a 70% increase in the number of complaints filed about treatment of seniors in long-term care facilities over the past year.

Financial exploitation of older adults is a growing problem that may be linked to current economic times. It is sometimes referred to as a "silent crime" or a "crime of opportunity" because there are few external signs and victims are often reluctant to report the offense. In other situations, the victim may be in the early stages of dementia and not realize what has transpired.

SB 86 is a strong bill that will help prevent abuse against vulnerable older Alaskans, Alaskans with disabilities, and minors. The legislation adds two new ways to protect seniors against financial exploitation (by allowing individuals at imminent risk of losing their resources the ability to apply for an emergency conservatorship as well as a 20-day financial protective order without an attorney); provides for a broader definition of "vulnerable adult;" adds mandated reporters (such as employees of nursing homes and other health care facilities, educators, and administrative staff of educational institutions), and expands the definition of reportable harm to include "undue influence" (when a trusted individual uses their position to exploit a vulnerable adult). SB 86 also requires

cooperation with Adult Protective Services, DHSS training of investigators, and mandates release of relevant financial and health records necessary for an investigation.

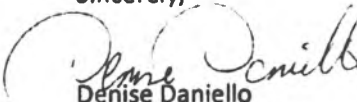
The cost of elder abuse is significant. When an elder is victimized and needs services from APS, the OLTCO, and law enforcement agencies or loses his/her life-long financial assets and becomes Medicaid-eligible, the State bears the costs to provide this assistance. More disturbing is the personal cost to elderly victims where abuse often compromises a person's independence and feeling of security and can lead to depression, hopelessness, or even suicide.

Thank you for your consideration and support of this legislation. Please feel free to contact Denise Daniello, ACoA's executive director, by phone (465-4879) or email (denise.daniello@alaska.gov) should you have questions or require additional information. Thank you.

Sincerely,


Sharon Howerton-Clark
Chair, Alaska Commission on Aging

Sincerely,


Denise Daniello
ACoA Executive Director

Cc: Senator Donald Olson
Senator Dennis Egan
Senator Joe Thomas
Senator Johnny Ellis
Senator Lesil McGuire
Mike Lesmann, Governor's DHSS Special Assistant

STATE OF ALASKA

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DIVISION OF SENIOR AND DISABILITIES SERVICES

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CSSB 86 (JUD) – EXPLANATION OF CHANGES

The following is a description of the changes that have occurred between the originally introduced bill and the version before the Senate Finance Committee. These changes were adopted in the Senate Judiciary Committee. The page references refer to the current bill version.

1. The first two sections of the bill are newly added.
2. Page 2, line 18; Sec. 3. AS 11.56.740(a) – Replaced “AS 13.26.180” with “AS 13.26.207”.
3. Page 2, line 23; Sec. 4. AS 11.56.740(c) - Replaced “AS 13.26.180” with “AS 13.26.207”.
4. Page 2, lines 24-26; Sec. 5. AS 12.55.155(c) – this is a new section.
5. Page 2, line 30; Sec. 6. AS 13.26.165 – Replaced “make other” with “issue another”.
6. Page 3, lines 3-10; Sec. 6 AS 13.26.165(1) – this paragraph was restructured to take the phrases and create subparagraphs A, B and C.
7. Page 3, line 4; Sec. 6. AS 13.26.165(1)(A) – Replaced “which” with “that”.
8. Page 3, line 5; Sec. 6. AS 13.26.165(1)(B) – Added “the minor” and replaced “which” with “that”.
9. Page 3, lines 8 and 9; Sec. 6. AS 13.26.165(1)(C) – Deleted two instances of “that”.
10. Page 3, line 18; Sec. 6. AS 13.26.165(2) - Replaced “which” with “that”.
11. Page 4, lines 6-9; Sec. 9. AS 13.26.185 – this is a new section.
12. Page 4, line 10 – Page 7, line 24 – Provisions regarding temporary conservatorships, ex parte protective orders, temporary protective orders and permanent protective orders are restructured into separate sections and the sections are renumbered. **Temporary conservatorships are now in AS 13.26.206 (pages 4-5). Ex parte protective orders are now in AS 13.26.207. Temporary protective orders; conversions are now in AS 13.26.208 (pages 5-6). Modifications, compliance and forms and fees provisions are now in AS 13.26.209 (pages 6-7).**
13. Page 4, line 22; Sec 10. AS 13.26.206(a) – Following “attorney” inserted “and other persons as ordered by the court.”

