

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

SB 1

Lea, Franke

1



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

9/6/91
Date

SB1

SENATE COMMITTEE REPORT

FURTHER:

3/20/87

DATE TURNED INTO OFFICE 3/31/87

Mr. President:

FINANCE Committee considered SB 1

rights of physically and mentally disabled persons.

and recommended:

replace with CS FOR SB 1 (Jud)) same title
 or adopt _____ CS FOR _____) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new / updated or previous - 2 (At System 4.6
 zero ^{How off} fiscal impact ^{HSS})

MEMBERS SIGNING DO PASS

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

OTHER RECOMMENDATIONS

Paul Grob. N.P.C.

[Signature] **DO PASS**
Chairman signature and recommendation

Committee Backup Attached

A/B

. STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____ Bill Version: U SB 1 (Jul)
 Publish Date: _____
 Revision Date: _____ Agency Affected: Alaska Court System
 Title: Rights of physically and mentally disabled persons BRU: Trial Courts
 Sponsor: Duncan & Fischer Components: _____
 Requestor: _____

EXPENDITURES/REVENUES:		(Thousands of Dollars)				
OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
Personal Services	0.0	4.6	4.6	4.6	4.6	4.6
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	4.6	4.6	4.6	4.6	4.6
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	4.6	4.6	4.6	4.6	4.6
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING:		(Thousands of Dollars)				
General Funds	0.0	4.6	4.6	4.6	4.6	4.6
Federal Funds	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	4.6	4.6	4.6	4.6	4.6

POSITIONS:						
Full-time	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: Robert G. Fisher, Fiscal Officer Phone: 264-8215
 Division: Alaska Court System Date: 2-24-87
 Approved by: *Stephanie J. Cole* Date: 2-24-87
 Agency: Alaska Court System

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management & Budget
 Impacted Agency(ies)
 Senate Secretary

RECEIVED
FEB 27 1987

ALASKA COURT SYSTEM
SB 1 - RIGHTS OF PHYSICALLY AND MENTALLY
AND DISABLED PERSONS

FISCAL IMPACT

This legislation allows physically and mentally disabled individuals to serve on juries. Additionally, interpreters are provided for deaf persons while on jury duty. Providing interpreters for deaf persons will impact the Court's contractual budget. The other aspects of the legislation will not impact the Court.

Historically, six to eight percent of all eligible persons are required to perform jury duty. The Center for Deaf Adults estimates that between 250 and 300 deaf individuals would be eligible for jury duty. The Center estimates that 200 are located in Anchorage, 10 are in Juneau, and 10 are in Fairbanks. The remainder live outside urban areas. To be eligible for jury service, the deaf juror would have to be proficient in the use of sign language. Each deaf juror would require an interpreter for all activities in the court.

Based on past experience, it is estimated that approximately fourteen deaf individuals could be called for service in a year. Based on probabilities of jury service for 1986, it is projected that thirteen of the jurors would be called for service in Anchorage and the other juror would be called in either Fairbanks or Juneau. Qualified interpreters are available in these locations.

Interpreter fees are estimated to cost \$4,600 per year.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

Bill Version: CS SB - 1 (jud)
Publish Date: 1-19-87

REQUEST: _____

Revision Date: _____
Title: Rights of Physically and
Mentally Disabled Persons

Agency Affected: Office of the Governor
BRU: Commission, Special Issues

Sponsor: Duncan and Szymanski
Requestor: Health, Education and Social
Services; Judiciary; Finance

Components: Human Rights Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

As requested by Senator Paul Fischer

Prepared by: Michael A. Nizich, Director *MAN* Phone: 465-3616
Division: Div. of Administrative Services Date: 3-6-87

Approved by Commissioner: Carol P. Kastelic *CPK* Date: 3-6-87
Agency: Exec. Assistant, Office of the Governor

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

A/B

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: S.B. 1
Publish Date: _____

Revision Date: _____
Title: An Act Relating To The Rights Of
Physically & mentally disabled persons.
Sponsor: Duncan
Requestor: _____

Agency Affected: Health & Social Services
BRU: Community Mental Health
and Developmental Disabilities
Components: Developmental Disabilities

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Christine L. Haqmeier Phone: 465-3370
Division: Mental Health and Developmental Disabilities Date: 1/22/87

Approved by Commissioner: *Kenn R. Pedue* Date: 1/20/87
Agency: Health and Social Services

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

POSITION PAPER

SENATE BILL 1

"An Act relating to the rights of physically and mentally disabled persons."

EFFECT OF SENATE BILL 1

A.S. 09.20.010(b) is amended to prohibit the disqualification of persons from serving as jurors solely on the basis of their visual, hearing or mobility impairments.

A.S. 09.20.010(c) is added to require the court system to pay the costs of interpreters or readers when a hearing or visually impaired person requires such services while serving as a juror.

A.S. 12.55.155(c)(22) is amended to include physically and mentally disabled persons among the protected class of individuals to be considered under this statute.

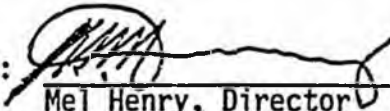
A.S. 18.060 is amended to include physically and mentally disabled persons among the protected class of individuals who are entitled to full and equal access to public accommodations, services, employment, credit and financing, housing, and other property.

A.S. 18.060 also entitles physically and mentally disabled persons to be accompanied or assisted by service animals when accessing any of the locations or services listed in this section.

RECOMMENDATION

The Department of Health and Social Services supports the passage of Senate Bill 1.


Recommended by:


Mel Henry, Director

Date:

1-30-87

Approved by:


Myra M. Munson, Commissioner

Date:

1-30-87

Original sponsors: Duncan, Szymanski,
Uehling and Sturgulewski

1 IN THE SENATE BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 1 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the rights of physically and
7 mentally disabled persons."

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

9 * Section 1. AS 09.20.010 is amended by adding new subsections to read:

10 (b) A person is not disqualified from serving as a juror solely
11 because of the loss of hearing or sight in any degree or a disability
12 that substantially impairs or interferes with the person's mobility.

13 (c) The court shall provide, and pay the cost of services of, an
14 interpreter or reader when necessary to enable a person with impaired
15 hearing or sight to act as a juror.

16 * Sec. 2. AS 09.65 is amended by adding a new section to read:

17 Sec. 09.65.150. DUTY TO DISABLED PEDESTRIANS. (a) The driver
18 of a vehicle approaching a physically disabled pedestrian who is
19 carrying a white or metallic-colored cane, or using special equipment
20 for mobility, or using a service animal, shall take precautions neces-
21 sary to avoid injury to the pedestrian or the service animal. A
22 driver who fails to take necessary precautions and, as a result,
23 causes injury to the pedestrian or the service animal is liable in
24 damages for the injury caused.

25 (b) In this section

26 (1) "physically disabled pedestrian" means a person who has
27 a physical condition that limits the person's ability to function as a
28 pedestrian without the assistance of another person, a service animal,
29 a cane, or other equipment or device;

1 (2) "service animal" means a dog guide or other animal that
2 assists a physically disabled person to function as a pedestrian.

3 * Sec. 3. AS 11.76 is amended by adding a new section to read:

4 Sec. 11.76.130. INTERFERENCE WITH RIGHTS OF DISABLED PERSON.

5 (a) A person commits the crime of interference with the rights of a
6 disabled person if the person prevents or restricts

7 (1) a physically or mentally disabled person from having
8 full and free pedestrian use of a street, highway, sidewalk, walkway,
9 or other thoroughfare, to the same extent that any other person has a
10 right to pedestrian use; or

11 (2) a physically disabled person from being accompanied or
12 assisted by a certified service animal, without an extra charge for
13 the service animal, in a common carrier, place of public accommoda-
14 tion, or other place to which the general public is invited, except as
15 provided in (b) of this section.

16 (b) A physically disabled person who is accompanied or assisted
17 by a certified service animal in a common carrier, place of public
18 accommodation, or other place to which the general public is invited,
19 is liable for property damage done by the animal.

20 (c) In this section

21 (1) "certified service animal" means an animal trained to
22 assist a physically disabled person and certified by a school or
23 training facility for service animals as having completed such train-
24 ing;

25 (2) "physically or mentally disabled" has the meaning given
26 in AS 18.80.300.

27 (d) Interference with the rights of a disabled person is a class
28 B misdemeanor.

29 * Sec. 4. AS 12.55.155(c)(22) is amended to read:

1 (22) the defendant knowingly directed the conduct consti-
2 tuting the offense at a victim because of that person's race, sex,
3 color, creed, physical or mental disability, ancestry, or national
4 origin;

5 * Sec. 5. AS 18.80.050 is amended by adding a new subsection to read:

6 (b) The commission shall adopt regulations relating to dis-
7 crimination because of physical and mental disability. The regula-
8 tions shall furnish guidance concerning the circumstances under which
9 it is necessary to make a reasonable accommodation for a physically or
10 mentally disabled person when providing employment, financing or
11 credit, public accommodations, the sale or rental of real property, or
12 other goods, services, facilities, advantages, or privileges under
13 this chapter.

14 * Sec. 6. AS 18.80.060(a) is amended to read:

15 (a) In addition to the other powers and duties prescribed by
16 this chapter the commission shall

17 (1) appoint an executive director approved by the governor;

18 (2) hire other administrative staff as may be necessary to
19 the commission's function;

20 (3) exercise general supervision and direct the activities
21 of the executive director and other administrative staff;

22 (4) accept complaints under AS 18.80.100;

23 (5) study the problems of discrimination in all or specific
24 fields of human relationships, and foster through community effort or
25 goodwill, cooperation and conciliation among the groups and elements
26 of the population of the state, and publish results of investigations
27 and research as in its judgment will tend to eliminate discrimination
28 because of race, religion, color, national ancestry, physical or
29 mental disability [HANDICAP], age, sex, marital status, changes in

1 marital status, pregnancy or parenthood;

2 (6) make an overall assessment, at least once every three
3 years, of the progress made toward equal employment opportunity by
4 every department of state government; results of the assessment shall
5 be included in the annual report made under AS 18.80.150.

6 * Sec. 7. AS 18.80.200 is amended to read:

7 Sec. 18.80.200. PURPOSE. (a) It is determined and declared as
8 a matter of legislative finding that discrimination against an inhabi-
9 tant of the state because of race, religion, color, national origin,
10 age, sex, physical or mental disability, marital status, changes in
11 marital status, pregnancy or parenthood is a matter of public concern
12 and that this discrimination not only threatens the rights and privi-
13 leges of the inhabitants of the state but also menaces the institu-
14 tions of the state and threatens peace, order, health, safety and
15 general welfare of the state and its inhabitants.

16 (b) Therefore, it is the policy of the state and the purpose of
17 this chapter to eliminate and prevent discrimination in employment, in
18 credit and financing practices, in places of public accommodation, in
19 the sale, lease, or rental of real property because of race, religion,
20 color, national origin, sex, age, physical or mental disability,
21 marital status, changes in marital status, pregnancy or parenthood.
22 It is also the policy of the state to encourage and enable physically
23 and mentally disabled persons to participate fully in the social and
24 economic life of the state and to engage in remunerative employment.
25 It is not the purpose of this chapter to supersede laws pertaining to
26 child labor, the age of majority or other age restrictions or require-
27 ments.

28 * Sec. 8. AS 18.80.210 is amended to read:

29 Sec. 18.80.210. CIVIL RIGHTS. The opportunity to obtain

1 employment, credit and financing, public accommodations, housing
2 accommodations and other property without discrimination because of
3 sex, physical or mental disability, marital status, changes in marital
4 status, pregnancy, parenthood, race, religion, color or national
5 origin is a civil right.

