

**ALASKA LEGISLATURE**

**1196**

**HOUSE and SENATE FINANCE COMMITTEE FILES,**

**1993-1994**

270

1 purposes of this paragraph [SUBSECTION];

2 (2) [. THE DEPARTMENT MAY NOT ENTER INTO AN  
3 AGREEMENT] under this subsection if the optional renewal period provided for  
4 [ALLOWED] under the agreement exceeds two years. [IN THIS SUBSECTION,  
5 "TERM" INCLUDES DEFINED RENEWAL OPTIONS.]

6 \* Sec. 7. AS 36.30 is amended by adding a new section to read:

7 Sec. 36.30.085. LEASE-PURCHASE AGREEMENTS. (a) To perform its  
8 duties and statutory functions, the department, th Board of Regents of the University  
9 of Alaska, the legislative council, or the supreme court may enter into lease-purchase  
10 agreements. The department, the Board of Regents, the legislative council, or the  
11 supreme court may enter into a lease-purchase agreement only if the department, the  
12 Board of Regents, the legislative council, or the supreme court is the lessee under the  
13 agreement.

14 (b) When evaluating proposals to acquire property under a lease-purchase  
15 agreement, the department, the Board of Regents, the legislative council, or the  
16 supreme court shall consider

17 (1) in addition to lease costs, the life cycle costs, function, indoor  
18 environment, public convenience, planning, design, appearance, and location of the  
19 property proposed for acquisition; and

20 (2) whether acquisition of the property by lease-purchase agreement is  
21 likely to be the least costly means to provide the space.

22 (c) A lease-purchase agreement

23 (1) may not provide for a period of occupancy under the full term of  
24 the lease-purchase agreement that is greater than 40 years;

25 (2) must provide that lease payments made by the department, the  
26 Board of Regents, the legislative council, or the supreme court are subject to annual  
27 appropriation.

28 (d) If the department, Board of Regents, legislative council, or supreme court  
29 intends to enter into or renew a lease-purchase agreement for real property, the  
30 department, Board of Regents, legislative council, or supreme court shall provide  
31 notice to the legislature. The notice must include the

1 (1) anticipated total construction, acquisition, or other costs of the  
2 project;

3 (2) anticipated annual amount of the rental obligation; and

4 (3) total lease payments for the full term of the lease-purchase  
5 agreement.

6 (e) The department, the Board of Regents, the legislative council, or the  
7 supreme court may not enter into a lease-purchase agreement unless the project has  
8 been approved by the legislature by law.

9 (f) The provisions of (d) and (e) of this section do not apply to a lease-  
10 purchase agreement

11 (1) related to the refinancing of an outstanding balance owing on an  
12 existing lease-purchase agreement; or

13 (2) by the University of Alaska if the lease-purchase agreement is  
14 secured by student fees or university receipts as defined in AS 14.40.491.

15 (g) In this section,

16 (1) "full term of the lease-purchase agreement" includes all renewal  
17 options that are defined within the lease-purchase agreement;

18 (2) "lease-purchase agreement" includes a lease-financing agreement.

19 \* Sec. 8. AS 36.30.850(b)(5) is amended to read:

20 (5) acquisitions or disposals of real property or interest in real property,  
21 except as provided in AS 36.30.080 and 36.30.085;

22 \* Sec. 9. AS 36.30.850(c) is amended to read:

23 (c) Except for AS 36.30.085 and 36.30.700 - 36.30.790 [AS 36.30.700 -  
24 36.30.790], this chapter does not apply to contracts between two or more agencies, the  
25 state and its political subdivisions, or the state and other governments.

26 \* Sec. 10. AS 38.05.030 is amended by adding a new subsection to read:

27 (g) This chapter does not authorize the commissioner or any employee of the  
28 department to acquire title to real property through the use of lease-purchase  
29 agreements or lease-financing agreements in which the department is the lessor. For  
30 purposes of this section, "lease-purchase agreement" and "lease-financing agreement"  
31 have the meanings given those terms in AS 36.30.990.

- 1 \* Sec. 11. AS 36.30.080(b) is repealed.
- 2 \* Sec. 12. This Act takes effect immediately under AS 01.10.070(c).

# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P. O. Box 113300  
Juneau, AK 99811-3300  
(907) 465-3830  
FAX (907) 465-2347

### MEMORANDUM

TO: The Honorable Steve Frank, Co-Chair  
The Honorable Drue Pearce, Co-Chair  
Senate Finance Committee

FROM: Randy S. Welker *Randy*  
Legislative Auditor

DATE: January 19, 1994

RE: Lease-Financing Legislation - SB 247

We have prepared the following to assist in your deliberations on the proposed amendments to statutes governing lease-financing acquisitions of real property by the State. This legislation is in response to our ongoing review and concern over lease-purchases of the Wildwood Correctional Center and the Court Plaza Building and the proposed purchase of the Anchorage Times Complex.

AS 36.30.080 permits the Department of Administration (DOA) to lease space for the use of the State. It also provides DOA, the legislature, and the judicial branch the authority to enter lease-purchase or lease-financing agreements for the acquisition of real property. AS 36.30.080(c), before SLA 1993 amendments became effective, required that for planned leases or lease-financing that exceed payments of \$1,000,000 annually or \$10,000,000 over the life of the lease or lease-financing notice must be provided to the legislature and a planned lease or lease-financing acquisition by the **department** must be approved by the legislature by law. Leases or lease-purchases less than \$1,000,000 annually or \$10,000,000 over the life of the lease did not require notice to, or approval by, the legislature.

After numerous failed attempts to obtain capital appropriations to acquire the leased Wildwood Correctional Center, in December 1992 the administration exercised its option under the lease, and acquired the facility under the authority of AS 36.30.080(c) by issuing Certificates of Participation (COP). However, the purchase price exceeded the dollar limitations requiring legislative approval imposed by statute. To circumvent legislative approval, the administration "split" the COP issue into two — each one falling below the \$10,000,000 ceiling, thereby not requiring approval. The deal was also structured so that the annual debt service requirements under each COP debt issue would be slightly below the \$1,000,000 limitation — again avoiding the need for legislative approval, and resulting in

the legislature having to consider annual appropriations for the next eight years until debt service of approximately \$13 million is paid. Non-appropriation — which is an option under this type of arrangement — would result in a detrimental impact to the State's general obligation credit rating.

A Division of Legislative Audit review of the Wildwood acquisition raised serious questions regarding the legality of the financing scheme employed to acquire the facility and the legality of the role of the Department of Natural Resources (DNR) in the process.

In the opinion of Legislative Counsel, the funds raised through the issuance of COPs are subject to legislative appropriation and were of a governmental and public purpose which under the Constitution requires legislative sanction before disbursement. Additionally, both Legislative Counsel and independent counsel engaged by the Legislative Budget and Audit Committee are of the opinion that DNR does not have the authority to issue debt to acquire real property.