14. Page 4, line 23; Sec. 10. AS 13.26.206(a) – Inserted “**appoint an attorney for a respondent who is unrepresented to be at the hearing and**”.

15. Page 5, lines 4-9; Sec. 10. AS 13.26.207(a) - Following “**against**” inserted “**a person other than the protected person. A petition filed on behalf of a protected person by a person other than the protected person must be accompanied by proof of service of the petition on the protected person or the person’s attorney unless service would cause an immediate threat of harm to the best interests of the protected person and the petition includes a written explanation of the harm.**”

16. Page 5, lines 25-28; Sec. 10. AS 13.26.207(c) – Replaced “**at the end of a six-month extension if granted by the court under (d) of this section, or upon the appointment of a temporary or permanent conservator or dismissal of the petition for the ex parte order,**” with “**unless dissolved earlier by the court at the request of the petitioner or respondent and after notice and, if requested, a hearing, or on the earlier appointment of a temporary or permanent conservator.**”

17. Page 5, line 29; Sec. 10. AS 13.26.208 – Replaced “**Upon**” with “**On**”.

18. Page 5, lines 30-31; Sec. 10. AS 13.26.208 – Replaced “**the**” with “**a**” and following “**order**” inserted “**issued under AS 13.26.207,**”.

19. Page 5, line 31; Sec. 10. AS 13.26.208 – Replaced “**extend**” with “**convert**”.

20. Page 6, line 1; Sec. 10. AS 13.26.208 – Following “**order**” inserted “**to a temporary order effective**”.

21. Page 6, line 2; Sec. 10. AS 13.26.208 – Following “**provide**” inserted “**to the protected person and the respondent**”.

22. Page 6, lines 2-3; Sec. 10. AS 13.26.208 – Deleted “**to the respondent**”.

23. Page 6, line 6; Sec. 10. AS 13.26.208 – Replaced “**extend**” with “**convert**”.

24. Page 6, line 7; Sec 10. AS 13.26.208 – Following “**order**” inserted “**to a temporary protective order effective**”.

25. Page 6, lines 8-29; Sec. 10. AS 13.26.209 – Subsections a-d are all new subsections.

26. Page 6, line 30; Sec. 10. AS 13.26.209(e) – Replaced **“this section”** with **“AS 13.26.207-13.26.209”**.
27. Page 7, lines 1-2; Sec. 10. AS 13.26.209(f) – Following **“party”** inserted **“that has received actual or legal notice of a protective order issued under AS 13.20.207-13.26.209”**
28. Page 7, line 3; Sec. 10. AS 13.26.209(f) - Replaced **“this section”** with **“AS 13.26.207-13.26.209”**.
29. Page 7, lines 7-8; Sec. 10. AS 13.26.209(f) - Replaced **“this section”** with **“AS 13.26.207-13.26.209”**.
30. Page 7, lines 9-10; Sec. 10. AS 13.26.209(f) – Following **“order.”** Inserted **“As used in this section, “actual or legal notice” means delivery by mail or facsimile at the most recently known place of residence or business of the third party.”**
31. Page 7, lines 15-16; Sec. 10. AS 13.26.209(g) – Replaced **“their use”** with **“use of the forms”** and replaced **“this section”** with **“AS 13.26.207-13.26.209”**.
32. Page 7, lines 22-24; Sec. 10. AS 13.26.209(h) – Replaced **“this section”** with **“AS 13.26.207, for an application under AS 13.26.208, or for a request for modification of a protective order under AS 13.26.209(a).”**
33. Page 7, line 29; Sec. 11. AS 13.26.324(2) - Replaced **“theft and related offenses”** with **“offenses against property”**.
34. Page 8, line 10; Sec. 12. AS 18.65.530(a)(2) - Replaced **“and”** with **“or”** .
35. Page 8, line 15; Sec. 13. AS 18.65.540(a) – Replaced **“AS 13.26.180,”** with **“AS 13.26.207-“**.
36. Page 8, line 22; Sec. 14. AS 18.65.540(b) – Replaced **“AS 13.26.180, 13.26.209”** with **AS 13.26.207, 13.26.208”**.
37. Page 8, line 23; Sec. 14. AS 18.65.540(b) – Following **“under”** inserted **“AS 13.26.209,”**.
38. Page 8, line 24; Sec. 14. AS 18.65.540(b) – Replaced **“must”** with **“shall”**.
39. Page 8, line 27-Page 9, line 7; Sec. 14. AS 44.21.415(g) - this is a new section.
40. Page 10, line 31, Sec 19. AS 47.24.010(d) – Replaced **“their”** with **“the person’s”** and replaced **“nor does it”** with **“This section does not”**.