6 * Sec. 9. AS 18.80.220(a) is amended to read:

7 (a) It is unlawful for

8 (1) an employer to refuse employment to a person, or to bar
9 a person from employment, or to discriminate against a person in
10 compensation or in a term, condition, or privilege of employment
11 because of the person's race, religion, color or national origin, or
12 because of the person's age, physical or mental disability [HANDICAP],
13 sex, marital status, changes in marital status, pregnancy or parent-
14 hood when the reasonable demands of the position do not require dis-
15 tinction on the basis of age, physical or mental disability [HANDI-
16 CAP], sex, marital status, changes in marital status, pregnancy or
17 parenthood;

18 (2) a labor organization, because of a person's sex, mari-
19 tal status, changes in marital status, pregnancy, parenthood, age,
20 race, religion, physical or mental disability, color or national
21 origin, to exclude or to expel a person from its membership, or to
22 discriminate in any way against one of its members or an employer or
23 an employee;

24 (3) an employer or employment agency to print or circulate
25 or cause to be printed or circulated a statement, advertisement, or
26 publication, or to use a form of application for employment or to make
27 an inquiry in connection with prospective employment, which expresses,
28 directly or indirectly, a limitation, specification or discrimination
29 as to sex, physical or mental disability, marital status, changes in

1 marital status, pregnancy, parenthood, age, race, creed, color or
2 national origin, or an intent to make the limitation, unless based
3 upon a bona fide occupational qualification;

4 (4) an employer, labor organization or employment agency to
5 discharge, expel or otherwise discriminate against a person because
6 the person has opposed any practices forbidden under AS 18.80.200 -
7 18.80.280 or because the person has filed a complaint, testified or
8 assisted in a proceeding under this chapter;

9 (5) an employer to discriminate in the payment of wages as
10 between the sexes, or to employ a female in an occupation in this
11 state at a salary or wage rate less than that paid to a male employee
12 for work of comparable character or work in the same operation, busi-
13 ness or type of work in the same locality; or

14 (6) a person to print, publish, broadcast or otherwise
15 circulate a statement, inquiry or advertisement in connection with
16 prospective employment that expresses directly, a limitation, speci-
17 fication or discrimination as to sex, physical or mental disability,
18 marital status, changes in marital status, pregnancy, parenthood, age,
19 race, religion, color or national origin, unless based upon a bona
20 fide occupational qualification.

21 * Sec. 10. AS 18.80.230 is amended to read:

22 Sec. 18.80.230. UNLAWFUL PRACTICES IN PLACES OF PUBLIC ACCOMMO-
23 DATION. It is unlawful for the owner, lessee, manager, agent or
24 employee of a public accommodation

25 (1) to refuse, withhold from or deny to a person any of its
26 services, goods, facilities, advantages or privileges because of sex,
27 physical or mental disability, marital status, changes in marital
28 status, pregnancy, parenthood, race, religion, color or national
29 origin;

1 (2) to publish, circulate, issue, display, post or mail a
2 written or printed communication, notice or advertisement that states
3 or implies

4 (A) that any of the services, goods, facilities,
5 advantages or privileges of the public accommodation will be
6 refused, withheld from or denied to a person of a certain race,
7 religion, sex, physical or mental disability, marital status,
8 color or national origin or because of pregnancy, parenthood, or
9 a change in marital status, or

10 (B) that the patronage of a person belonging to a
11 particular race, creed, sex, marital status, color or national
12 origin or who, because of pregnancy, parenthood, physical or
13 mental disability, or a change in marital status, is unwelcome,
14 not desired or solicited.

15 * Sec. 11. AS 18.80.240 is amended to read:

16 Sec. 18.80.240. UNLAWFUL PRACTICES IN THE SALE OR RENTAL OF REAL
17 PROPERTY. It is unlawful for the owner, lessee, manager or other
18 person having the right to sell, lease or rent real property

19 (1) to refuse to sell, lease or rent the real property to a
20 person because of sex, marital status, changes in marital status,
21 pregnancy, race, religion, physical or mental disability, color or
22 national origin; however, nothing in this paragraph prohibits the
23 sale, lease or rental of classes of real property commonly known as
24 housing for "singles" or "married couples" only;

25 (2) to discriminate against a person because of sex, mari-
26 tal status, changes in marital status, pregnancy, race, religion,
27 physical or mental disability, color or national origin in a term,
28 condition or privilege relating to the use, sale, lease or rental of
29 real property; however, nothing in this paragraph prohibits the sale,

1 lease or rental of classes of real property commonly known as housing
2 for "singles" or "married couples" only;

3 (3) to make a written or oral inquiry or record of the sex,
4 marital status, changes in marital status, race, religion, physical or
5 mental disability, color or national origin of a person seeking to
6 buy, lease or rent real property;

7 (4) to offer, solicit, accept, use or retain a listing of
8 real property with the understanding that a person may be discrimin-
9 ated against in a real estate transaction or in the furnishing of
10 facilities or sources in connection therewith because of a person's
11 sex, marital status, changes in marital status, pregnancy, race,
12 religion, physical or mental disability, color, national origin or
13 age;

14 (5) to represent to a person that real property is not
15 available for inspection, sale, rental, or lease when in fact it is so
16 available, or to refuse to allow a person to inspect real property
17 because of the race, religion, physical or mental disability, color,
18 national origin, age, sex, marital status, change in marital status or
19 pregnancy of that person or of any person associated with that person;

20 (6) to engage in blockbusting;

21 (7) to make, print or publish, or cause to be made, printed
22 or published, any notice, statement or advertisement, with respect to
23 the sale or rental of real property that indicates any preference,
24 limitation, or discrimination based on race, color, religion, physical
25 or mental disability, sex, or national origin, or an intention to make
26 the preference, limitation or discrimination.

27 * Sec. 12. AS 18.80.250(a) is amended to read:

28 (a) It is unlawful for a financial institution or other commer-
29 cial institution extending secured or unsecured credit, upon receiving

1 an application for financial assistance or credit for the acquisition,
2 construction, rehabilitation, repair or maintenance of a housing
3 accommodation or other property or services, or the acquisition or
4 improvement of unimproved property, or upon receiving an application
5 for any sort of loan of money, to permit one of its officials or
6 employees during the execution of the official's or the employee's
7 duties

8 (1) to discriminate against the applicant because of sex,
9 physical or mental disability, marital status, changes in marital
10 status, pregnancy, parenthood, race, religion, color or national
11 origin in a term, condition or privilege relating to the obtainment or
12 use of the institution's financial assistance or credit, except to the
13 extent of a federal statute or regulation applicable to a transaction
14 of the same character;

15 (2) to make or cause to be made a written or oral inquiry
16 or record of the sex, physical or mental disability, marital status,
17 changes in marital status, pregnancy, parenthood, race, religion,
18 color or national origin of a person seeking the institution's finan-
19 cial assistance or credit, unless the inquiry is for the purpose of
20 ascertaining the creditor's rights and remedies applicable to the
21 particular extension of credit and is not made or used in order to
22 discriminate in a determination of creditworthiness;

23 (3) to refuse to extend credit, issue a credit card or make
24 a loan to a married person or a person with a physical or mental
25 disability, who is otherwise creditworthy, if so requested by the
26 person;

27 (4) to refuse to issue a credit card to a married person in
28 that person's name, if so requested by the person, provided, however,
29 that the person so requesting a card may be required to open an

1 account in that name.

2 * Sec. 13. AS 18.80.250 is amended by adding a new subsection to read:

3 (d) This section does not prohibit an institution described in
4 (a) of this section from refusing to contract with a person if the
5 person lacks the legal capacity to contract or if the institution is
6 reasonably in doubt about the person's legal capacity to contract.

7 * Sec. 14. AS 18.80.255 is amended to read:

8 Sec. 18.80.255. UNLAWFUL PRACTICES BY THE STATE OR ITS POLITICAL
9 SUBDIVISIONS. It is unlawful for the state or any of its political
10 subdivisions

11 (1) to refuse, withhold from or deny to a person any local,
12 state or federal funds, services, goods, facilities, advantages or
13 privileges because of race, religion, sex, color or national origin;

14 (2) to publish, circulate, issue, display, post or mail a
15 written or printed communication, notice or advertisement that states
16 or implies that any local, state or federal funds, services, goods,
17 facilities, advantages or privileges of the office or agency will be
18 refused, withheld from or denied to a physically or mentally disabled
19 person or a person of a certain race, religion, sex, color or national
20 origin or that the patronage of a physically or mentally disabled
21 person or a person belonging to a particular race, creed, sex, color
22 or national origin is unwelcome, not desired or solicited; it is not
23 unlawful to post notice that facilities to accommodate the physically
24 or mentally disabled are not available;

25 (3) to refuse or deny to a person any local, state, or
26 federal funds, services, goods, facilities, advantages or privileges
27 because of physical or mental disability.

28 * Sec. 15. AS 18.80.300 is amended by adding new paragraphs to read:

29 (15) "major life activities" means functions such as caring

1 for one's self, performing manual tasks, walking, seeing, hearing,
2 speaking, breathing, learning, and working;

3 (16) "physical or mental disability" means

4 (A) a physical or mental impairment that substantially
5 limits one or more major life activities,

6 (B) a history of, or a misclassification as having, a
7 mental or physical impairment that substantially limits one or
8 more major life activities; or

9 (C) having

10 (i) a physical or mental impairment that does not
11 substantially limit a person's major life activities but
12 that is treated by the person as constituting such a limita-
13 tion;

14 (ii) a physical or mental impairment that sub-
15 stantially limits a person's major life activities only as a
16 result of the attitudes of others toward the impairment; or

17 (iii) none of the impairments defined in this
18 paragraph but being treated by others as having such an
19 impairment;

20 (D) a condition that may require the use of a prosthe-
21 sis, special equipment for mobility or service animal;

22 (17) "physical or mental impairment" means

23 (A) physiological disorder or condition, cosmetic
24 disfigurement, or anatomical loss affecting one or more of the
25 following body systems: neurological, musculoskeletal, special
26 sense organs, respiratory including speech organs, cardiovascu-
27 lar, reproductive, digestive, genito-urinary, hemic and lymph-
28 atic, skin, and endocrine; or

29 (B) mental or psychological disorder, including mental

- 1 retardation, organic brain syndrome, emotional or mental illness,
- 2 and specific learning disabilities.
- 3 * Sec. 16. AS 18.06 and AS 18.80.300(11) are repealed.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

March 3, 1987

Honorable Paul Fischer
Chair
Health, Education & Social
Services Committee
Alaska State Senate
P.O. Box V
Juneau, AK 99811

MAR 3 1987

Re: SB 1 (disabled persons)

Dear Senator Fischer:

Yesterday, your assistant, Margaret Leavitt, called Assistant Attorney General Art Peterson, to ask for this department's "position" on sec. 1 of SB 1. Essentially, that section provides for blind and deaf people to serve on juries.

This department has no position on that proposal. I understand that Assistant Attorney General Gayle Horetski testified before your committee on February 25 concerning the issues raised by sec. 1. While we certainly support the idea of removing as many barriers as possible for people with various types of disabilities, the issues mentioned by Gayle, including constitutional ones, are significant. Similarly, we have no position on the remainder of the bill.

Yours truly,

Grace Berg Schaible
Grace Berg Schaible
Attorney General

GBS:AHP:md

cc: Hon. Jim Duncan
Alaska State Senate

George Sullivan
Legislative Liaison
Governor's Office

JUSTICE

Can Justice Be Deaf, Too?