Because of the purchase of the Wildwood facility in this manner, intentionally avoiding legislative approval — particularly at a time when the continuance of the facility itself was subject to intense legislative debate — legislation was adopted last session to specifically mandate legislative involvement in this debt issuance/property acquisition process.

Chapter 37, SLA 93 (SB 129) amended AS 36.30.080(c) requiring that "*if the department, legislative branch, or judicial branch intends to enter into or renew a lease-purchase or lease-financing agreement for real property . . .*" then "*. . . the department, legislative branch, or judicial branch shall provide notice to the legislature.*" The statute also requires that "*the department may not enter into or renew an agreement requiring notice under this subsection unless the project has been approved by the legislature.*" (Emphasis added.)

In the most recent attempt to utilize lease-purchase COP financing to purchase the Anchorage Times Complex, the Court System did provide notice to the legislature of its intentions, however, under the wording of the statute the Court System was not required to obtain legislative approval. SB 247 amends statute to require legislative approval **by law** for any real property acquisitions via lease-financing by the executive branch, the board of regents of the University of Alaska, the legislative council, and the supreme court.

Senate Bill 247 also amends AS 38.05.030 to specifically prohibit DNR from acquiring real property through the use of lease-purchase agreements or lease-financing agreements in which DNR is the lessor. We believe that there is clear authority under the statutory provisions of the Alaska Housing Finance Corporation to issue lease-backed revenue bonds in accordance with the Housing Project and Public Building Assistance Act (AS 18.55.010-.290) for the acquisition of public buildings. These statutes were previously Alaska State Housing Authority laws but were amended with the merger of ASHA with AHFC.

The Honorable Steve Frank  
The Honorable Drue Pearce

-3-

January 19, 1994

We have also included language in this bill to clearly **include** the University. If the legislature agrees with us that the provisions of leasing should apply to the University, I also recommend that the legislature reconsider an exemption placed in statute last session which we have kept in this bill. Specifically, on page 7, lines 15 and 16, exempt University lease-purchase agreements secured by student fees or other university receipts from the legislative notification and approval requirements of the legislation.

Finally, the bill proposes the repeal of a temporary act, sec. 2, chapter 92, SLA 1986, which gives the court system the authority to enter into a lease-purchase agreement not to exceed \$29.9 million for construction of a court facility in Fairbanks.

We have enclosed a copy of AS 36.30.080 as it is currently written for reference. We have also included a copy of Chapter 92, SLA 86 and a sectional analysis.

Enclosures

**Sec. 36.30.080. Leases.** (a) The department shall lease space for the use of the state or an agency wherever it is necessary and feasible, subject to compliance with the requirements of this chapter. A lease may not provide for a period of occupancy greater than 40 years. An agency requiring office, warehouse, or other space shall lease the space through the department.

(b) The department, legislative branch, or judicial branch may enter into lease-purchase agreements, including lease-financing agreements. A lease-purchase agreement must provide that lease payments are subject to annual appropriation.

(c) If the department, legislative branch, or judicial branch intends to enter into or renew a lease of real property with an annual rent to the department, legislative branch, or judicial branch that is anticipated to exceed \$1,000,000, or with total lease payments to exceed \$10,000,000 for the full term of the lease, the department, legislative branch, or judicial branch shall provide notice to the legislature. If the department, legislative branch, or judicial branch intends to enter into or renew a lease-purchase or lease-finance agreement for real property, other than (1) an agreement related to the refinancing of an outstanding balance owing or (2) a lease-purchase or lease-financing agreement by the University of Alaska that is secured by student fees or university receipts as defined in AS 14.40.491, that has annual lease payments of less than \$1,000,000, and for which the total lease payments for the full term will not exceed \$10,000,000, the department, legislative branch, or judicial branch shall provide notice to the legislature. The notice must include the anticipated annual lease obligation amount, the anticipated total construction, acquisition, or other costs of the project, and the total lease payments for the full term of the lease, if the agreement is a lease other than a lease-purchase or lease-financing agreement and the total lease payments for the full term of the lease exceed \$10,000,000. The department may not enter into or renew an agreement requiring notice under this subsection unless the project has been approved by the legislature. An appropriation for the project constitutes approval of the project for purposes of this subsection. The department may not enter into an agreement under this subsection if the optional renewal period allowed under the agreement exceeds two years. In this subsection, "term" includes defined renewal options.

(d) When the department is evaluating proposals for a lease of space, the department shall consider, in addition to lease costs, the life cycle costs, function, indoor environment, public convenience, planning, design, appearance, and location of the proposed building.

(e) When the department is considering leasing space, the department should consider whether leasing is likely to be the least costly means to providing space. (§ 2 ch 106 SLA 1986; am § 1 ch 58 SLA 1990; am §§ 8, 9 ch 181 SLA 1990; am §§ 2, 3 ch 73 SLA 1992; am § 3 ch 37 SLA 1993)

AN ACT

Relating to a court facility in Fairbanks; and providing for an effective date.

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\* Section 1. The legislature finds that a need exists for a new court facility in Fairbanks and that the needed facility must be acquired in as economical manner as possible. In acquiring the necessary court facility the supreme court should

- (1) investigate the feasibility of using state land in the Fairbanks area as a site for a court facility;
- (2) investigate the feasibility of contracting with the Alaska State Housing Authority or with a local government utilizing municipal revenue bonds to provide the space necessary for a Fairbanks court facility; and
- (3) coordinate space acquisition in Fairbanks with other state agencies.

\* Sec. 2. The supreme court may enter into a lease-purchase agreement not to exceed a cost of \$29,900,000 for construction and all other related costs of a court facility in Fairbanks, it

(1) a private licensed day-care facility for the use of employees, jurors, witnesses and the public is included in the project, and the space is rented to the private licensed day-care provider at a market rate; and

(2) 15 percent of parking spaces for the court facility are reserved for the public.

\* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.070(c).

## SECTIONAL ANALYSIS OF SENATE BILL NO. 247

An Act relating to state leases and to state lease-purchase and lease-financing agreements, and repealing a legislative authorization previously given for acquisition of a facility through a lease-purchase agreement; and providing for an effective date.

- Section 1.** Clarifies university statutes to show that leases, lease-purchases, and lease-financing of property by the university is subject to the provisions of procurement code being revised by this bill.
- Section 2.** Clarifies the supreme court's statutes to show that leases, lease-purchases, and lease-financing of property by the court system is subject to the provisions of procurement code being revised by this bill.
- Section 3.** Clarifies the legislative council's statutes to show that leases, lease-purchases, and lease-financing of property by the legislature is subject to the provisions of procurement code being revised by this bill.
- Section 4.** Amends the section of the Procurement Code for the Legislature to specify that the procurement procedures adopted by the Council for the legislature must be consistent with the provisions being revised by this bill.
- Section 5.** Amends the section of the Procurement Code for the court system to specify that the procurement procedures adopted by the court system must be consistent with the provisions being revised by this bill.
- Section 6.** Amends the current provisions by deleting provisions dealing with lease-purchases and lease-financing. After discussion with legal counsel, we decided it would be preferable to have two distinct sections of the leasing statute; one dealing exclusively with leases, and the other dealing only with lease-purchases (section 7 of this bill).