41. Page 11, lines 10-11; Sec. 20. AS 47.24.010(e) – Inserted the amending language before the deletion instead of after the deletion.

42. Page 12, line 3; Sec 23. AS47.24.013(a) – Replaced “regards” with “pertains to”.

43. Page 14, lines 2-5; Sec.29. AS 47.24.015(h) - this is a totally redrafted subsection.

44. Page 14, line 9; Sec. 29. AS 47.24.015(j) - Deleted (j) in the original bill and re-lettered the following subsections accordingly.

45. Page 13, line 24; Sec. 29. AS 47.24.015(m) - Replaced “the following:” and (1) – (4) with “any person”

46. Page 14, line 29; Sec. 30. AS 47.24.016(a) - Following “guardian,” inserted “conservator,”

47. Page 15, line 7-8; Sec. 30. AS 47.24.016(a)(1) - Replaced “divorce or dissolution” with “divorce, [OR] dissolution, or legal separation” .

48. Page 16, line 5; Sec. 33. AS 47.24.017(a) - Replaced “guardian or” with “guardian, conservator, [OR]”.

49. Page 16, line 19; Sec. 34. AS 47.24.019(c) - Replaced “a family member, caregiver, guardian, conservator, attorney-in-fact, trustee, or surrogate decision maker” with “any person.

50. Page 16, line 21; Sec. 34. AS 47.24.019(c) - Replaced “a family member, caregiver, guardian, conservator, attorney-in-fact, trustee, or surrogate decision maker” with “person”.

51. Page 17, line 7; Sec. 35. AS 47.24.050(b) - Following “guardian,” inserted “conservator,”.

52. Page 17 line 10; Sec. 34. AS 47.24.050(b) - Following “guardian,” inserted “conservator,”.

53. Page 18, line 1; Sec. 37. AS 47.24.900(2)(A) - Following “intentional,” inserted “knowing,” .

54. Page 18, line 18; Sec. 39. AS 47.24.900(4) - Replaced “means” with “includes”.

55. Page 18, line 28; Sec. 40. AS 47.24.900(7)(B) - Following “deception,” inserted “fraud,” .

56. Page 18, lines 29-30; Sec. 40. AS 47.24.900(7) (B) - Following **“duty;”** inserted **“in this paragraph, “fraud” has the meaning given in AS 13.26.324(1) and (2);”**
57. Page 19, line 1; Sec. 41. AS 47.24.900(9) - Following **“intentional,”** inserted **“knowing,”**.
58. Page 19, line 7; Sec. 41. AS 47.24.900(9) - Replaced **“means”** with **“includes”**.
59. Page 19, lines 9-23; Sec. 42. AS 47.24.900(11) - Legal Services reformatted this section, but there was no substantial change.
60. Page 19, line 16; Sec. 42. AS 47.24.900(11)(B)(D) - Replaced **“(iv) freezing an account at a financial institution;”** with **“(D) staying financial transactions;”**
61. Page 20, line 3 Sec. 43. AS 47.24.900(15)(D) - Following **“loss”** inserted **“, waste, or dissipation”** .
62. Page 20, lines 16-18; Sec. 45. AS 47.24.900(18) – Redrafted the definition of **“fiduciary duty”**.
63. Page 21, lines 13-15; Sec. 45. AS 47.24.900(21) - Replaced **“ “undue influence” means a person of trust or confidence uses the person’s role, relationship or authority to exploit”** with **“ “undue influence” means the use by a person who stands in a position of trust or confidence of the person’s role, relationship, or authority to wrongfully exploit”** .
64. Page 21, line 15; Sec. 45. AS 47.24.900(21) - Deleted **“deceptively”**.
65. Page 21, lines 23-26; Sec. 46. Direct Court Rule Amendments 12(h) - Replaced all bold language with **“In deciding whether to grant the motion, the court shall consider the victim’s circumstances and the effect that delay would have on the victim, particularly a victim of advanced age or extreme youth. The court shall place its findings on the record.”**
66. Page 22, line 5-6; Sec. 47. Direct Court Rule Amendments 45(a) - Following **“cases.”** inserted **“The court shall consider the circumstances of the victim, particularly a victim of advanced age or extreme youth, in setting the trial date.”**
67. Page 22, line 12; Sec. 48. Indirect Court Rule Amendments (a) – Following (a) inserted **“AS 13.26.207, 13.26.208, and”**.
68. Page 22, line 13; Sec. 48. Indirect Court Rule Amendments (a) – Replaced **“7”** with **“10”** and replaced **“has”** with **“have”**.