A fight over jury service

When Allen Hammel was called to jury duty in Blair County, Pa., last month, he attracted more attention than the assault case he helped decide. The 3-year-old postal worker is deaf, and he was assisted throughout the two-day trial and jury deliberations by an interpreter using sign language. Hammel performed well, according to fellow jurors. "He was more observant than some people with all their senses," said foreman Josette Shiffler of Altoona. But Hammel is one of only a handful of hearing-impaired people who have been allowed to serve on juries. Earlier this month, JoAnn DeLong, a deaf assembly-line worker in the same county, filed suit in federal court challenging her exclusion from a jury by a different Blair County judge. "I didn't feel like an American citizen anymore," she says.

Only a few years ago exclusion of deaf



PAUL SINGER—ALTOONA MORDOR

'I didn't feel like a citizen': DeLong with interpreter

people from juries was automatic; Arkansas still has a court-approved ban on seating deaf jurors. "With so many people who don't want to serve on jury duty, it's really incredible that deaf people are still excluded," says Muriel Strassler of the National Association of the Deaf, which is lobbying states for new jury laws.

Few states have laws governing jury service by the deaf. Most, including Pennsylvania, leave the decision to individual trial judges, and practices differ widely,

preter may not be able to convey emotions or a witness's tone of voice. Some opponents also believe that the presence of a 13th person in the jury room violates the sanctity of deliberations.

Body posture: That's nonsense, contends Kenneth Rust, a board member of the Registry of Interpreters for the Deaf, which certifies translators. Through such tactics as body posture and speed of gestures, interpreters can convey the meaning of language as accurately as the spoken word, he

says. Rust believes that the presence of an extra person during deliberations is irrelevant, because interpreters are ethically bound to convey only the conversation, without injecting their feelings or opinions. Most states already require the courts to provide interpreters for deaf defendants and witnesses in criminal cases. "What's the difference?" Rust asks.

Opponents also fear that interpreters could prove costly. But advocates say the cost averages only around \$20 an hour. One deaf juror in Oregon answered that argument with finality. When the court refused to pay for his interpreter, he footed the \$400 bill himself.

That same brand of determination gave birth to JoAnn DeLong's lawsuit. "I've been fighting for my rights all my life," said DeLong, who lost her hearing at seven to spinal meningitis. "Maybe now I can help change things for other deaf people." If necessary, she says, she'll ask the U.S. Supreme Court to determine if justice can be deaf as well as blind.

GINNY CARROLL

RELIGION

The Condom Preacher—And His Pantless Past

Two weeks ago the Rev. Carl F. Thitchener became famous as the minister who handed out condoms at his church outside Buffalo, N.Y. (NEWSWEEK, Feb. 16). The point, said Thitchener, was not to promote promiscuity but to educate the public on the danger of AIDS and how to slow its deadly spread. Now the Unitarian Universalist's sudden notoriety has plunged him into deeper controversy: according to police files, Thitchener has an arrest record that stretches back 30 years.

Thitchener's last brush with the law occurred in 1984, when he was put on five years' probation following his second conviction for drunken driving. Two years earlier a woman Scout leader who was conducting a meet-

ing in a church with a group of Brownies told police that a man with no pants or underwear was parading outside. Later, police arrested Thitchener after he drove through a MacDonald's restaurant in a similar state of undress. He pleaded guilty to disorderly conduct and was fined \$75. His record also includes a conviction for public exposure in 1958. And the year before that, charged with attempted rape and attempted burglary, he had pleaded guilty to second-degree assault.

Thitchener, who was ordained in 1980 and hired a year later by the Unitarian Universalist church in Williamsville, N.Y., claimed the 1982 incidents involve someone who stole his driver's license. The police disagree.

Nevertheless, the church's board of trustees unanimously voted to support their beleaguered preacher. "I think his message on AIDS is going to save lives," says former board member Victor Doyno. "If any of this material about his past is true, he was very brave for having gone ahead with his sermon."

Notorious: Thitchener

JOE TRAVER—GAMMA LIAISON



NY Times Sunday Feb. 22, 1987

share of an additional 3 percent of cases with undetermined causes may have spread through heterosexual intercourse as well.

Part of the mystery and fear about AIDS arises from the fact that many carriers of the virus are not aware of it. The virus can lurk in the body without causing disease and, among those who develop AIDS, the average time between infection and diagnosis of AIDS may be five years or more.

While much remains to be learned about AIDS, scientists assert with confidence that studies of victims and disease patterns have provided a clear picture of how the virus has spread in this country, and how it has not.

Q. How does AIDS spread?

Many studies have documented the spread of the AIDS virus to an uninfected person through anal or vaginal

cause that sex often involves breaks in rectal tissues, thus allowing easier entry of the virus into the bloodstream. Studies suggest that the receptive partner in anal sex is at greater risk. One study has suggested that the virus may be able to directly infect cells in the colon.

Q. Can the virus spread from an infected person in vaginal intercourse?

believe the virus may also enter through mucous membranes or other soft tissues in the genital areas. No one knows if the virus can penetrate the lining of the male urethra, the tubelike passage through which urine flows.

Q. What is the risk of getting the virus from a single act of vaginal intercourse with an infected person?

Precise data are lacking. From indirect evidence, Federal scientists judge the risk of transmission in a single encounter to be low. Quantification is complex: Some infected people have said they had only a single exposure, while other people who have had hundreds of exposures have escaped infection. Still, several studies have shown that with repeated intercourse, as many as half the sexual partners of infected men or women become infected.

In Africa, where vaginal intercourse is believed to be the major means of spreading AIDS, studies suggest that the virus may pass more easily among people who have had gonorrhea, genital herpes or other sexually transmitted diseases, perhaps as a result of open sores in the skin of the genital area and the presence there of larger than usual numbers of the types of white blood cells that the virus invades.

Q. Can the virus spread through oral sex?

and condoms are believed to offer a high degree of protection. However, condoms are not foolproof: They may tear, slip or be misused, and in one study two cases were documented in which the virus passed between partners who used condoms in intercourse over an extended period. Because the virus may be present in men's pre-ejaculation emissions and in vaginal secretions, experts recommend that

Bishops Say Condoms May Not Prevent AIDS

DALLAS, Feb. 14 (AP) — More than 150 Roman Catholic bishops meeting here have concluded that abstinence and marital fidelity are better weapons to fight AIDS than are condoms, which they believe create a false sense of security, a bishop said Friday.

The group determined that health officials, in promoting condoms, might be misleading the public since condoms do not always prevent transmission of the disease, said Bishop Leroy Matthisen of Amarillo. The Catholic church has long opposed artificial birth control.

Catholic bishops from the United States, Mexico and Central America took part in the conference this week on medical research. The group plans to develop an educational program emphasizing abstinence for single people and fidelity for married couples, the Bishop said.

At the conference, Dr. Lamber W. King of St. Vincent's Hospital in New York presented a paper citing studies that showed condoms offered 70 percent protection from acquired immune deficiency syndrome.

If condom advertisements are put on television, "it's going to boomerang with people who do not listen carefully," Bishop Matthisen said.

Msgr. William B. Smith, professor of moral theology at St. Joseph Seminary in New York, outlined an ethical pastoral approach for the bishops.

Bishop Matthisen said the monsignor's theme was that the bishops should be kind when dealing with AIDS victims. The Bishop said: "The way he phrased it is that is we don't condone sin, but neither do we condone self-righteousness, judging people. There's a natural temptation to do that."

"We want to have a strong emphasis on marital fidelity," he said, adding that the threat of AIDS was a new argument in support of fidelity. "And for those who are not married," he added we are going to emphasize celibacy."

Deaf Woman Sues Over Jury

PITTSBURGH, Feb. 14 (AP) — A woman barred from serving on a jury because she is deaf has sued the Blair County judge who dismissed her, alleging she was a victim of discrimination.

The woman, JoAnn DeLong, alleged in her suit that the judge, R. Bruce Brunbaugh, violated a Federal act that prohibits discrimination against the handicapped in any activity in which Federal funds are used when he dismissed her in October.

The lawsuit, filed Wednesday in Federal District Court, is intended to establish that Federal funds help finance county court operations, her lawyer, Robert W. Lape, said Thursday.

Ms. DeLong is seeking no financial damages, only a court order to permit the disabled to participate on juries.

Judge Brunbaugh did not return telephone calls made to his office.

Ms. DeLong was called as a potential juror for a civil case, but Judge Brunbaugh rejected her before lawyers for either side questioned her, Mr. Lape said.

Ms. DeLong had full hearing until the age of 7 and "can speak amazingly well," he said. An illness left her without any hearing.

She uses an interpreter who translates word by word under the Signed English system, Mr. Lape said. Under another system, American Sign Language, translators skip some words in favor of concepts, he said.

In dismissing Ms. DeLong, Judge Brunbaugh cited a Pennsylvania case in which a criminal defendant received a new trial after it was learned that one juror's hearing was impaired.

A general argument against seating deaf jurors is that jurors often must weigh the credibility of witnesses by subtle aspects of the way they answer questions.

"That's probably the major argument," Mr. Lape said. "We say the deaf are used to judging from facial expressions and other nonverbal demeanor. Deaf people may even be more perceptive visually."

Hearing impairment probably not discovered until after trial.



THE ALASKA ALLIANCE FOR THE MENTALLY ILL

"An affiliate of the National Alliance for the Mentally Ill"

February 7, 1987
Box 211247
Auke Bay, 99801

Senator Jim Duncan
Alaska State Senate
Juneau, Alaska, 99801

Dear Senator Duncan and Members of
the Senate Health and Social Services
Committee:

The Alaska State Alliance for the Mentally Ill endorses Senate Bill 1 as introduced this year. We believe the draft as presented offers substantial gains in equity for disabled persons in Alaska. By including the disabled populations in this Statute, discrimination is prohibited in many significant areas. Since this law is parallel to Federal legislation, the disabled have long been denied equal protection under the law.

In particular, we wish to commend you on solving some of the more difficult problems with the bill that were advanced last session. The decision to submit to the regulation process those details which caused concern to the banking and housing industries is a much fairer way to address the issue. To what extent and under what circumstances an employer, a lender, or landlord has a right to know of a persons disability, whether or not it is physical or mental, must be carefully determined on the greater need and we believe the Civil Rights Commission has the expertise to make that determination.

One of the most controversial parts of the bill last year was whether or not to include the mentally ill among the disabled population. We would like to advance the following supportive information on this issue:

* The mentally ill are no more "dangerous" than the general population, and courts are now supporting the civil rights of the mentally ill in cases involving zoning laws restricting group homes.

* Those with long time or serious mental illness are among the minority of those who have had mental illness. For example in the State of Alaska, of the 8,000 cases treated by the Community Mental Health Centers, only 613 of these have serious mental illness. Should those who just have one episode or who have a situational distress which causes them to receive treatment be required for the rest of their lives to disclose that treatment? Among those with even the most serious mental illness schizophrenia, about 1/3 of the cases recover after only one episode.

* The mentally ill are the most stigmatized of any subgroup in the United States. Last year our members reported several incidents of discrimination. One of them involved a person having to disclose being under treatment for mental illness on their drivers license and another was denied general health insurance because of a nervous breakdown. In both cases, the question was not related to the request. Being a safe driver does not necessarily relate to having had an incidence of mental illness whereas perhaps a more appropriate question would be " Are you under medication which would make you drowsy ?" Why should someone be a greater risk of breaking a leg or contracting cancer simply because they have experienced mental illness? We know of no research which supports this. Certainly having cancer would be of concern to lenders but there is no requirement for persons with illnesses which might be considered "terminal" to have to disclose their condition.