The substantive change is on page 5, line 26 through page 6, line 3. This language now adds the provision of prior legislative approval by law for leases of the Board of Regents, the legislative council and the supreme court. It also provides that, for leases, an appropriation for the lease is approval for the purpose of this paragraph.

- Section 7.** This section adds a new section to the procurement code. It basically contains the lease-purchase and lease-financing language moved out of the previous section. In addition, it provides that the department, Board of Regents, the legislative council, or the supreme court may only enter these agreements as the lessee. Like the leasing section above, this section adds the prior legislative approval by law requirement to lease-purchases and lease-financing by the Board of Regents, the legislative council and the supreme court.
- Section 8.** Makes a technical amendment to the procurement code to recognize the addition of the new section of the procurement code provided in Section 7 above.
- Section 9.** Makes a technical amendment to the procurement code to recognize the addition of the new section of the procurement code provided in Section 7 above.
- Section 10.** This section specifically prohibits the Department of Natural Resources from acquiring title to real property through lease financing in which the department is the lessor.
- Section 11.** Repeals the temporary act authorizing the court system to enter a lease-purchase agreement not to exceed \$29.9 million.
- Section 12.** Effective date clause.

Prepared by the Division of Legislative Audit on 1/19/94.

SB 247

Chapter 92

AN ACT

Relating to a court facility in Fairbanks; and providing,  
for an effective date.

\* Section 1. The legislature finds that a need exists for a new court facility in Fairbanks and that the needed facility must be acquired in as economical manner as possible. In acquiring the necessary court facility the supreme court should

- (1) investigate the feasibility of using state land in the Fairbanks area as a site for a court facility;
- (2) investigate the feasibility of contracting with the Alaska State Housing Authority or with a local government utilizing municipal revenue bonds to provide the space necessary for a Fairbanks court facility; and
- (3) coordinate space acquisition in Fairbanks with other state agencies.

\* Sec. 2. The supreme court may enter into a lease-purchase agreement not to exceed a cost of \$29,900,000 for construction and all other related costs of a court facility in Fairbanks, if

- (1) a private licensed day-care facility for the use of employees, jurors, witnesses and the public is included in the project, and the space is rented to the private licensed day-care provider at a market rate; and
- (2) 15 percent of parking spaces for the court facility are reserved for the public.

Chapter 92

\* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.070(c).

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**INTENT FOR SB 247 (LEASE-FINANCING)**

**It is the intent of the legislature that future legislation authorizing the lease-purchase or lease-financing of real property should designate the Department of Transportation and Public Facilities as the appropriate agency to hold title to, and operate and maintain state facilities.**

# A F A X

Alaska State Legislature

Date: 2-2-94

To: Karen Procter

Fax #: 276-5093 Phone #: 276-6401

From: Kathy - Senate Finance

Phone #: 465-2618

Re: CSB 247 (2d Fin)

Note: SEC letter of intent published  
in Senate Journal 1-24-94

Following this page, please find 11 pages(s). If this does not reach you in full, please inform us ASAP.

*Faxed copy of CSB 247 (2d Fin)  
to DOA  
to LAR  
Committee report*



THANK YOU

**SB**

**248**

**HFIN**

**FILE**

(11)

Date Referred: April 18, 1994

HOUSE COMMITTEE REPORT  
FURTHER REFERRALS:

Date of Committee Action: 4/27/94

The FINANCE Committee considered:

CSSB 248(RLS) am

CS FOR SENATE BILL NO. 248(RLS) am

ASSIST & PROTECT VULNERABLE ADULTS

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

RECOMMENDATIONS:

be replaced with

HCS CSSB 248 (FIN)

the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S):

(3) DHS 1/14/94

(Dept)

APPROVES PREVIOUS:

(Dept/Date)

fiscal impact Admin 3/24/94

fiscal note(s)

zero fiscal note

zero fiscal note(s)

DPS 2/18/94  
Admin 3/24/94

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<u>Richard Foster</u>	<u>*</u>	<u>Ronald J. Larson</u>		<u>X</u>	
<u>Jerry Martin</u>	<u>✓</u>	<u>Mark Hanley</u>		<u>X</u>	
<u>Bob Grussendorf</u>	<u>X</u>	<u>Pan R. Parnell</u>		<u>✓</u>	
<u>Mike Navarre</u>	<u>✓</u>	<u>Tom Thurnau</u>		<u>X</u>	
<u>Jay Brown</u>	<u>✓</u>				

Ronald J. Larson  
CO CHAIRMAN'S SIGNATURE Larson

FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSSB 248 (RLS) am

Revision Date: \_\_\_\_\_  
Title: "An Act relating to services for and protection of vulnerable adults."  
Sponsor: Rules Committee  
Requestor: \_\_\_\_\_

Department Affected: Administration  
BRU: Senior Services  
Component: Pioneers' Homes  
COMPONENT SERIAL NO. 1950

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ( )	0	0	0	0	0	0
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FUNDING SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

Estimate of any current year (FY 94) cost: \$ 0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Connie J. Sipe, Director  
Division: Senior Services

Phone: 465-4879  
Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usara  
Agency: Department of Administration

Date: 4/16/94

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**FISCAL NOTE**

**STATE OF ALASKA**  
**1994 LEGISLATIVE SESSION**

**BILL NO. CSSB 248 (RLS) am**

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to services for and protection of vulnerable adults."  
 Sponsor: Rules Committee  
 Requestor: \_\_\_\_\_

Department Affected: Administration  
 BRU: Senior Services  
 Component: Senior Services Administration  
 COMPONENT SERIAL NO. 1981

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	258.5	263.7	268.9	274.3	279.8	285.4
TRAVEL	20.0	20.4	20.8	21.2	21.6	22.1
CONTRACTUAL	264.1	269.4	274.8	280.3	285.0	291.6
SUPPLIES	5.0	5.1	5.2	5.3	5.4	5.5
EQUIPMENT	12.0	12.2	12.5	12.7	13.0	13.2
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>559.6</b>	<b>570.8</b>	<b>582.2</b>	<b>593.8</b>	<b>605.7</b>	<b>617.8</b>
<b>CAPITAL EXPENDITURES</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CHANGE IN REVENUES ( )</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

FUNDING SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	538.0	549.2	560.6	572.3	584.1	596.2
1005 GF/Program Receipts						
1006 GF/MHTIA	21.6	21.6	21.6	21.6	21.6	21.6
OTHER						
<b>TOTAL</b>	<b>559.6</b>	<b>570.8</b>	<b>582.2</b>	<b>593.9</b>	<b>605.7</b>	<b>617.8</b>

Estimate of any current year (FY 94) cost: \$ 0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

Future costs inflated at 2 percent annual increase. This fiscal note reflects the transfer of staff and support for Adult Protection Services to the Senior Services BRU. See fiscal notes from the Department of Health and Social Services for equivalent reductions.