69. Page 22, line 15; Sec. 48. Indirect Court Rule Amendments (a) – Following “**parte**” inserted “**and temporary**” and following “**orders**” inserted “**and modifications of orders**”.

70. Page 22, line 18; Sec. 48. Indirect Court Rule Amendments (b) – Replaced “7” with “10”.

71. Page 22, lines 20-22; Sec. 48. Indirect Court Rule Amendments (b) – Replaced “AS 13.26.209(a), enacted by sec. 7 of this Act” with “AS 13.26.207 for an application for a temporary order under AS 13.26.208, or for modification of a protective order under AS 13.26.209(a), enacted by sec. 10 of this Act”.

72. Page 22, line 23-Page 23, line 1; Sec. 48. Indirect Court Rule Amendments. Created new subsections (c), (d) and (e).

73. Page 23, lines 4-5; Sec. 49. Applicability. Replaced “1,2,3, and 42” with “3-5, 46, and 47” and following “date” inserted “of secs. 3-5”.

74. Page 23, lines 8-15; Sec. 50. Revisor’s Instructions. This section was moved to a different part of the bill to precede Conditional Effects.

75. Page 23, line 18- Page 24, line 1; Sec 51. Conditional Effect. This section was revised due to the restructuring and other changes in Section 10 of the bill.

76. Page 24, line 2; Sec 52. This is a new section stating “Sections 16 and 20 of this Act take effect September 1, 2011.”

77. Page 24, line 3; Sec. 53. Effective Date - Replaced “immediately under AS 01.10.070(c).” with “July 1, 2011.”

STATE OF ALASKA

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Sectional Analysis

CSSB 86 (JUD), "An Act relating to the protection of property of persons under disability and minors; relating to the crime of violating a protective order concerning certain vulnerable persons; relating to aggravating factors at sentencing for offenses concerning a victim 65 years or older; relating to the protection of vulnerable adults; making conforming amendments; amending Rules 12(h) and 45(a), Alaska Rules of Criminal Procedure, Rule 77, Alaska Rules of Civil Procedure, Rule 17, Alaska Rules of Probate Procedure, and Rule 9, Alaska Rules of Administration; and providing for an effective date."

Section 1 inserts "vulnerable adult" in place of "elder or disabled adult" in AS 08.29.200(b) concerning reporting of harm required by licensed professional counselors. This change will make the statute consistent with similar definitional changes made by the bill. The term "vulnerable adult" more accurately defines and describes the citizens subject to protection.

Section 2 inserts "vulnerable adult" in place of "elder or disabled adult" in AS 08.63.200(b) concerning reporting of harm required by marriage and family therapists. This change will make the statute consistent with similar definitional changes made by the bill. The term "vulnerable adult" more accurately defines and describes the citizens subject to protection.

Section 3 makes the knowing violation or attempted violation of a financial protective order (introduced in section 10 of this legislation to protect vulnerable adults and elders) a crime.

Section 4 amends AS 11.56.740(c), which defines "protective orders," by including financial protective orders issued under AS 13.26.207-13.26.209 to that definition. This change brings financial protective orders within the class of protective orders subject to sanction under the criminal code.

Section 5

amends AS 12.55.155(c) by adding a new paragraph (35) which makes the fact that a defendant knowingly directed criminal conduct at a person 65 years of age or older an aggravating factor at sentencing.