This is not to say that the mentally ill are all worthy of extended credit, every individual in our State must qualify according to the rules of the lending agency providing assurances of their assets etc. Decisions must be made on a case by case basis. However, to the extent that they are functioning members of society the mentally ill should have the same rights to seek employment, have access to public facilities and other rights afforded citizens of the State of Alaska.

Sincerely,

Sharron Lobaugh
Pres. Alaska Alliance
for the Mentally Ill



PEOPLE - ANIMAL - CONNECTION

February 11, 1987

Dear Senator Fischer:

I am president of People-Animal-Connection/Delta Society. This letter is in support of SB1. We are the group which in conjunction with Alaska SPCA train the service animals for the physically/mentally disabled individual. Alaska is the only state in the USA which does not have legislation regarding service animals.

We presently have 20 service animals in Alaska with requests for many more, but need the legislation before we can place these animals.

We define a service animal as an animal which is trained as a hearing/blind guide animal or as a support animal for a person who has physical disabilities such as stroke or accident patient. *WHO MAY BE CONFUSED TO BE A SERVICE ANIMAL*

Our trainer is a certified obedience trainer who has trained with numerous other institutions that train and place service animals. Our main facility is at the training center of the Alaska SPCA and our trainers home kennel as well as field work areas.

These animals pass a vigorous physical/temperment test and upon completion of their training are certified by a committee from the PAC/Delta Society.

These animals are then provided with the proper ID colored collar/harness and the owner is given a certified card which states the animal to be a certified service animal. Our animals have been placed in Anchorage, Valdez, Palmer, and Fairbanks.

The animals provide a vital function for many people in our state. They provide physical support, mental support and love to persons who otherwise may not have any support network. These service dogs and their owners need this legislation as protection for their rights and abilities to work together and live together as a team.

If SB1 cannot find support for its passage then I encourage the HESS committee to take the service animal portion out of SB1 and introduce it as a separate bill. Originally, the service animal bill was separate legislation but in the last 2 years it has become "hung up" with other legislation. I urge strongly either the passage of SB1 or separate legislation for the service animal. Many people in Alaska are concerned with this and I hope they will be contacting the committee members over the next few days.

I would be willing to answer any questions regarding my letter or support of legislation for the service animal. *WE DO HAVE MODEL LEGISLATION FROM OTHER STATES & ORGANIZATIONS WHICH WE WOULD BE HAPPY TO PROVIDE*
Thank you very much.

Sincerely,

Joyce M. Murphy, D.V.M.

Mainstreaming Group Homes

By Daniel Lauber

A recent U.S. Supreme Court decision put some new twists on zoning for group homes. Here, questions and answers about how to adapt to the changes.



Zoning made it to the U.S. Supreme Court this year in the form of a case regarding group homes for developmentally disabled adults. The result was a landmark decision that should change the way most zoning ordinances treat group homes. Further, the decision will force local officials to confront the popular misconceptions about group homes and their residents that so frequently lead to stiff neighborhood opposition.

Group homes pose a zoning challenge that nearly every community in the country eventually will face. Over the past decade, the number of group homes increased from 700 to over 6,000. There's no end in sight because the need for them remains so great. The disabled are living longer, thanks to better health care and increasing deinstitutionalization.

Local officials often are at a loss when it comes to zoning for group homes. Most zoning ordinances fail to provide for them, as cities typically (and improperly) treat group homes as hospitals for the insane or feeble-minded. In other places, ordinances contain exclusionary provisions that keep group homes out of the very residential districts in which they function best.

Here are answers to some of the most frequent questions local officials and planners ask about zoning for group homes, particularly in light of the Supreme Court's latest edict on this type of zoning provision.

What are they?

Q Before we go any further, what are group homes and who lives in them?

A A group home usually houses individuals who are mentally, ill, or developmentally disabled. Congress defines "developmental disability" as a severe, chronic, and permanent disability due to a mental and/or physical impairment, manifested before age 22, that results in substantial functional limitations in at least three of the following major life activities: self-care, language, learning, mobility, capacity for independent living, economic self-sufficiency, and self-direction.

Traditionally, these special, "service-dependent" individuals were warehoused in large institutions. But as the professionals who work with these special populations came to understand them, they realized that large institutions hindered the recovery of the mentally ill and the progress of the developmentally disabled. If they are ever to overcome or cope with their conditions, these people need to live in a relatively normal household environment in the community.

The group home provides that setting. Depending on the size of the house, anywhere from two to about 15 service-dependent people live in the group home with professional staff, who function as surrogate parents. Residents and staff seek to emulate a traditional family. The group

home constitutes a single housekeeping unit in which residents share responsibilities, meals, and recreation.

The group home's primary purpose is to provide supervision and support, in a family-like setting, for persons unable to live independently in the community. It is not a clinic or hospital, where treatment is the principal or essential service. While a treatment regime may be incorporated into the daily routine of handicapped persons wherever they live—whether with their own families, in an institution, or in a group home—treatment is merely incidental to the group home's primary purpose of helping residents adjust to community living, and in many cases, to live on their own in the community.

Q Then why are group homes a zoning problem?

A Many zoning ordinances simply don't provide for group homes. When a group home sponsor seeks to open a group home under such an ordinance, city officials often stretch their imaginations to fit the proposed group home under the zoning definition of some other use. Most often, they'll call the group home a nursing home or hospital for the insane or feeble-minded.

Q We have to do that all the time with uses that didn't exist when our zoning ordinances were written. What's so bad about that?

A Group homes are not nursing homes



Photograph by Michael Portney

An ordinary dinner table? That's exactly the point for group home residents functioning as a family.

or hospitals. A group home is a residential use—a place where inhabitants live as a family, albeit a generic family, as one court put it. In contrast, nursing homes and hospitals are primarily medical institutions that provide no education or simulated family setting for patients. Group homes are most appropriate in residential areas, while nursing homes and hospitals belong in commercial areas.

Q Didn't the U.S. Supreme Court case deal with a Texas city that treated group homes for the developmentally disabled as a hospital for the feeble-minded?

A Yes, the zoning ordinance for Cleburne, Texas, didn't provide for group homes. So city officials decided that the Cleburne Living Center's proposed group home for 13 developmentally disabled adults would be treated as a "hospital for the insane or feeble-minded."

Q How did that decision lead all the way to the Supreme Court?

A Cleburne's zoning ordinance allows all hospitals, except those for the "insane or feeble-minded or alcoholics or drug addicts," as permitted uses in the R-3 residential zone where the Cleburne Living Center (CLC) sought to locate its group home. It also allows apartments, boarding and lodging houses, and fraternities, sororities, and dormitories as of right in that zone.

Although the proposed group home complied with all federal and state licens-

ing regulations that ensured the house itself would be adequate to house the 13 mentally retarded residents plus staff, Cleburne denied the special use permit application. CLC sued. While the federal district court found that the city's denial "was motivated primarily by the fact that the residents of the homes would be persons who are mentally retarded," it held that no fundamental rights had been violated and that the ordinance, as written and applied, was rationally related to the city's legitimate interests in "the legal responsibility of CLC and its residents, . . . the safety and fears of residents in the adjoining neighborhood," and the number of people to be housed in the home.

After the Fifth Circuit U.S. Court of Appeals reversed in favor of CLC, the city appealed to the U.S. Supreme Court. The Court unanimously invalidated the zoning ordinance as applied to CLC (although three justices would have invalidated the ordinance on its face) in: *City of Cleburne v. Cleburne Living Center*, 105 S.Ct. 3249 (1985).

The Court speaks

Q Why is this decision so important?

A The Court put cities on notice that they need a clear, rational reason if they want to treat group homes for the developmentally disabled (and probably for other service-dependent populations as

well) differently from other residential uses. The Court started its analysis by noting that the equal protection clause of the Fourteenth Amendment essentially requires that "all persons similarly situated should be treated alike."

Cleburne, though, had created a classification in which a group home for the mentally retarded must obtain a special use permit in an R-3 zone even though apartment houses, boarding and lodging houses, fraternity and sorority houses, nursing homes for the aged, and other specific uses were allowed as of right. Although a city's zoning ordinance is presumed valid, the classifications it creates must be "rationally related to a legitimate state interest" to be upheld.

The Court noted that while the "mentally retarded as a group are indeed different from others" who don't share "their misfortune" and are allowed to locate in an R-3 zone without a special use permit, "this difference is largely irrelevant unless the [group] home and those who would occupy it would threaten legitimate interests of the city in a way that other permitted uses such as boarding houses and hospitals would not." The Court searched the trial record and could find no rational basis to believe that the group home "would pose any threat to the city's legitimate interests."

Q You mean that none of the city's reasons for denying the special use permit were legitimate?

Open house at the Cleburne group home.



A Right. Opposition from neighbors, based on unsubstantiated fears, continues to be the major reason that cities deny special use permits for group homes. But the Court confirmed a long line of rulings that "mere negative attitudes, or fear, unsubstantiated by factors which are properly cognizable in a zoning proceeding, are not permissible bases for treating a home for the mentally retarded differently from apartment houses, multiple dwellings, and the like." While neighbors may have biases against group home residents, "the law cannot, directly or indirectly, give them effect."

The Court rejected all of the city's reasons for denying the permit. The city council had doubts about who had legal responsibility for the actions of the mentally retarded group home residents. But the Court found that the council had no concern about the legal responsibility for other uses permitted in the zoning district, such as boarding houses and fraternities. The Court could not see how the group home would present a hazard different from these other uses. Nor could the Court understand how the city could object to the location of the group home because it was on a 500-year floodplain, yet not be concerned about other uses located on the floodplain.

Q Given the Court's decision, for what reasons can a city deny a special use permit for a group home?

A Remember that the Court said the denial was based on prejudices and unsubstantiated fears. The most common fears are that group home residents will engage in criminal behavior, that the home will be poorly maintained, and that the mere presence of the home will depress property values in the neighborhood. If true, these are legitimate reasons to deny a special-use permit.

Q Can any of these fears be substantiated?

A So far, fairly extensive research says, "Not at all!" A large body of research shows that the mentally ill are no more criminally prone than the rest of us. And 66 years of studies have found the developmentally disabled to be harmless. The most pertinent study covered the state of Virginia. The *Report on the Incidence of Client Crime Within Community-Based Programming* (1979) found a crime rate of 0.8 percent among the developmentally disabled who lived in group homes, as compared to a four to six percent crime rate among the general population.

Q But what about property maintenance and property values?

A Every one of the 20 or so studies on this topic has found that group homes simply do not affect the selling prices of neighboring properties or the turnover rate of properties. The studies uniformly report that group homes are invariably well-maintained—often better maintained than

neighboring private homes. The few studies that have inquired have found that barely half the people on the same block know they exist, fewer than half on the next block know of them, and fewer than 30 percent of the residents three blocks away are aware of them. Small wonder that group homes have virtually no effect on property values.

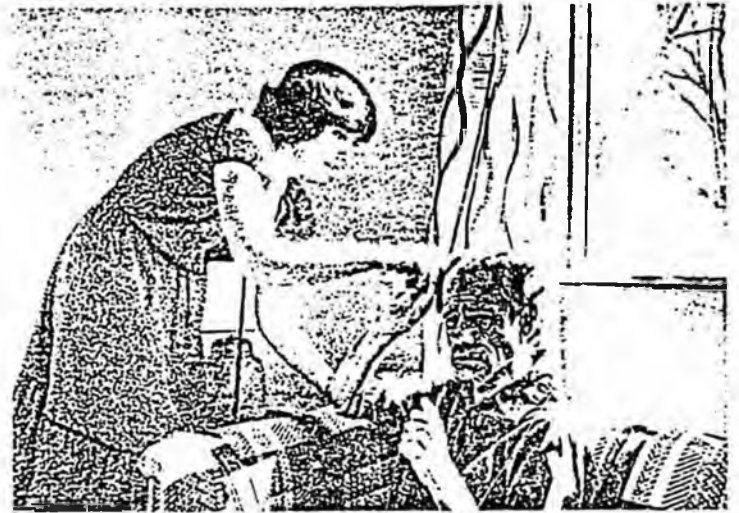
Q If group homes are so innocuous, why regulate them at all?