Further analysis is on the attached pages.

Prepared by: Connie J. Sipe, Director  
 Division: Senior Services

Phone: 465-4879  
 Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usara  
 Agency: Department of Administration

Date: 2.10.94

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**FISCAL NOTE**

**STATE OF ALASKA  
1994 LEGISLATIVE SESSION**

**BILL NO. CSSB 248 (RLS) am**

**ANALYSIS: (continued)**

**Transfers:**

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

Three full-time Social Worker positions, range 16, PCNs 063714, 063426, and 063725.

Total = \$ 195.1

2. Transfer from the Department of Health and Social Services, Purchased Services BRU, Adult Services Component:

Adult foster/residential care, other purchased protective and contractual services.

Total = \$ 364.5

3. Transfer from Department of Administration, Senior Services BRU, Pioneers' Homes Component:

- a. One full-time position (vacant) transferred within the BRU and reclassified to Clerk Typist, Anchorage.
- b. One position will be reclassified to become a Social Worker in Anchorage for adult protective services.

**TOTAL FUNDS TRANSFERRED** **559.6**

**Adult Protective Services will use the funds as follows:**

<u>Personal Services:</u>	<u>Months</u>	<u>Subtotal</u>	<u>Total</u>
1 PFT Social Worker III (Fairbanks)	12	66.8	
2 PFT Social Worker III (Anchorage)	24	128.3	
1 PFT Social Worker I (Anchorage)	10	35.1	
1 PFT Clerk Typist (Anchorage)	10	28.3	
<b>TOTAL PERSONAL SERVICES</b>			<b>258.5</b>

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

Travel 20.0

Contractual Services:

Purchased protective services, adult foster/residential	190.0
Lease space	33.0
Telephone: (800 number, 24-hour answering/paging)	34.0
Risk Management and other contractual costs	7.1

**TOTAL CONTRACTUAL SERVICES** **264.1**

Supplies 5.0

Equipment: software, telephones, computers, furniture 12.0

**TOTAL TRANSFERRED IN FOR PROTECTIVE SERVICES** **559.6**

FISCAL NOTE

No. 1

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

Bill Version: SB 248

(S) Publish Date: 1-14-94

Revision Date: 1/10/94 Dept. Affected: Health and Social Services  
 Title: Vulnerable Adults Protective Services BRU: Purchased Services  
 Sponsor: Rules Committee Component: Adult Services  
 Requestor: by Request of Governor COMPONENT SERIAL NO. \_\_\_\_\_

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	(364.5)					
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>(364.5)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
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FUND SOURCE

(Thousands of D.)

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

Changes in CS SB 248 (RLS)  
 reflect NO FISCAL CHANGE from the original  
 fiscal note. This fiscal note is appropriate.  
4-14-94 JWT  
 date Comte Aide (initial)

POSITIONS:

FULL-TIME			
PART-TIME			
TEMPORARY			

Changes in CS SB 248 (HES)  
 reflect NO FISCAL CHANGE from the original  
 fiscal note. This fiscal note is appropriate.  
2/16/94 bab  
 date Comte Aide (initial)

Estimate of current year (FY94) impact: None

ANALYSIS (Attach a separate page if necessary)

When the existing Protection of the Elderly statute was passed in 1983, no funding was provided. In the late 70's, the department had also been given statutory responsibility for licensing adult facilities. Again no funds were provided for licensing and no funds were provided for upgrading the care of dependent adults residing in existing facilities, then called, boarding homes.

In 1983, the department obtained funds for residential and foster care for dependent adults. Those funds became the Adult Services Component of the Purchased Services BRU and are being transferred from the Division of Family and Youth Services, DHSS, to the Division of Senior Services, Department of Administration to support the Protection of Vulnerable Adults Legislation.

Prepared by: Deborah R. Wing, Director  
 Division: Division of Family & Youth Services

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

Approved by Commissioner: Margaret Lowe, M. Ed., Ed. S.  
 Agency: Department of Health & Social Services

Changes in CS SB 248 (STA)  
 reflect NO FISCAL CHANGE from the original  
 fiscal note. This fiscal note is appropriate.  
3/11/94 [Signature]  
 date Comte Aide (initial)

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Changes in CS SB 248 (Fin)  
 reflect NO FISCAL CHANGE from the original  
 fiscal note. This fiscal note is appropriate.  
3-23-94 [Signature]  
 date Comte Aide (initial)

FISCAL NOTE

No. 2  
 Full Version: SB 248  
 (S) Publish Date: 1-14-94

STATE OF ALASKA  
 1994 LEGISLATIVE SESSION

Revision Date: 1/10/94 Dept. Affected: Health and Social Services  
 Title: Vulnerable Adults Protective Services BRU: Family & Youth Services  
 Component: Northern Region  
 Sponsor: Rules Committee  
 Requestor: By Request of Governor COMPONENT SERIAL NO. 255

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	(68.0)					
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>(68.0)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
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FUND SOURCE (Thousands of \$)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(68.0)					
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>(68.0)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Changes in CSSB 248 (RLS)  
 reflect NO FISCAL CHANGE from the original  
 fiscal note. This fiscal note is appropriate.  
4-7-94 RLS  
 date Comte Aide (initial)

POSITIONS:

FULL-TIME	1		
PART-TIME			
TEMPORARY			

Changes in CSSB 248 (HES)  
 reflect NO FISCAL CHANGE from the original  
 fiscal note. This fiscal note is appropriate.  
2/16/94 hsh  
 date Comte Aide (initial)

Estimate of current year (FY94) impact: None

ANALYSIS: (Attach a separate page if necessary)  
 One Adult Protective Services (APS) specialist is being transferred from the Division of Family and Youth Services (DFYS) Northern Region to the new Division of Senior Services to support the Protection of Vulnerable Adults Legislation.

When the existing Protection of the Elderly statute was passed in 1983, no funding was provided, other than 5.0 for brochures. The specialist position in Fairbanks was created from child protective services funds. Subsequent efforts to expand funding for a credible adult protective services program have not been fruitful. The Task Force that reviewed APS within DFYS recommended it be consolidated with other senior services where it is believed the program may be better supported and developed.