Section 6

amends AS 13.26.165(1) by substantively adding several new paragraphs and changes or additions in definitions to enhance protection of vulnerable persons in conservatorship proceedings as follows:

- amends AS 13.26.165 by deleting the words “make another” and inserting the words “issue another” regarding the authority of the court to issue a protection order for a protected person in conservatorship proceedings;
- creates new paragraph (A) to authorize the court to issue orders protecting a minor with money or property that needs protection or who otherwise needs protection and substitutes the word “that” for the word “which” in the authorizing language;
- creates a new paragraph (B) specifying that the authority of the court to issue protective orders extends to minors with business affairs that may be in jeopardy and substitutes the word “that” for the word “which” in the authorizing language;
- creates a new paragraph (C) ensuring that protection extends to any need to protect a minor’s funds or obtain funds for a minor and deletes the unnecessary use of the word “that” twice in the authorizing language;
- amends AS 13.26.165(2)(A) by adding the word “fraud” to the illustrative list of reasons why a person may be found to be unable to effectively manage their own affairs and therefore may be in need of a conservator.

Section 7

amends AS 13.16.180(a) by adding “a person’s attorney or other legal representative.” to the list of persons who may petition for a conservatorship and further adds “or caregiver, the Department of Health and Social Services” to that list. This change is necessary to broaden the list of specific persons authorized to petition for a conservatorship in aid of a vulnerable adult and specifically to ensure that the Department of Health and Social Services is authorized to do so when necessary.

Section 8

amends AS 13.26.180 by adding a new sub-section (c) to specifically authorize petitioners to request orders for temporary conservatorships upon showing that the person's money or property will be wasted or dissipated during the pendency of normal conservatorship proceedings. This change is necessary to ensure that the courts have express statutory authority to entertain and grant temporary conservatorships in urgent cases involving financial exploitation.

Section 9

amends AS 13.26.185 to provide that that section does not apply to a petition or order for an ex parte protective order filed under AS 13.26.207 or a temporary protective order filed under AS 13.26.208

Section 10

adds four new sections:

- New section AS 13.26.206 authorizes temporary conservatorships to provide immediate protection from imminent waste or dissipation of the person's money or property while the normal conservatorship proceedings are underway. The court is required to impose only the least restrictive orders necessary to protect the money or property from waste or dissipation. The temporary conservatorship expires as a matter of law when the full conservatorship is ordered or when the petition for conservatorship is dismissed.
- New section AS 13.26.207 authorizes a person to apply for an ex parte protection order against financial exploitation without the need for a lawyer, very similar to the authority and procedure presently authorized for domestic violence, sexual assault and stalking protection orders. The new section authorizes a third-party to file a petition on behalf of another where, for example, the vulnerable adult is incapacitated and unable to file for her or himself. The new section requires that notice of the proceedings be provided to the vulnerable adult and for service of any order issued to third-parties, such as financial institutions, at the nearest place of business, or by registering the order with the Department of Public Safety. The new section also requires the Alaska Court System to create appropriate forms for use by the public in filing for such orders and exempts such applications from court filing fees.
- New section AS 13.26.208 specifies that a party may apply and the court may convert a protective order to a temporary order effective for up to six months upon proper application, notice and hearing. That section further provides that if the court finds by a preponderance of

the evidence that the respondent has committed fraud against the victim that the court may convert the ex parte protective order to temporary protective order effective for up to six months.

- New section AS 13.26.209 specifies legal authority and procedures for applying to the court to modify an ex parte protective order issued under AS 13.26.207 or a protective order issued under AS 13.26.185 or a temporary protective order issued under AS 13.26.208.

- Section 11 defines “fraud” and adds it to the list of terms defined in AS 13.26.324. The definition used is taken from that currently in statute at AS 44.21.415.
- Section 12 excludes the crime of violating a protective order from the list of crimes subject to warrantless arrest in AS 18.65.530(a).
- Section 13 adds financial protective orders to registry of protective orders maintained by Public Safety in AS 18.65.540(a).
- Section 14 adds financial protective orders to AS 18.65.540(b), which requires peace officers to take reasonable steps to ensure that a protective order is entered into the registry within 24 hours after receipt.
- Section 15 changes “theft and related offenses” to “offenses against property” in AS 44.21.415(g)(1)(B), which is part of the definition of “fraud” in the statutes governing the Office of Elder Fraud.
- Section 16 adds undue influence to the list of reportable harms to a vulnerable adult. Employees of nursing homes, residential care or health care facilities and the staff of educational institutions are added to the list of mandated reporters in AS 47.24.010(a).
- Section 17 requires a reporter to include the contact info of the vulnerable adult in AS 47.24.010(b).
- Section 18 adds undue influence to the statute making a mandatory reporter who knowingly fails to report guilty of a class B misdemeanor (AS 47.24.010(c)).