A One study did find that five group homes on the same block might, in fact, have an adverse effect on the neighborhood. Further, if large numbers of group homes cluster on the same block or in the same neighborhood, they could undermine a basic premise of group homes—namely that, to be effective, they must locate in "normal" residential neighborhoods where able-bodied neighbors can serve as role models for the disabled or mentally ill.

At some indeterminate point, the capacity of the neighborhood to absorb service-dependent people could be exceeded, and the proportion of service-dependent persons in the neighborhood could become so great as to recreate the institutional atmosphere from which the group home is supposed to provide an escape. So there is a need to ensure that group homes do not cluster on the same block and that they are spread throughout



People who might once have been institutionalized receive closer attention in group homes. Below, a visiting nurse in a Detroit-area group home.



the safe neighborhoods of a city.

For a variety of reasons, however, group homes frequently have been forced to cluster. As a 1983 study by the U.S. General Accounting Office reported, more than a third of the group homes for developmentally disabled persons were located within two blocks of another group home or an institution. A disproportionately high number of group homes locate in poor neighborhoods because political opposition to them is weak there and because they are excluded from better neighborhoods due to well-organized and politically powerful community opposition or exclusionary zoning.

To protect the welfare of group home residents, it is essential to ensure that group home operators comply with state or local licensing requirements. A zoning ordinance should not allow a group home to open unless it is licensed or will be licensed by the proper authority.

The bottom line

Q Given the *Cleburne* ruling, what's the bottom line? How should my city or county zone for group homes?

A In a word, rationally. The *Cleburne* decision is a bit deceptive. While the Court says it is applying the standard "rational relationship" test, its inquiry into *Cleburne's* reasons for denying the special use permit is really an example of the sort of heightened judicial scrutiny

usually reserved for cases of discrimination based on sex, race, or religion. The lesson of *Cleburne* is that the zoning provisions for group homes must be based on the sound planning principles that call for zoning provisions grounded in an understanding of what group homes are, what their impacts are, and the types of neighborhoods in which they function best.

Q What are these sound principles on which we should base our zoning provisions for group homes?

A There are four. By following them, you'll be able to write zoning provisions that should withstand even the Supreme Court's new version of the rational relationship test.

- Group homes, being residential in nature, are appropriate uses in all residential zoning districts.

- Group home residents are service-dependent persons who require special protection to ensure their safety in the home. Those protections—that the group home meet adequate safety, sanitation, and program standards—form the subject matter of licensing requirements.

However, the zoning ordinance is not the place to specify licensing criteria—that's the business of the licensing agency. One of the simplest ways to require licensing is to include the licensing requirement in your ordinance's definition of a group home.

- Controls are needed to prevent concentrations of group homes. Two types of controls will prevent clustering and ensure dispersal throughout a community. The first is a spacing requirement by which the zoning ordinance imposes a minimum distance between group homes and between group homes and institutions.

It is vital, however, that there be some rational basis for this distance. According to one widely accepted theory, the most elementary form of social impact is the degree to which neighborhood residents become aware of a change. Because the research shows that few residents living three blocks from a group home even know it exists, it seems appropriate to establish a spacing requirement equal to at least three city blocks so that each group home will be beyond the "impact area" of any other group home or institution.

However, the ability of a neighborhood to absorb service-dependent residents is thought to vary with density. Presumably, higher-density neighborhoods have a higher absorption level that would warrant a shorter spacing requirement than lower-density neighborhoods.

The Westchester County Planning Department has suggested spacing requirements of 1,500 to 3,000 feet for urban areas where the population density is less than 1,000 persons per square mile; 1,500 to 2,000 feet for densities of 1,000 to 4,999; 1,000 to 1,500 feet for den-

Teaching residents to function in the community is an important aspect of group homes.



sities of 5,000 to 9,999; and 800 to 400 feet for densities over 10,000 persons per square mile. In contrast, Evanston, Illinois, has arbitrarily established an unusually high 2,500-foot spacing requirement between group homes. With no rational reason for that great a distance in an inner-ring suburb like Evanston, *Cleburne*-style judicial review could invalidate Evanston's requirement.

The second control is a dispersal or density requirement that establishes a cap on the total population permitted to live in group homes and institutions in a designated geographic area. Ideally, this figure should approximate the proportion of service-dependent individuals a neighborhood can absorb. For example, if three percent of a state's population is service-dependent, the proportion of service-dependent population per census tract could be limited to three percent.

• Zoning should recognize that group homes come in different sizes. The smaller home, for six or fewer residents, is roughly the size of a large family. There is no sound planning reason not to allow such "family homes" in all residential zoning districts as of right as long as they obtain or prove they are eligible for a license, meet the specified spacing and density requirements, and obtain an administrative occupancy permit.

This permit is needed to ensure that the home complies with these requirements and to provide a record for the planning

agency so it can enforce spacing and density requirements. The ordinance should provide a special use permit process to allow for circumstances that might justify exceptions to the spacing and dispersal requirements for family homes. These should be similar to those suggested below for larger group homes.

Because group homes for seven to 15 persons exceed the size of all but the very largest families, municipalities should subject proposals for these "family group homes" to somewhat greater scrutiny than the smaller family homes. Family group homes, however, should be allowed in all residential districts as special uses. There's no sound planning principle for excluding family group homes from even the largest-lot single-family district. In fact, when the sponsoring agency can afford the cost, the larger houses in lowest-density districts offer excellent sites.

However, to minimize subjectivity and lessen the influence of fear, prejudice, and political pressure on decisions about group homes, the zoning ordinance should state reasonably objective relevant standards by which the special use permit application is to be evaluated. Appropriate standards should require the applicant to: obtain a license or evidence of eligibility for a license from the appropriate agency; meet specified spacing and density requirements; register with the municipality's planning department; submit a statement of the

exact nature of the home planned, the qualifications of the home operator, the type and number of personnel, and the number of residents; conform to the general zoning requirements for the residential district, with the exception of the number of unrelated individuals permitted and the off-street parking requirements; and conform, to the extent possible, to the type and outward appearance of the residences in the area.

The ordinance should allow for a waiver of the spacing and dispersal requirements under certain conditions. Primarily, the decision-making body must find that the cumulative effect of allowing the group home (in addition to existing group homes and institutions for service-dependent populations) will not alter the residential character of the neighborhood, create an institutional setting, nor exceed the capacities of existing community recreational and social service facilities.

Daniel Lauber, APA President, is a planning consultant and attorney who has been involved in zoning for group homes since 1974. His recent draft paper, *Toward a Sound Zoning Treatment of Group Homes for the Developmentally Disabled*, includes model definitions for a group home provision in a zoning ordinance. It is available for \$15 prepared from Planning Communications, 1035 Division, Evanston, IL 60202.

Dear Senator Fisher,

My husband and I are in the process of setting up a training facility for hearing ear dogs in Homer. So we are concerned about Senate Bill 1060 which provides equal access for guide dogs. We have identified five short comings of in the bill as it is now written.

First of all, the definition of a service animal needs to be clarified. Dogs are being trained to aid people in the major life activities of seeing, hearing, and mobility. We favor limiting the definition of service animals to dogs only.

Secondly, the bill needs to clarify just what a training facility is. Both John Leedum (who trains support dogs in Anchorage) and I have studied under one of the original hearing dog trainers, Donald P. MacMunn. The American Humane Society in Denver, Colorado has a listing of hearing ear dog training

facilities through out the United States.

Third, the bill should include some way in which a support dog can be identified. A number of different systems exist now in other states. Bright yellow or orange harnesses are used, as well as brass name plates on plain harnesses. Photo identification cards which picture the dog and the dog's owner or trainer are widely used. The identification card also lists the training facility and cites the law which gives the dog equal access. We recommend that because there is no standardized identification among states, that all the above listed be allowed until support dog programs of the country recommend standardization.

Fourth, because the identification card cites the law which gives the support dog equal access, the law should have a statutory title which makes it easily recognized as a law that grants equal access to support dogs.

SE

1

Lastly, the bill should also grant the support dog equal access when it is accompanied by its trainer. It is important that while in training the dog be taught how to behave in public buildings.

We would appreciate your support in passing this bill, and your consideration of these recommendations, as there will be increasing numbers of dogs assisting physically handicapped people.

Sincerely,
Wendy Stamm

P.S. If you have any questions, please feel free to contact me at 235-7690.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

②

REQUEST: _____

Bill Version: SB-1
Publish Date: 1-19-87

Revision Date: _____
Title: Rights of Physically and
Mentally Disabled Persons

Agency Affected: Office of the Governor
BRU: Commissions/Special Offices

Sponsor: Duncan and Szymanski
Requestor: Health, Education and Social
Services, Judiciary & Finance

Components: Human Rights Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		46.9	46.9	46.9	46.5	
TRAVEL		10.5	10.5	10.5	10.5	
CONTRACTUAL SUPPLIES						
EQUIPMENT		.5	.5	.5	.5	
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		57.9	57.9	57.9	57.9	

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		57.9	57.9	57.9	57.9	
FEDERAL FUNDS						
OTHER						
TOTAL		57.9	57.9	57.9	57.9	

POSITIONS:

FULL-TIME		1.0	1.0	1.0	1.0	
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Establish (1) PFT position HRFER III to handle the increased caseload (intake and processing) of complaints anticipated to be filed by disabled persons due to SB-1.

Prepared by: Michael A. Nizich, Director *Man*
Division: Administrative Services

Phone: 465-3616
Date: Feb. 2., 1987

Approved by Commissioner: Carol P. Kastelic *CPK*
Agency: Exec. Assistant, Office of the Governor

Date: Feb. 2, 1987

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

Original sponsors: Duncan, Szymanski,
Uehling and Sturgulewski

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR SENATE BILL NO. 1 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the rights of physically and
mentally disabled persons."

7

8

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

9

* Section 1. AS 09.20.010 is amended by adding new subsections to read:

10

(b) A person is not disqualified from serving as a juror solely

11

because of the loss of hearing or sight in any degree or a disability

12

that substantially impairs or interferes with the person's mobility.

13

(c) The court shall provide, and pay the cost of services of, an

14

interpreter or reader when necessary to enable a person with impaired

15

hearing or sight to act as a juror.

16

* Sec. 2. AS 09.65 is amended by adding a new section to read:

17

Sec. 09.65.150. DUTY TO DISABLED PEDESTRIANS. (a) The driver

18

of a vehicle approaching a physically disabled pedestrian who is

19

carrying a white or metallic-colored cane, or using special equipment

20

for mobility, or using a service animal, shall take precautions neces-

21

sary to avoid injury to the pedestrian or the service animal. A

22

driver who fails to take necessary precautions and, as a result,

23

causes injury to the pedestrian or the service animal is liable in

24

damages for the injury caused.

25

(b) In this section

26

(1) "physically disabled pedestrian" means a person who has

27

a physical condition that limits the person's ability to function as a

28

pedestrian without the assistance of another person, a service animal,

29

a cane, or other equipment or device;

1 (2) "service animal" means a dog guide or other animal that
2 assists a physically disabled person to function as a pedestrian.