Prepared by: Deborah R. Wing, Director  
 Division: Division of Family & Youth Services  
Margaret R. Lowe  
 Approved by Commissioner: Margaret Lowe, M. Ed., Ed. S.  
 Agency: Department of Health & Social Services

Phone: 465-3191  
 Date: 01/12/94  
 Date: 1-13-94

PREPARER TO P  
 F: Changes in CSSB 248 (Fin)  
 reflect NO FISCAL CHANGE from the original  
 fiscal note. This fiscal note is appropriate.  
3-23-94 RL  
 date Comte Aide (initial)

Changes in CSSB 248 (STA)  
 reflect NO FISCAL CHANGE from the original  
 fiscal note. This fiscal note is appropriate.  
3/11/94 STA  
 date Comte Aide (initial)

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FISCAL NOTE

No. 3

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

Bill Version: SB 248

(S) Publish Date: 1-14-94

Revision Date: 1/10/94 Dept. Affected: Health and Social Services  
 Title: Vulnerable Adults Protective Services BRU: Family & Youth Services  
 Component: Southcentral Region  
 Sponsor: Rules Committee  
 Requestor: By Request of Governor COMPONENT SERIAL NO. 254

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	(127.1)					
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>(127.1)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(127.1)					
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>(127.1)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Changes in SSB 248 (RLS)  
 reflect NO FISCAL CHANGE from original  
 fiscal note. This fiscal note is appropriate.  
4-14-94 JWT  
 date Comte Aide (initial)

POSITIONS:

FULL-TIME	2				
PART-TIME					
TEMPORARY					

Changes in CS SB 248 (HES)  
 reflect NO FISCAL CHANGE from the original  
 fiscal note. This fiscal note is appropriate.  
2/14/94 Kuh  
 date Comte Aide (initial)

Estimate of current year (FY94) impact: None

ANALYSIS: (Attach a separate page if necessary)

Two Adult Protective Services (APS) specialists are being transferred from the Division of Family and Youth Services (DFYS) Southcentral Region to the new Division of Senior Services to support the Protection of Vulnerable Adults Legislation.

When the existing protection of the Elderly statute was passed in 1983, no funding was provided, other than 5.0 for brochures. The Adult Protective Services Specialist positions in Anchorage were created from child protective services funds. Subsequent efforts to expand funding for a credible adult protective services program have not been fruitful. The Task Force that reviewed APS within DFYS recommended it be consolidated with other senior services where it is believed the program may be better supported and developed.

Prepared by: Deborah R. Wing, Director *Deborah R. Wing*  
 Division: Division of Family & Youth Services

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

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

Date: 1-11-94

PREPARER TO PROVIDE  
 For further

Changes in SB 248 (FIN)  
 reflect NO FISCAL CHANGE from the original  
 fiscal note. This fiscal note is appropriate.  
3-23-94 *[Signature]*  
 date Comte Aide (initial)

Changes in CS SB 248 (STA)  
 reflect NO FISCAL CHANGE from the original  
 fiscal note. This fiscal note is appropriate.  
3/11/94 *[Signature]*  
 date Comte Aide (initial)

(Rev. 10/93) 94file no. 248/DBR

# FISCAL NOTE

No. 6  
 Bill Version: SB 248  
 (S) Publish Date: 2-18-94

STATE OF ALASKA  
 1994 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: Assist & Protect Vulnerable Adults BRU: Alaska State Troopers

Component: Departments  
 Sponsor: S. RULES by Request

Requestor: S. HES COMPONENT SERIAL NO. 799

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL EXPENDITURES</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

**FUNDING: (Thousands of Dollars)**

FUNDING SOURCE	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00	Date	Comte Aide (INITIAL)
1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1006 GF/MHTIA								
Other								
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-		

Changes in CS SB 248 (Fin) have no fiscal impact. This fiscal note is appropriate.  
3-23-94 pk

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

**POSITIONS:**

POSITION TYPE	FY 95	FY 96	FY 97
FULL-TIME	0	0	0
PART-TIME	0	0	0
TEMPORARY	0	0	0

Changes in CS SB 248 (STA) have no fiscal impact. This fiscal note is appropriate.  
3-11-94 pk

**ANALYSIS: (Attach a separate page if necessary.)**  
 No significant fiscal impact upon the Alaska State Troopers is anticipated.

Changes in CS SB 248 (RLS) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.  
4-14-94 RLS

Changes in CS SB 248 (HES) have no fiscal impact. This fiscal note is appropriate.  
2/16/94 kah

Prepared By: Lee Ann Lucas  
 Division: Commissioner

Phone: 465-4322  
 Date: 2/2/94

Approved by Commissioner: [Signature]  
 Agency: Richard L. Burton, Dept. of Public Safety

Date: 2/2/94

## Christian Science Committee on Publication for Alaska

P.O. Box 873452  
Wusilla, Alaska 99687-3452  
Telephone and fax (907)376-7413

April 26, 1994

To: Members of the House Finance Committee

Re: SB 248 Vulnerable Adults

I recently faxed to your office a letter regarding an amendment to SB 248. I have since found out that action had been taken on the floor of the Senate of which I was not aware. A slightly different version of my suggestion had been adopted by the Senate Rules Committee. However, that amendment was rejected by the Senate. This being the case, I was in error in stating that this amendment would have the support of Senator Halford, the Senate, and the Department of Administration. Furthermore, it has been brought to my attention that it was inappropriate for me to speak, as I did, for an elected official or the Administration. I have since offered an apology to Senator Halford and the Department of Administration for this mistake.

I regret this error and apologize if I have mislead you on this issue. I should have been fully informed of all that had transpired with this bill.

In spite of my inexperience in legislative matters, I hope that you will still consider supporting this amendment. I wouldn't want my lack of understanding of correct procedures to interfere with what I feel is a very important addition to this bill.



Ronald A. Mangelsdorf  
Christian Science Committee on Publication for Alaska

## Christian Science Committee on Publication for Alaska

P.O. Box 873452  
Wasilla, Alaska 99687-3452  
Telephone and fax (907)376-7413

April 22, 1994

Re: SB 248 (or House version HB 376)

Title: An Act relating to services for and protection of vulnerable adults

I represent the Christian Science churches in Alaska, and on their behalf, I have suggested the following amendment, which Representative Martin has agreed to offer:

Page 11, line 26:

Delete "a new section"  
Insert "new sections"

Page 11, after line 26:

Insert new material to read:

"Sec. 47.24.130. TREATMENT THROUGH SPIRITUAL MEANS. This chapter may not be construed to mean that a person is abused, neglected, self-neglected, vulnerable, unable to consent, abandoned, exploited, or in need of emergency or protective services for the sole reason that the person relies on or is being furnished treatment by spiritual means through prayer alone in accordance with the tenets and practices of a church or religious denomination of which the person is a member or adherent.

It is my hope that you will agree to support this proposal. As you may or may not know, Christian Scientists rely on spiritual treatment, based on prayer alone, for the healing of physical illness. Reliance on spiritual treatment for healing should not be considered abusive or neglectful simply because an individual chooses prayer in lieu of medical treatment.

Christian Science has been effectively practiced for over 100 years and has a very strong record of documented healings. It's practice is recognized in both federal and state legislation, as well as by most major insurance companies. Many other states have a similar provision in their statutes.

I have been told by Senator Halford's office that the Senate would not object to this suggestion, and if the House adopted this proposal, the Senate would concur with the amendment.