- Section 19 adds undue influence to the list of reportable harms and amends AS 47.24.010(d) to permit anyone to make a report of harm, including a mandatory reporter in the reporter's nonoccupational capacity.
- Section 20 adds undue influence to the list of harms and amends AS 47.24.010(e) to require a public safety officer to report to APS within 24 hours of receiving a report of harm involving imminent risk of serious physical harm.
- Section 21 adds undue influence and abandonment to the list of harms in AS 47.24.010(f), which states that a mandatory reporter's report of harm to the long-term care ombudsman or the department regarding an adult in an out-of-home care facility satisfies that reporter's duty to report under AS 47.24.010(a).
- Section 22 adds two new subsections to AS 47.24.010: first, a mandatory reporter is not relieved of duty to report by reporting to supervisor. Second, if someone makes a reckless false report, that person is liable for actual damages suffered by the subject of the report.
- Section 23 adds undue influence to AS 47.24.013(a), which requires the department to transfer a report of harm to the long-term care ombudsman if it involves a vulnerable adult aged 60 or older who has been allegedly harmed by a staff member or volunteer of an out-of-home care facility where the adult resides.
- Section 24 adds undue influence to AS 47.24.013(b), which requires the department to investigate a report of harm involving a vulnerable adult who is younger than 60 years of age when the harm is alleged to have been committed by a staff member or volunteer of an out-of-home facility where the adult resides.
- Section 25 changes the reference to "department" to "office of the department that handles adult protective services" in AS 47.24.013(c), which states what the long-term care ombudsman and the department must do when they receive a report of harm.
- Section 26 adds undue influence to AS 47.24.013(d), which requires the long-term care ombudsman to give a report of harm and the result of the ombudsman's investigation to the department's central information and

referral service when the report of harm involves an adult who resides in an out-of-home care facility.

Section 27

adds undue influence to the statute that requires the department to start an investigation once it receives a report of harm that is not transferred from the long-term care ombudsman's office (AS 47.13.015(a)).

Section 28

adds undue influence to AS 47.24.015(c), which describes situations when the department must or must not terminate an investigation following a report of harm. Section 27 also changes the cross reference for the definition of fraud from AS 44.21.415 to AS 13.26.324.

Section 29

adds six new subsections to AS 47.24.015, which governs APS's investigatory power:

- (h) gives the department subpoena power to support its investigative authority, including the power to conduct interviews and examine any health care or financial records related to a vulnerable adult.
- (i) prohibits individuals from interfering with APS's investigation.
- (j) gives APS access to relevant records maintained by another division in DHSS.
- (k) allows APS to audio- or videotape an interview with a vulnerable adult if the adult has capacity and consents.
- (l) requires APS to train investigators of reports of harm.
- (m) defines "financial records."

Section 30

updates AS 47.24.016(a) regarding surrogate decision makers by adding new fiduciaries who may serve in that capacity – specifically, conservator, trustee, and surrogate for health care decisions under AS 13.52. It also deletes the requirement that in order for a spouse to be a surrogate decision maker, the spouse and vulnerable adult may not be living in separate domiciles. Section 29 also adds legal separation as a factor that would prohibit a spouse from being a surrogate decision maker for that spouse's vulnerable adult spouse.

- Section 31 adds undue influence to the statute that sets out the exceptions to when a person listed in AS 47.24.016(a) may serve as a surrogate decision maker (AS 47.24.016(b)).
- Section 32 adds a surrogate decision maker serving under AS 13.52.030 to AS 47.24.016(d), which describes when the department must cease providing protective service based on the consent of the surrogate decision maker.
- Section 33 adds conservator, trustee, and surrogate for health care decisions under AS 13.52.030 as individuals who may consent to the provision of protective services to a vulnerable adult and adds undue influence to the list of potential reports of harm.
- Section 34 allows the department under AS 47.24.019(c) to petition the superior court for an injunction restraining any person from interfering with the provision of protective services to a vulnerable adult.
- Section 35 amends AS 47.24.050 to add “undue influence” to the types of harm contained in confidential reports. Trustee and conservator are added to the list of individuals who may consent to release a confidential report and they are also added to the list of individuals who may not receive copies of a report if they are the alleged perpetrator. “Undue influence” is also added to the list of harms that are contained in reports of verified harms that occur in an institution that cares for vulnerable adults or that were the result of actions or inactions of a public home care provider.
- Section 36 clarifies that a person is not considered to be unduly influenced if they choose to consent to treatment by spiritual means only under AS 47.24.130.
- Section 37 redefines “abuse” in AS 47.24.900(2) to include the knowing infliction of emotional distress or fear, including coercion and intimidation.
- Section 38 redefines “caregiver” in AS 47.24.900(3) to include someone who provides some or all responsibility for the care of a vulnerable adult either voluntarily, by contract, by court order or as an employee of a business that provides care in an adult’s home.