3 * Sec. 3. AS 11.76 is amended by adding a new section to read:

4 Sec. 11.76.130. INTERFERENCE WITH RIGHTS OF DISABLED PERSON.

5 (a) A person commits the crime of interference with the rights of a
6 disabled person if the person prevents or restricts

7 (1) a physically or mentally disabled person from having
8 full and free pedestrian use of a street, highway, sidewalk, walkway,
9 or other thoroughfare, to the same extent that any other person has a
10 right to pedestrian use; or

11 (2) a physically disabled person from being accompanied or
12 assisted by a certified service animal, without an extra charge for
13 the service animal, in a common carrier, place of public accommoda-
14 tion, or other place to which the general public is invited, except as
15 provided in (b) of this section.

16 (b) A physically disabled person who is accompanied or assisted
17 by a certified service animal in a common carrier, place of public
18 accommodation, or other place to which the general public is invited,
19 is liable for property damage done by the animal.

20 (c) In this section

21 (1) "certified service animal" means an animal trained to
22 assist a physically disabled person and certified by a school or
23 training facility for service animals as having completed such train-
24 ing;

25 (2) "physically or mentally disabled" has the meaning given
26 in AS 18.80.300.

27 (d) Interference with the rights of a disabled person is a class
28 B misdemeanor.

29 * Sec. 4. AS 12.55.155(c)(22) is amended to read:

- 1 (22) the defendant knowingly directed the conduct consti-
2 tuting the offense at a victim because of that person's race, sex,
3 color, creed, physical or mental disability, ancestry, or national
4 origin;

5 * Sec. 5. AS 18.80.050 is amended by adding a new subsection to read:

6 (b) The commission shall adopt regulations relating to dis-
7 crimination because of physical and mental disability. The regula-
8 tions shall furnish guidance concerning the circumstances under which
9 it is necessary to make a reasonable accommodation for a physically or
10 mentally disabled person when providing employment, financing or
11 credit, public accommodations, the sale or rental of real property, or
12 other goods, services, facilities, advantages, or privileges under
13 this chapter.

14 * Sec. 6. AS 18.80.060(a) is amended to read:

15 (a) In addition to the other powers and duties prescribed by
16 this chapter the commission shall

17 (1) appoint an executive director approved by the governor;

18 (2) hire other administrative staff as may be necessary to
19 the commission's function;

20 (3) exercise general supervision and direct the activities
21 of the executive director and other administrative staff;

22 (4) accept complaints under AS 18.80.100;

23 (5) study the problems of discrimination in all or specific
24 fields of human relationships, and foster through community effort or
25 goodwill, cooperation and conciliation among the groups and elements
26 of the population of the state, and publish results of investigations
27 and research as in its judgment will tend to eliminate discrimination
28 because of race, religion, color, national ancestry, physical or
29 mental disability [HANDICAP], age, sex, marital status, changes in

1 marital status, pregnancy or parenthood;

2 (6) make an overall assessment, at least once every three
3 years, of the progress made toward equal employment opportunity by
4 every department of state government; results of the assessment shall
5 be included in the annual report made under AS 18.80.150.

6 * Sec. 7. AS 18.80.200 is amended to read:

7 Sec. 18.80.200. PURPOSE. (a) It is determined and declared as
8 a matter of legislative finding that discrimination against an inhabi-
9 tant of the state because of race, religion, color, national origin,
10 age, sex, physical or mental disability, marital status, changes in
11 marital status, pregnancy or parenthood is a matter of public concern
12 and that this discrimination not only threatens the rights and privi-
13 leges of the inhabitants of the state but also menaces the institu-
14 tions of the state and threatens peace, order, health, safety and
15 general welfare of the state and its inhabitants.

16 (b) Therefore, it is the policy of the state and the purpose of
17 this chapter to eliminate and prevent discrimination in employment, in
18 credit and financing practices, in places of public accommodation, in
19 the sale, lease, or rental of real property because of race, religion,
20 color, national origin, sex, age, physical or mental disability,
21 marital status, changes in marital status, pregnancy or parenthood.
22 It is also the policy of the state to encourage and enable physically
23 and mentally disabled persons to participate fully in the social and
24 economic life of the state and to engage in remunerative employment.
25 It is not the purpose of this chapter to supersede laws pertaining to
26 child labor, the age of majority or other age restrictions or require-
27 ments.

28 * Sec. 8. AS 18.80.210 is amended to read:

29 Sec. 18.80.210. CIVIL RIGHTS. The opportunity to obtain

1 employment, credit and financing, public accommodations, housing
2 accommodations and other property without discrimination because of
3 sex, physical or mental disability, marital status, changes in marital
4 status, pregnancy, parenthood, race, religion, color or national
5 origin is a civil right.

6 * Sec. 9. AS 18.80.220(a) is amended to read:

7 (a) It is unlawful for

8 (1) an employer to refuse employment to a person, or to bar
9 a person from employment, or to discriminate against a person in
10 compensation or in a term, condition, or privilege of employment
11 because of the person's race, religion, color or national origin, or
12 because of the person's age, physical or mental disability [HANDICAP],
13 sex, marital status, changes in marital status, pregnancy or parent-
14 hood when the reasonable demands of the position do not require dis-
15 tinction on the basis of age, physical or mental disability [HANDI-
16 CAP], sex, marital status, changes in marital status, pregnancy or
17 parenthood;

18 (2) a labor organization, because of a person's sex, mari-
19 tal status, changes in marital status, pregnancy, parenthood, age,
20 race, religion, physical or mental disability, color or national
21 origin, to exclude or to expel a person from its membership, or to
22 discriminate in any way against one of its members or an employer or
23 an employee;

24 (3) an employer or employment agency to print or circulate
25 or cause to be printed or circulated a statement, advertisement, or
26 publication, or to use a form of application for employment or to make
27 an inquiry in connection with prospective employment, which expresses,
28 directly or indirectly, a limitation, specification or discrimination
29 as to sex, physical or mental disability, marital status, changes in

1 marital status, pregnancy, parenthood, age, race, creed, color or
2 national origin, or an intent to make the limitation, unless based
3 upon a bona fide occupational qualification;

4 (4) an employer, labor organization or employment agency to
5 discharge, expel or otherwise discriminate against a person because
6 the person has opposed any practices forbidden under AS 18.80.200 -
7 18.80.280 or because the person has filed a complaint, testified or
8 assisted in a proceeding under this chapter;

9 (5) an employer to discriminate in the payment of wages as
10 between the sexes, or to employ a female in an occupation in this
11 state at a salary or wage rate less than that paid to a male employee
12 for work of comparable character or work in the same operation, busi-
13 ness or type of work in the same locality; or

14 (6) a person to print, publish, broadcast or otherwise
15 circulate a statement, inquiry or advertisement in connection with
16 prospective employment that expresses directly, a limitation, speci-
17 fication or discrimination as to sex, physical or mental disability,
18 marital status, changes in marital status, pregnancy, parenthood, age,
19 race, religion, color or national origin, unless based upon a bona
20 fide occupational qualification.

21 * Sec. 10. AS 18.80.230 is amended to read:

22 Sec. 18.80.230. UNLAWFUL PRACTICES IN PLACES OF PUBLIC ACCOMMO-
23 DATION. It is unlawful for the owner, lessee, manager, agent or
24 employee of a public accommodation

25 (1) to refuse, withhold from or deny to a person any of its
26 services, goods, facilities, advantages or privileges because of sex,
27 physical or mental disability, marital status, changes in marital
28 status, pregnancy, parenthood, race, religion, color or national
29 origin;

1 (2) to publish, circulate, issue, display, post or mail a
2 written or printed communication, notice or advertisement that states
3 or implies

4 (A) that any of the services, goods, facilities,
5 advantages or privileges of the public accommodation will be
6 refused, withheld from or denied to a person of a certain race,
7 religion, sex, physical or mental disability, marital status,
8 color or national origin or because of pregnancy, parenthood, or
9 a change in marital status, or

10 (B) that the patronage of a person belonging to a
11 particular race, creed, sex, marital status, color or national
12 origin or who, because of pregnancy, parenthood, physical or
13 mental disability, or a change in marital status, is unwelcome,
14 not desired or solicited.

15 * Sec. 11. AS 18.80.240 is amended to read:

16 Sec. 18.80.240. UNLAWFUL PRACTICES IN THE SALE OR RENTAL OF REAL
17 PROPERTY. It is unlawful for the owner, lessee, manager or other
18 person having the right to sell, lease or rent real property

19 (1) to refuse to sell, lease or rent the real property to a
20 person because of sex, marital status, changes in marital status,
21 pregnancy, race, religion, physical or mental disability, color or
22 national origin; however, nothing in this paragraph prohibits the
23 sale, lease or rental of classes of real property commonly known as
24 housing for "singles" or "married couples" only;

25 (2) to discriminate against a person because of sex, mari-
26 tal status, changes in marital status, pregnancy, race, religion,
27 physical or mental disability, color or national origin in a term,
28 condition or privilege relating to the use, sale, lease or rental of
29 real property; however, nothing in this paragraph prohibits the sale,

1 lease or rental of classes of real property commonly known as housing
2 for "singles" or "married couples" only;

3 (3) to make a written or oral inquiry or record of the sex,
4 marital status, changes in marital status, race, religion, physical or
5 mental disability, color or national origin of a person seeking to
6 buy, lease or rent real property;

7 (4) to offer, solicit, accept, use or retain a listing of
8 real property with the understanding that a person may be discrimin-
9 ated against in a real estate transaction or in the furnishing of
10 facilities or sources in connection therewith because of a person's
11 sex, marital status, changes in marital status, pregnancy, race,
12 religion, physical or mental disability, color, national origin or
13 age;

14 (5) to represent to a person that real property is not
15 available for inspection, sale, rental, or lease when in fact it is so
16 available, or to refuse to allow a person to inspect real property
17 because of the race, religion, physical or mental disability, color,
18 national origin, age, sex, marital status, change in marital status or
19 pregnancy of that person or of any person associated with that person;

20 (6) to engage in blockbusting;

21 (7) to make, print or publish, or cause to be made, printed
22 or published, any notice, statement or advertisement, with respect to
23 the sale or rental of real property that indicates any preference,
24 limitation, or discrimination based on race, color, religion, physical
25 or mental disability, sex, or national origin, or an intention to make
26 the preference, limitation or discrimination.

27 * Sec. 12. AS 18.80.250(a) is amended to read:

28 (a) It is unlawful for a financial institution or other commer-
29 cial institution extending secured or unsecured credit, upon receiving

1 an application for financial assistance or credit for the acquisition,
2 construction, rehabilitation, repair or maintenance of a housing
3 accommodation or other property or services, or the acquisition or
4 improvement of unimproved property, or upon receiving an application
5 for any sort of loan of money, to permit one of its officials or
6 employees during the execution of the official's or the employee's
7 duties

8 (1) to discriminate against the applicant because of sex,
9 physical or mental disability, marital status, changes in marital
10 status, pregnancy, parenthood, race, religion, color or national
11 origin in a term, condition or privilege relating to the obtainment or
12 use of the institution's financial assistance or credit, except to the
13 extent of a Federal statute or regulation applicable to a transaction
14 of the same character;

15 (2) to make or cause to be made a written or oral inquiry
16 or record of the sex, physical or mental disability, marital status,
17 changes in marital status, pregnancy, parenthood, race, religion,
18 color or national origin of a person seeking the institution's finan-
19 cial assistance or credit, unless the inquiry is for the purpose of
20 ascertaining the creditor's rights and remedies applicable to the
21 particular extension of credit and is not made or used in order to
22 discriminate in a determination of creditworthiness;

23 (3) to refuse to extend credit, issue a credit card or make
24 a loan to a married person or a person with a physical or mental
25 disability, who is otherwise creditworthy, if so requested by the
26 person;

27 (4) to refuse to issue a credit card to a married person in
28 that person's name, if so requested by the person, provided, however,
29 that the person so requesting a card may be required to open an

1 account in that name.