The commissioner of the Department of Administration, Nancy Usera, and the Executive Director of the Older Alaskans Commission, Connie Sipe, have already been advised of my proposal through Sen. Halford's office and they have no objection to it.

If you have any questions about this proposed amendment, please feel free to call me and I will be happy to answer any concerns you may have.



Ronald A. Mangelsdorf  
Christian Science Committee on Publication for Alaska

## DEPARTMENT OF ADMINISTRATION

CS FOR SENATE BILL NO. 248 (RLS)am

### SERVICES AND PROTECTION FOR VULNERABLE ADULTS

---

Governor Hickel introduced this bill with the intent to make significant improvements in the way that protective services would be provided to vulnerable adults who are victims of abuse, neglect or exploitation. The bill would transfer the authority for adult protective services from the Department of Health & Social Services (Division of Family & Youth Services) to the Department of Administration (Division of Senior Services).

Briefly, here are the highlights of improvements and changes contained in the bill. A more detailed analysis follows. CSSB 248(RLS)am would:

- Combine protective services for the elderly and other adults
- Offer protection to the "vulnerable," without interfering with elderly or disabled adults capable of caring for themselves
- Streamline abuse reporting and reduce duplicative work by state investigating agencies
- Open a central information and referral service for all vulnerable adults and their caregivers
- Use local service providers as more "friendly" outreach workers wherever possible
- Honor a competent adult's refusal of services or request to terminate investigation
- Use family members as "surrogate decision makers" when abuse victim is not able to give consent to receipt of services
- Clarify when and for what relief the state may seek judicial intervention to protect a person
- Redefine abuse to focus on intentional or reckless - not accidental - harm to adults

## **DETAILED ANALYSIS OF BILL'S IMPROVEMENTS**

Section 1 of the bill brings into conformity with the new bill a section of the existing licensing law for psychologists or psychological associates, AS 08.86.200(b). Under existing law, psychologists and associates must report "elder abuse," whereas SB 248 would require them to report incidents of abuse to "vulnerable adults," which is the new term used to define the protected class of citizens.

**New perspective on who are "vulnerable adults" and what is "abuse."** Section 2 of the bill amends the current AS 47.24.010 (a), and defines the protected class of persons as "vulnerable" adults who suffer abandonment, exploitation, abuse, neglect or self-neglect. This new definition in effect combines two formerly separate statutes: one for elder abuse and one for abuse of disabled persons. The definition also more correctly recognizes that not all elderly and not all disabled persons are "vulnerable." This section transfers the function of receiving reports to a new central information and referral service to be located in the Department of Administration.

**Reporting of abuse updated and streamlined.** Section 2 then amends the list of persons who are currently required by law to report their belief that a vulnerable adult is suffering from one of the listed types of abuse. Mostly the changes are to bring the language into compliance with the new reference to Department of Administration. One new category of required reporters is added: "caregivers." (For brevity's sake, this paper will use "abuse" generally to refer to the entire list of types of harm covered by the bill.)

Section 3 amends the existing AS 47.24.010(b) to replace references to "elder person" with the new bill language of "vulnerable adult."

Section 4 amends the existing AS 47.24.010(c) to clarify the Department of Administration's responsibility to report to the Department of Law any of the listed required "reporters" of abuse who fail to comply with the mandatory reporting law. This section updates current law to replace references to "harm" with the new list of abandonment, exploitation, abuse, neglect, or self-neglect. Failure to report remains a "non-criminal violation" under AS 11.81.900(b), which carries a penalty of a fine only.

Section 5 amends current law, AS 47.24.010(d), to add the new list of types of abuse and shortens the section while still retaining its intent, namely that any of the required reporters in the list mentioned above, as well as "any other person" may report any abuse that has come to that person's attention, whether or not it comes to a required reporter "in the performance of their professional duties."

Section 6 amends the existing section AS 47.24.010(e), to clarify that when an abuse victim is in imminent risk of serious physical harm, the reporting person may contact a local police officer if the reporter is unable to contact the department's central information and reporting service. As under current law, the police officer is then obligated to take action to protect the vulnerable adult. A new addition to this section forbids anyone to bring a legal action for damages against a police officer or the state or a political subdivision based on a decision made whether or not to take protective action. In addition, if the police take protective

action, no damages action may be brought based on the protective action taken unless the action was grossly negligent or involved intentional misconduct. In any event, damages in such as suit are limited to only "direct economic compensatory damages for personal injury."

Section 7 is an addition to existing law, a new subsection, AS 47.24.010(f). Section 7 states that a person who observes abuse in an out-of-home care facility may fulfill the person's duty to report by making a report to the long term care ombudsman (of the Older Alaskans Commission) or the Department of Health & Social Services (the licensing section of the Medical Assistance Division or the Division of Mental Health & Developmental Disabilities).

**Department of Administration's new system for serving vulnerable adults who are abused.** Section 8, AS 47.24.011, describes the duties of the department under the amended law. The Department of Administration will compile information on abuse, maintain a central information and referral (I & R) line, run a statewide system to serve abused adults.

**More coordination with local service providers.** AS 47.24.011 also allows the department to designate other (willing) state agencies or community-based service providers to deliver some or all of the supportive and protective services needed. This would be a major improvement over the current system, as the Department could use local provider agencies more familiar and less threatening to the alleged victim of abuse, such as the outreach worker from the local senior center to make initial contact and offer services. If cases involve serious abuse, the department might immediately send its social worker, or the social worker could pick up the case after the local senior center's first contact and assessment of the situation.

**Reducing duplicate investigations by state agencies.** Section 8, subsection 47.24.013, is one of the bill's major improvements over the current delivery system. Currently, an allegation that abuse has occurred in a nursing home or hospital requires reporting to the Division of Family & Youth Services and to the Certification and Licensing Unit of Medical Assistance. In addition, the Long Term Care Ombudsman has jurisdiction under federal and state law to investigate the same situation if the office is called. Facilities often find themselves dealing with three to five state agencies over one allegation.

The bill, at section 47.24.013(a), improves this inefficient use of state resources by stating that when a facility is licensed by Health & Social Services (nursing homes, hospitals) and the victim is over the age of 60, then the report of abuse will be transferred for investigation and action to the appropriate licensing unit in DH&SS and the long term care ombudsman's office, which will be required under 47.24.013(c) to investigate, coordinate their investigations and responses, and to provide a report of the results to the central I & R service of Administration within 60 days.

Similarly, in section 47.24.013(b), when the alleged victim of abuse in a licensed out-of-home care facility is under age 60, the case will still be transferred to the appropriate licensing agency within DH&SS, and the protective services unit in Administration will not be required to duplicate efforts by investigating the same case.

**Investigative duties.** The new section 47.24.015 outlines how the Department of Administration will be required to take action on reports of possible abuse. The department is required to initiate a prompt investigation, which must include a face-to-face interview with the subject of the report, unless a personal interview would endanger the vulnerable adult. Note that the department may use a designee agency to conduct this work. The department's investigation must be summarized in a written report, including a summary of services to be provided.