- Section 39 defines “informed decision” as a decision made free from undue influence within the definition of “decision making capacity” in AS 47.24.900(4).
- Section 40 redefines “exploitation” in AS 47.24.900(7) to include acts by a person in a position of trust with a vulnerable adult who obtains profit or advantage through undue influence, deception, fraud, intimidation or breach of fiduciary duty.
- Section 41 redefines neglect in AS 47.24.900(9) to include the knowing or reckless failure by a caregiver to provide access to services or to carry out a treatment plan necessary to the health of a recipient. “Essential care or services include food, clothing, shelter, medical care and supervision.
- Section 42 expands the definition of protective services in AS 47.24.900(11) to include services that obtain basic health care needs, financial assistance services, and protection from abuse, obtaining basic food, shelter and clothing, among others. Undue influence is added to the list of types of harm that may result in the provision of these services.
- Section 43 amends the definition of “unable to consent” in AS 47.24.900(15) by adding the concept of “undue influence” and that the inability to consent includes a person’s inability to perceive a loss of income or assets, eviction, and physical or mental harm.
- Section 44 amends the definition of a vulnerable adult in AS 47.24.900(16) by more clearly defining what constitutes a physical or mental impairment.
- Section 45 amends AS 47.24.900 by adding new paragraphs which contain definitions for the following terms:
- Deception
 - Fiduciary duty
 - Financial institution
 - Person who stands in a position of trust or confidence
 - Undue influence

Section 46

amends the uncodified law, Rule 12(h), Alaska Rules of Criminal Procedure. The court, when considering a motion for continuance of a trial date, shall consider the victim's circumstances and the effect of a continuance on the victim, particularly a victim of advanced age or extreme youth. The court's findings will be placed on the record.

Section 47

amends the uncodified law, Rule 45(a), Alaska Rules of Criminal Procedure. The courts, when considering a trial date, shall consider the victim's circumstances, particularly a victim of advanced age or extreme youth, in setting the trial date.

Section 48

amends the uncodified law by making five indirect court rule amendments enacted by Section 10 of the bill:

- amending Rule 17, Alaska Rules of Probate Procedure, to allow ex parte orders to be issued to protect persons subject to protective proceedings from financial exploitation.
- amending Rule 9, Alaska Rules of Administration, by not requiring filing fees for an ex parte protective order.
- amending Rule 77, Alaska Rules of Civil Procedure, by requiring a hearing within 72 hours of the filing of a petition for the appointment of a temporary conservator.
- amending Rule 77, Alaska Rules of Civil Procedure, by providing for a hearing on an application for a temporary protective order on 10 days notice.
- amending Rule 77, Alaska Rules of Civil Procedure, by providing for a hearing on a request for modification of a protective order on 20 days notice and for modification of an ex parte protective order on 3 days notice.

- Section 49 amends the uncodified law by indicating that Sections 3-5, 46, and 47 of the bill apply to offenses committed on or after the effective date.
- Section 50 amends the uncodified law by adding revisor's instructions to change the catch lines of AS 47.24.010 and AS 47.24.013.
- Section 51 amends the uncodified law by adding a new section which indicates that the enactment of portions of Section 10 of the bill, having to do with ex parte orders, are contingent upon a two-thirds vote of each house on Section 48 of the bill, referencing court rule amendments.
- Section 52 provides for an effective date of September 1, 2011 for sections 16 and 20 of the bill, the two sections that address mandatory reporters and the obligation of peace officers to report to the department within 24 hours.
- Section 53 provides for an effective date of July 1, 2011.