2 * Sec. 13. AS 18.80.255 is amended to read:

3 Sec. 18.80.255. UNLAWFUL PRACTICES BY THE STATE OR ITS POLITICAL
4 SUBDIVISIONS. It is unlawful for the state or any of its political
5 subdivisions

6 (1) to refuse, withhold from or deny to a person any local,
7 state or federal funds, services, goods, facilities, advantages or
8 privileges because of race, religion, sex, color or national origin;

9 (2) to publish, circulate, issue, display, post or mail a
10 written or printed communication, notice or advertisement that states
11 or implies that any local, state or federal funds, services, goods,
12 facilities, advantages or privileges of the office or agency will be
13 refused, withheld from or denied to a physically or mentally disabled
14 person or a person of a certain race, religion, sex, color or national
15 origin or that the patronage of a physically or mentally disabled
16 person or a person belonging to a particular race, creed, sex, color
17 or national origin is unwelcome, not desired or solicited; it is not
18 unlawful to post notice that facilities to accommodate the physically
19 or mentally disabled are not available;

20 (3) to refuse or deny to a person any local, state, or
21 federal funds, services, goods, facilities, advantages or privileges
22 because of physical or mental disability.

23 * Sec. 14. AS 18.80.300 is amended by adding new paragraphs to read:

24 (15) "major life activities" means functions such as caring
25 for one's self, performing manual tasks, walking, seeing, hearing,
26 speaking, breathing, learning, and working;

27 (16) "physical or mental disability" means

28 (A) a physical or mental impairment that substantially
29 limits one or more major life activities,

1 (B) a history of, or a misclassification as having, a
2 mental or physical impairment that substantially limits one or
3 more major life activities; or

4 (C) having

5 (i) a physical or mental impairment that does not
6 substantially limit a person's major life activities but
7 that is treated by the person as constituting such a limita-
8 tion;

9 (ii) a physical or mental impairment that sub-
10 stantially limits a person's major life activities only as a
11 result of the attitudes of others toward the impairment; or

12 (iii) none of the impairments defined in this
13 paragraph but being treated by others as having such an
14 impairment;

15 (D) a condition that may require the use of a prosthe-
16 sis, special equipment for mobility or service animal;

17 (17) "physical or mental impairment" means

18 (A) physiological disorder or condition, cosmetic
19 disfigurement, or anatomical loss affecting one or more of the
20 following body systems: neurological, musculoskeletal, special
21 sense organs, respiratory including speech organs, cardiovascu-
22 lar, reproductive, digestive, genito-urinary, hemic and lymph-
23 atic, skin, and endocrine; or

24 (B) mental or psychological disorder, including mental
25 retardation, organic brain syndrome, emotional or mental illness,
26 and specific learning disabilities.

27 * Sec. 15. AS 18.06 and AS 18.80.300(11) are repealed.

1. IN THE SENATE

BY DUNCAN AND SZYMANSKI

2

SENATE BILL NO. 1

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the rights of physically and
7 mentally disabled persons."

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

9 * Section 1. AS 09.20.010 is amended by adding new subsections to read:

10 (b) A person is not disqualified from serving as a juror solely
11 because of the loss of hearing or sight in any degree or a disability
12 that substantially impairs or interferes with the person's mobility.

13 (c) The court shall provide, and pay the cost of services of, an
14 interpreter or reader when necessary to enable a person with impaired
15 hearing or sight to act as a juror.

16 * Sec. 2. AS 12.55.155(c)(22) is amended to read:

17 (22) the defendant knowingly directed the conduct consti-
18 tuting the offense at a victim because of that person's race, sex,
19 color, creed, physical or mental disability, ancestry, or national
20 origin;

21 * Sec. 3. AS 18.06.010 is amended to read:

22 Sec. 18.06.010. STATE POLICY. It is the policy of this state to
23 encourage and enable the [BLIND, THE VISUALLY HANDICAPPED, AND THE
24 OTHERWISE] physically or mentally disabled to participate fully in the
25 social and economic life of the state and to engage in remunerative
26 employment.

27 * Sec. 4. AS 18.06.020 is amended to read:

28 Sec. 18.06.020. RIGHTS. (a) The [BLIND, THE VISUALLY HANDI-
29 CAPPED, AND THE OTHERWISE] physically or mentally disabled have the

1 same right as the able-bodied to the full and free pedestrian use of
2 the streets, highways, sidewalks, walkways, public buildings, public
3 facilities, and other public places.

4 (b) The [BLIND, THE VISUALLY HANDICAPPED, AND THE OTHERWISE]
5 physically or mentally disabled are entitled to full and equal accom-
6 modations, advantages, facilities, and privileges of all common carri-
7 ers, airplanes, motor vehicles, railroad trains, motor buses, street
8 cars, boats or any other public conveyances or modes of transporta-
9 tion, hotels, lodging places, places of public accommodation, amuse-
10 ment or resort, and other places to which the general public is invit-
11 ed, subject only to the conditions and limitations established by law
12 and applicable alike to all persons.

13 (c) Persons who are physically or mentally disabled [TOTALLY OR
14 PARTIALLY BLIND PERSONS] have the right to be accompanied or assisted
15 by a service animal that is certified by a training facility for
16 service animals as being able to function in a public setting [GUIDE
17 DOG, ESPECIALLY TRAINED FOR THE PURPOSE], in any of the places listed
18 in (b) of this section without being required to pay an extra charge
19 for the service animal [GUIDE DOG]; however, the person with the
20 animal [GUIDE DOG] is liable for any damage done to the premises or
21 facilities by the animal [DOG].

22 * Sec. 5. AS 18.06.030 is amended to read:

23 Sec. 18.06.030. RIGHTS AS PEDESTRIANS. The driver of a motor
24 vehicle approaching a physically or mentally disabled [TOTALLY OR
25 PARTIALLY BLIND] pedestrian who is carrying a cane predominantly white
26 or metallic in color, with or without a red tip, using special equip-
27 ment for mobility, or using a service animal [GUIDE DOG] shall take
28 all necessary precautions to avoid injury to the pedestrian. A [, AND
29 A] driver who fails to take all necessary precautions and causes

1 injury to the pedestrian is liable in damages for the injury caused.
2 A physically or mentally disabled [TOTALLY BLIND OR PARTIALLY BLIND]
3 pedestrian not carrying a cane as described in this section or using
4 special equipment for mobility or a service animal [GUIDE DOG] in any
5 of the places, accommodations or conveyances set out under
6 AS 18.06.020 has all of the rights and privileges conferred by law
7 upon other persons. The [, AND THE] failure of a physically or
8 mentally disabled [TOTALLY OR PARTIALLY BLIND] pedestrian to carry a
9 cane as described in this section or to use special equipment for
10 mobility or a service animal [GUIDE DOG] is not by itself evidence of
11 [CONTRIBUTORY] negligence.

12 * Sec. 6. AS 18.06.040 is amended 'o read:

13 Sec. 18.06.C40. ENFORCEMENT AND PENALTY [FOR DENYING RIGHTS].
14 The state Human Rights Commission shall enforce this chapter. A
15 person who denies or interferes with admittance to or enjoyment of the
16 public facilities set out in AS 18.06.020 or otherwise interferes with
17 the rights of a physically or mentally [TOTALLY OR PARTIALLY BLIND OR
18 OTHERWISE] disabled person is guilty of a class B misdemeanor [AND
19 UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN \$1,000, OR BY
20 IMPRISONMENT FOR NOT MORE THAN 60 DAYS, OR BY BOTH].

21 * Sec. 7. AS 18.06.050 is amended to read:

22 Sec. 18.06.050. DEFINITIONS. In this chapter "physically or
23 mentally disabled" has the meaning given in AS 18.80.300 [TOTALLY
24 BLIND" OR "PARTIALLY BLIND" MEANS A PERSON WHOSE VISUAL ACUITY DOES
25 NOT EXCEED 20/200 IN THE BETTER EYE WITH CORRECTING LENSES OR WHOSE
26 WIDEST DIAMETER OF VISUAL FIELD SUBTENDS AN ANGLE NO GREATER THAN 20
27 DEGREES].

28 * Sec. 8. AS 18.80.050 is amended by adding a new subsection to read:

29 (b) The commission shall adopt regulations relating to

1 discrimination because of physical and mental disability. The regula-
2 tions shall furnish guidance concerning the circumstances under which
3 it is permissible, appropriate, and relevant to consider a person's
4 physical or mental disability in deciding whether to provide the
5 person with employment, credit, financing, public accommodations,
6 housing accommodations, or other goods or services under this chapter.

7 * Sec. 9. AS 18.80.060(a) is amended to read:

8 (a) In addition to the other powers and duties prescribed by
9 this chapter the commission shall

10 (1) appoint an executive director approved by the governor;

11 (2) hire other administrative staff as may be necessary to
12 the commission's function;

13 (3) exercise general supervision and direct the activities
14 of the executive director and other administrative staff;

15 (4) accept complaints under AS 18.80.100;

16 (5) study the problems of discrimination in all or specific
17 fields of human relationships, and foster through community effort or
18 goodwill, cooperation and conciliation among the groups and elements
19 of the population of the state, and publish results of investigations
20 and research as in its judgment will tend to eliminate discrimination
21 because of race, religion, color, national ancestry, physical or
22 mental disability [HANDICAP], age, sex, marital status, changes in
23 marital status, pregnancy or parenthood;

24 (6) make an overall assessment, at least once every three
25 years, of the progress made toward equal employment opportunity by
26 every department of state government; results of the assessment shall
27 be included in the annual report made under AS 18.80.150;

28 (7) enforce AS 18.06.

29 * Sec. 10. AS 18.80.200 is amended to read:

1 Sec. 18.80.200. PURPOSE. (a) It is determined and declared as
2 a matter of legislative finding that discrimination against an inhabi-
3 tant of the state because of race, religion, color, national origin,
4 age, sex, physical or mental disability, marital status, changes in
5 marital status, pregnancy or parenthood is a matter of public concern
6 and that this discrimination not only threatens the rights and privi-
7 leges of the inhabitants of the state but also menaces the institu-
8 tions of the state and threatens peace, order, health, safety and
9 general welfare of the state and its inhabitants.

10 (b) Therefore, it is the policy of the state and the purpose of
11 this chapter to eliminate and prevent discrimination in employment, in
12 credit and financing practices, in places of public accommodation, in
13 the sale, lease, or rental of real property because of race, religion,
14 color, national origin, sex, age, physical or mental disability,
15 marital status, changes in marital status, pregnancy or parenthood.
16 It is also the purpose of this chapter to eliminate or prevent dis-
17 crimination resulting from ignorance or misconceptions concerning the
18 nature and effects of physical and mental disabilities. It is not the
19 purpose of this chapter to supersede laws pertaining to child labor,
20 the age of majority or other age restrictions or requirements.

21 * Sec. 11. AS 18.80.210 is amended to read:

22 Sec. 18.80.210. CIVIL RIGHTS. The opportunity to obtain em-
23 ployment, credit and financing, public accommodations, housing accom-
24 modations and other property without discrimination because of sex,
25 physical or mental disability, marital status, changes in marital
26 status, pregnancy, parenthood, race, religion, color or national
27 origin is a civil right.