**Victim's request to drop investigation.** Under subsection 47.24.015(c), if the subject of the report requests that the investigation cease, the department or its designee must terminate the investigation. However, in an improvement over current law, the department is not forced to abandon the case altogether upon the alleged victim's request. Rather, when the investigation to date has already resulted in "reasonable cause to believe that the vulnerable adult is in need of protective services," the department may either petition the court for certain protective services or may report the case for criminal investigation.

This new procedure recognizes the reality of many cases where the alleged victim is too scared or threatened by the perpetrator to be willing to cooperate with any investigation, or where the victim appears to be temporarily or permanently incapable of making an informed decision about his or her own safety and affairs.

**Sharing of information with reporter of abuse.** New subsection 47.24.015(d) will cure a problem in the current delivery system for protective services for adults. This section explicitly requires the department to notify the person who made the abuse report about the status of the investigation regarding the vulnerable adult. This will improve relations with reporters who are ongoing caregivers for the subject adult, as these caregivers need to know whether the person is safe and how the caregiver can best interact with the subject adult in the future.

The new subsections 47.24.015(e) will forbid any person from bringing a damages action for decisions by the department whether or not to offer protective services to a vulnerable adult. Subsection .015(f) will forbid damages actions based on the provision of protective services unless the legal action is based on gross negligence or intentional misconduct, and in any event, damages are limited to only direct economic compensatory damages for personal injury.

**New use of surrogate decision makers.** A new official recognition of "surrogate decision makers" for vulnerable adults is included in the new section 47.24.016. Under this section, when the department finds that a vulnerable adult needs protective services, but the adult victim lacks decision making capacity or is "unable to consent" due to illness, coercion, fear of reprisal from or dependency on the perpetrator, then the department may seek consent from a guardian or attorney in fact for the victim. Under this new law, if there is no guarding, the department may select from the statute's list of surrogate decision makers for the person, for the purpose of deciding whether the person will "consent" to receiving protective or supportive services.

The surrogate decision maker selection process in the bill is modeled after similar acts in several other states. It allows the department to use --in the priority order listed--the consent of the vulnerable adult's spouse, domestic partner, adult child, parent, sibling, or close adult friend or relative. An incompetent person or an alleged perpetrator of the abuse may not be used as a surrogate. If more than one willing surrogate exists at the chosen priority level--like three adult children--then those persons may choose among themselves or make surrogate decisions by a majority vote.

Allowing surrogate decision making will allow the department to more quickly move ahead with protective services in many situations, and will avoid the expense of petitioning the court for orders or for a guardianship in those many situations here the crisis is only temporary and can be remedied by health care treatments or movement to a new safer environment. (Remember that this power can not be used when the vulnerable adult victim retains capacity and capability to make his or her own consent decisions.)

The last subsection, 47.24.016(d) clarifies that if the vulnerable adult regains the ability to consent or the capacity to make decisions, then the department must get the adult's consent before continuing to provide protective services.

**Delivery of protective services.** Sec. 47.24.017 discusses service delivery. When the department determines that a vulnerable adult needs protective services, and the person or appropriate surrogate has consented, the department will provide services within 10 days, to the extent of resources available from all sources (department, client, other agencies). When an emergency situation exists the department may provide protective

services without consent. Services are always to be delivered in a culturally relevant manner that protects the adult's right to live in the "least restrictive environment" and maximizes the person's own decision making capabilities.

**Petitioning the court for protective services.** Section 47.24.019 gives the department authority to petition the court for appointment of a guardian in order to decide if the person will consent to services, or to petition for involuntary commitment when the person is mentally ill and likely to seriously harm self or others, or to petition the court to issue an injunction against any caregiver who is interfering with the person's receiving services which the person has consented to receive.

**Monitoring.** Section 9 of the bill reenacts AS 47.24.040, to state that when the department provides ongoing protective services, that the department will monitor the situation until it determines that protective services are no longer needed.

**Confidentiality and disclosure of reports.** Section 10 of the bill amends AS 47.24.050. Under the proposed bill, confidential reports about investigations may be shared with "appropriate agencies or individuals," not just governmental agencies. The department must delineate who is appropriate and how information will be shared, but this section would ease a problem in the current law where confidentiality requirements can be so strictly interpreted that , for example, a local service provider such as an adult day care center which cares for a senior five days a week can not be asked to help monitor the status of a client who is living with a perpetrator who was abusive before the department intervened .

Section 11 of the bill repeals and reenacts the current law's requirement that abuse regulations be provided for review to the Older Alaskans Commission before they are adopted, AS 47.24.070.

**Immunity from liability or retaliation** This existing statutory protection for persons who make good faith reports of abuse is maintained in the bill, section 12, AS 47.24.120.

**Definitions.** Section 13, 47.24.900, contains many definitions which are different from or additions to current law. The most important changes are highlighted here.

**"Abuse"** will no longer mean any harm to an elder or disabled person. The proposed bill says that abuse is the wilful, intentional or reckless infliction of injury or mental distress, or sexual assault. The new definition will eliminate current investigations of purely accidental harm where other professionals who witness the accidental harm (such as in a nursing home) feel compelled by law to make a formal report of the abuse.

(One actual case that could have been ignored under this new definition was the accidental dropping from two feet above to the bed by one of two nurses' aides doing a difficult transfer of a resident with a recent hip surgery. Although everyone saw the aide crying in remorse over the accident, and the aide had no history of carelessness or abuse, under the current statute, the elder was "harmed" and other employees felt the technical incident of "abuse" had to be reported.)

**"Designee"** of the department, who or which can assist with investigation or provision of services to vulnerable adults includes state agencies, community-based programs, individuals, or providers of supportive services licensed or authorized by agreement with the department .

**"Exploitation"** will include unjust or improper use of either the vulnerable person or his or her resources for another person's profit or advantage.

**"Neglect"** will mean the intentional failure by a caregiver to provide essential care, and not just the financial or physical inability of the caregiver to render care.

**"Protective services"** can include protective placement or other services intended to prevent or alleviate harm.

**"Unable to consent,"** as discussed earlier, will be broader than just those persons who are permanently incapacitated from decision making, and will include persons who are unable to consent due to coercion, fear, dependency, or inability to perceive the imminent and substantial risk of death or irreparable injury if the person refuses assistance.

**"Vulnerable adult"** means a person over age 18 who, because of physical or mental impairment, is unable to meet his or her own needs, or is unable to seek help. Note that the bill would change the current law's presumption that all elderly persons and all physically, developmentally or mentally disabled persons are vulnerable and subject to special scrutiny , protection and possible interference in their affairs by state protective services.

**General provisions of the bill.** Section 14 repeals the existing "abuse of the disabled" law, because these persons are included, as appropriate, under the definition of vulnerable adult.