28 * Sec. 12. AS 18.80.220(a) is amended to read:

29 (a) It is unlawful for

1 (1) an employer to refuse employment to a person, or to bar
2 a person from employment, or to discriminate against a person in
3 compensation or in a term, condition, or privilege of employment
4 because of the person's race, religion, color or national origin, or
5 because of the person's age, physical or mental disability [HANDICAP],
6 sex, marital status, changes in marital status, pregnancy or parent-
7 hood when the reasonable demands of the position do not require dis-
8 tinction on the basis of age, physical or mental disability [HANDI-
9 CAP], sex, marital status, changes in marital status, pregnancy or
10 parenthood;

11 (2) a labor organization, because of a person's sex, mari-
12 tal status, changes in marital status, pregnancy, parenthood, age,
13 race, religion, physical or mental disability, color or national
14 origin, to exclude or to expel a person from its membership, or to
15 discriminate in any way against one of its members or an employer or
16 an employee;

17 (3) an employer or employment agency to print or circulate
18 or cause to be printed or circulated a statement, advertisement, or
19 publication, or to use a form of application for employment or to make
20 an inquiry in connection with prospective employment, which expresses,
21 directly or indirectly, a limitation, specification or discrimination
22 as to sex, physical or mental disability, marital status, changes in
23 marital status, pregnancy, parenthood, age, race, creed, color or
24 national origin, or an intent to make the limitation, unless based
25 upon a bona fide occupational qualification;

26 (4) an employer, labor organization or employment agency to
27 discharge, expel or otherwise discriminate against a person because
28 the person has opposed any practices forbidden under AS 18.80.200 -
29 18.80.280 or because the person [HE] has filed a complaint, testified

1 or assisted in a proceeding under this chapter;

2 (5) an employer to discriminate in the payment of wages as
3 between the sexes, or to employ a female in an occupation in this
4 state at a salary or wage rate less than that paid to a male employee
5 for work of comparable character or work in the same operation, busi-
6 ness or type of work in the same locality; or

7 (6) a person to print, publish, broadcast or otherwise
8 circulate a statement, inquiry or advertisement in connection with
9 prospective employment that expresses directly, a limitation, speci-
10 fication or discrimination as to sex, physical or mental disability,
11 marital status, changes in marital status, pregnancy, parenthood, age,
12 race, religion, color or national origin, unless based upon a bona
13 fide occupational qualification.

14 * Sec. 13. AS 18.80.230 is amended to read:

15 Sec. 18.80.230. UNLAWFUL PRACTICES IN PLACES OF PUBLIC ACCOMMO-
16 DATION. It is unlawful for the owner, lessee, manager, agent or
17 employee of a public accommodation

18 (1) to refuse, withhold from or deny to a person any of its
19 services, goods, facilities, advantages or privileges because of sex,
20 physical or mental disability, marital status, changes in marital
21 status, pregnancy, parenthood, race, religion, color or national
22 origin;

23 (2) to publish, circulate, issue, display, post or mail a
24 written or printed communication, notice or advertisement that states
25 or implies

26 (A) that any of the services, goods, facilities,
27 advantages or privileges of the public accommodation will be
28 refused, withheld from or denied to a person of a certain race,
29 religion, sex, physical or mental disability, marital status,

1 color or national origin or because of pregnancy, parenthood, or
2 a change in marital status, or

3 (B) that the patronage of a person belonging to a
4 particular race, creed, sex, marital status, color or national
5 origin or who, because of pregnancy, parenthood, physical or
6 mental disability, or a change in marital status, is unwelcome,
7 not desired or solicited.

8 * Sec. 14. AS 18.80.240 is amended to read:

9 Sec. 18.80.240. UNLAWFUL PRACTICES IN THE SALE OR RENTAL OF REAL
10 PROPERTY. It is unlawful for the owner, lessee, manager or other
11 person having the right to sell, lease or rent real property

12 (1) to refuse to sell, lease or rent the real property to a
13 person because of sex, marital status, changes in marital status,
14 pregnancy, race, religion, physical or mental disability, color or
15 national origin; however, nothing in this paragraph prohibits the
16 sale, lease or rental of classes of real property commonly known as
17 housing for "singles" or "married couples" only;

18 (2) to discriminate against a person because of sex, mari-
19 tal status, changes in marital status, pregnancy, race, religion,
20 physical or mental disability, color or national origin in a term,
21 condition or privilege relating to the use, sale, lease or rental of
22 real property; however, nothing in this paragraph prohibits the sale,
23 lease or rental of classes of real property commonly known as housing
24 for "singles" or "married couples" only;

25 (3) to make a written or oral inquiry or record of the sex,
26 marital status, changes in marital status, race, religion, physical or
27 mental disability, color or national origin of a person seeking to
28 buy, lease or rent real property;

29 (4) to offer, solicit, accept, use or retain a listing of

1 real property with the understanding that a person may be discrimi-
2 ated against in a real estate transaction or in the furnishing of
3 facilities or sources in connection therewith because of a person's
4 sex, marital status, changes in marital status, pregnancy, race,
5 religion, physical or mental disability, color, national origin or
6 age;

7 (5) to represent to a person that real property is not
8 available for inspection, sale, rental, or lease when in fact it is so
9 available, or to refuse to allow a person to inspect real property
10 because of the race, religion, physical or mental disability, color,
11 national origin, age, sex, marital status, change in marital status or
12 pregnancy of that person or of any person associated with that person;

13 (6) to engage in blockbusting;

14 (7) to make, print or publish, or cause to be made, printed
15 or published, any notice, statement or advertisement, with respect to
16 the sale or rental of real property that indicates any preference,
17 limitation, or discrimination based on race, color, religion, physical
18 or mental disability, sex, or national origin, or an intention to make
19 the preference, limitation or discrimination.

20 * Sec. 15. AS 18.80.250(a) is amended to read:

21 (a) It is unlawful for a financial institution or other commer-
22 cial institution extending secured or unsecured credit, upon receiving
23 an application for financial assistance or credit for the acquisition,
24 construction, rehabilitation, repair or maintenance of a housing
25 accommodation or other property or services, or the acquisition or
26 improvement of unimproved property, or upon receiving an application
27 for any sort of loan of money, to permit one of its officials or
28 employees during the execution of the official's or the employee's
29 duties

1 (1) to discriminate against the applicant because of sex,
2 physical or mental disability, marital status, changes in marital
3 status, pregnancy, parenthood, race, religion, color or national
4 origin in a term, condition or privilege relating to the obtainment or
5 use of the institution's financial assistance or credit, except to the
6 extent of a federal statute or regulation applicable to a transaction
7 of the same character;

8 (2) to make or cause to be made a written or oral inquiry
9 or record of the sex, physical or mental disability, marital status,
10 changes in marital status, pregnancy, parenthood, race, religion,
11 color or national origin of a person seeking the institution's finan-
12 cial assistance or credit, unless the inquiry is for the purpose of
13 ascertaining the creditor's rights and remedies applicable to the
14 particular extension of credit and is not made or used in order to
15 discriminate in a determination of creditworthiness;

16 (3) to refuse to extend credit, issue a credit card or make
17 a loan to a married person or a person with a physical or mental
18 disability, who is otherwise creditworthy, if so requested by the
19 person;

20 (4) to refuse to issue a credit card to a married person in
21 that person's name, if so requested by the person, provided, however,
22 that the person so requesting a card may be required to open an ac-
23 count in that name.

24 * Sec. 16. AS 18.80.255 is amended to read:

25 Sec. 18.80.255. UNLAWFUL PRACTICES BY THE STATE OR ITS POLITICAL
26 SUBDIVISIONS. It is unlawful for the state or any of its political
27 subdivisions

28 (1) to refuse, withhold from or deny to a person any local,
29 state or federal funds, services, goods, facilities, advantages or

1 privileges because of race, religion, sex, color or national origin;

2 (2) to publish, circulate, issue, display, post or mail a
3 written or printed communication, notice or advertisement that states
4 or implies that any local, state or federal funds, services, goods,
5 facilities, advantages or privileges of the office or agency will be
6 refused, withheld from or denied to a physically or mentally disabled
7 person or a person of a certain race, religion, sex, color or national
8 origin or that the patronage of a physically or mentally disabled
9 person or a person belonging to a particular race, creed, sex, color
10 or national origin is unwelcome, not desired or solicited; it is not
11 unlawful to post notice that facilities to accommodate the physically
12 or mentally disabled are not available;

13 (3) to refuse or deny to a person any local, state, or
14 federal funds, services, goods, facilities, advantages or privileges
15 because of physical or mental disability.

16 * Sec. 17. AS 18.80 is amended by adding a new section to read:

17 Sec. 18.80.256. ALTERATIONS NOT REQUIRED. This chapter may not
18 be construed to require, or affect other laws that require or provide
19 for, the alteration or remodeling of buildings, facilities, or vehi-
20 cles in order to provide access to or accommodate the needs of a
21 person with a physical disability.

22 * Sec. 13. AS 18.80.300 is amended by adding new paragraphs to read:

23 (15) "major life activities" means functions such as caring
24 for one's self, performing manual tasks, walking, seeing, hearing,
25 speaking, breathing, learning, and working;

26 (16) "physical or mental disability" means

27 (A) a physical or mental impairment that substantially
28 limits one or more major life activities,

29 (B) a history of, or a misclassification as having, a

1 mental or physical impairment that substantially limits one or
2 more major life activities; or

3 (C) having

4 (i) a physical or mental impairment that does not
5 substantially limit a person's major life activities but
6 that is treated by the person as constituting such a limita-
7 tion;

8 (ii) a physical or mental impairment that sub-
9 stantially limits a person's major life activities only as a
10 result of the attitudes of others toward the impairment; or

11 (iii) none of the impairments defined in this
12 paragraph but being treated by others as having such an
13 impairment;

14 (D) a condition that may require the use of a prosthe-
15 sis, special equipment for mobility or service animal;

16 (17) "physical or mental impairment" means

17 (A) physiological disorder or condition, cosmetic
18 disfigurement, or anatomical loss affecting one or more of the
19 following body systems: neurological, musculoskeletal, special
20 sense organs, respiratory including speech organs, cardiovascu-
21 lar, reproductive, digestive, genito-urinary, hemic and lymph-
22 atic, skin, and endocrine; or

23 (B) mental or psychological disorder, including mental
24 retardation, organic brain syndrome, emotional or mental illness,
25 and specific learning disabilities.

26 * Sec. 19. AS 18.80.300(13) is repealed.

SENATE COMMITTEE REPORT

FURTHER:

FINANCE

3/5/87

DATE TURNED INTO OFFICE _____

Mr. President:

JUDICIARY Committee considered SB 1

rights of physically and mentally disabled persons.

and recommended:

replace with CS FOR SB 1 (JUDIC)) same title
 or adopt _____ CS FOR _____) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new updated or previous
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Pat Kodes
Geoff Jacobson
Rick Holford

J. Kuntz De Ross
Chairman signature and recommendation

Committee Backup Attached

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 1/29/87 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: JUDICIARY
FINANCE

**FISCAL NOTE(S) ATTACHED 3 **
IN ACCORDANCE WITH AS 24.08.035
(see below)

1/19/87

DATE TURNED INTO OFFICE 3/24/87

Mr. President:

HESS Committee considered SB 1

relating to the rights of physically and mentally disabled persons.

and recommended:

[] replace with CS SB 1 (HESS) same title
[] attached amendment(s) and [] new title

do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to _____

[] letter of intent adopted and attached

** Committee attached or [] adopted fiscal note(s)
1 zero 2 fiscal impact zero

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]
[Signature]
[Signature]

Paul A. Frank Do Pass
Chairman signature and recommendation

[] Committee Backup Attached