Section 15 specifies how the transition and transfer of resources, cases, and ongoing contracts will be handled between agencies upon the effective date of the Act. The bill authorizes the Department of Administration to proceed with regulations while awaiting the effective date of the Act.

Section 16 states that the transition section, section 15 of the bill, has an immediate effective date upon the Governor's signature.

Section 17 states that the rest of the bill would be effective July 1, 1994.

DEPARTMENT OF ADMINISTRATION

COMPARISON OF COMPANION BILLS

CSHB 376 (JUD) AND CSSB 248 (RLS) am

RELATING TO SERVICES AND PROTECTION FOR VULNERABLE ADULTS

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These bills transfer the authority for adult protective services from the Department of Health & Social Services (Division of Family & Youth Services) to the Department of Administration (Division of Senior Services).

The two committee substitutes both amended the original bills. For the majority of the amendments, the changes are not to the same sections of the bill. It therefore does not appear that any of the changes made in either house would be contradictory to the changes made by the other house.

DIFFERENCES IN THE BILLS:

1. Change to Section 2

• AS 47.24.010(a):

Senate: (a)(2) was amended to re-insert the marital and family therapists as required reporters of abuse.

The deletion of the therapists now appears to have been a premature assumption during the 1993 drafting of the governor's bill, based on the expected passage of another bill which would have included the family therapists in the states' general definition of mental health professional. The Senate amendment appropriately makes this re-insertion.

2. Changes to Section 6.

• AS 47.24.010(e):

The Senate inserted the words "of serious physical harm" in the third line of this subsection. This was done to make a clear statement of when a person with duty to report abuse may contact and set into motion the local public safety system to protect a vulnerable adult when the department's social worker protective system may be unavailable or too far away to take appropriately quick action.

• AS 47.24.010(e):

The Senate added new language at the end of this subsection which prohibits a legal cause of action for damages against the police, VPSO, the state or any political subdivision, based on a decision whether or not to take immediate protective action. It further prohibits a legal cause of action for damages based on the protective actions taken, unless the actions are performed with gross negligence or intentional misconduct, and limits damages to only direct economic compensatory damages for personal injury.

3. Change to Section 8.

• AS 47.24.015 (a):

The House inserted at line 18, the words "the vulnerable adult who is" before "the subject of the report." House Judiciary felt that these words were needed to clarify with whom the state's investigator must conduct a face-to-face interview.

- AS 47.24.015(d):

The House inserted the word "procedural" before the word "status" on the second line of this subsection. This subsection entitles the person who initially made the report of abuse to request and receive notice from the department about the status of the investigation. The House amendment is meant to clarify that the information which the reporter may receive back is not all of the confidential information about the vulnerable adult, but only information about the "procedural status" of the investigation.

- AS 47.24.015:

The Senate CS adds two subsections, (e) and (f), to this section.

Subsection (e) prohibits the bringing of a cause of action for damages based on a decision by the department or any of its designees whether or not to offer protective services to a particular adult.

Subsection (f) forbids an action for damages based on the provision of services unless the action is due to gross negligence or intentional misconduct, and further limits the damages to only direct economic compensatory damages for personal injury.

- 47.24.016:

The Senate CS adds a subsection (d) to this section on surrogate decision makers for vulnerable adults. This Senate amendment adds additional protection for the civil liberties of the vulnerable adult by clearly stating that when the department has started to provide protective services to an abuse victim who was unable to consent for his or her self, with the department relying on the consent of an appropriate surrogate person under this section, that, should the victim re-gain capacity to make his or her own decisions, the department must either obtain the victim's own consent or cease to provide the services.

• 47.24.017 (b):

Subsection .017(b) as originally drafted stated that in an emergency situation, the department could provide protective services regardless of whether the vulnerable adult or any other person had given consent to the services.

The House made two insertions in the second line of 47.24.017(b) and one insertion in the third line. The first insertion is that the emergency situation must be "life threatening." The second and third insertions add the word "temporary" in two places to specify that provision of the protected services without consent must be temporary in nature.

In practice, this amendment would mean that the department could take action to alleviate life threatening situations on only a temporary basis, and would be compelled to quickly proceed to either obtain the consent of the recipient of the services or a surrogate decision maker, or else to go to court to obtain a guardianship order.

1-16-248

WALTER J. HICKEL  
GOVERNOR



P. O. Box 110001  
Juneau, Alaska 99811-0001  
(907) 485-3500

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 14, 1994

The Honorable Rick Halford  
President of the Senate  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Mr. President:

*Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to services for and protection of vulnerable adults. This bill will place responsibility for the delivery of services to vulnerable adults within the Department of Administration. This bill also extends the scope of existing adult protective services to include all vulnerable adults who are in need of such services.*

*Section 1 of the bill clarifies the circumstances that give rise to a duty to make a report of a vulnerable adult. The circumstances are abandonment, exploitation, abuse, neglect, or self-neglect. Under this section, the report will be made to the Department of Administration. This section also deletes the existing liability immunity provisions, which are later reestablished in sec. 6 of the bill.*

*Section 2 sets out the duties of the Department of Administration regarding services and protection for vulnerable adults. The duties include establishing a central information and referral service for vulnerable adults, establishing criteria and procedures for the delivery of community-based services, designation of local service providers as department designees to meet local service needs, and adoption of regulations to implement the program.*

*Section 2 also sets out provisions regarding certain reports of abandonment, exploitation, abuse, neglect, or self-neglect, and regarding the action that is to be taken on all reports. The investigation required to be done by the Department of Administration includes a face-to-face interview and a written report of findings. Section 2 also provides for delivery of protective services and assures that, to the extent practicable, the services will be delivered in a timely and culturally relevant manner.*

The Honorable Rick Halford  
January 14, 1994  
Page 2

Section 2 provides authorization for family members or friends to be surrogate decision makers for a vulnerable adult who is in need of protective services but is unable to consent to services. This provision allows for the delivery of necessary protective services without the necessity of seeking an emergency guardianship in adult abuse cases. Section 2 also sets out the procedures available for providing protective services when court action to protect the adult is necessary.

Section 3 repeals and reenacts an existing statute to provide for monitoring of vulnerable adults who are receiving ongoing protective services. Section 4 addresses the confidentiality of reports made under these provisions; sec. 5 requires that regulations being adopted by the Department of Administration be provided to the Older Alaskans Commission; and sec. 6 provides for immunity from liability for individuals who make reports of vulnerable adults.

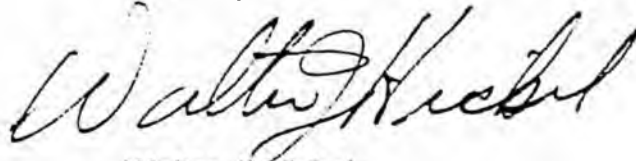
Section 7 sets out, in a more appropriate location, definitions for terms used in AS 47.24. The existing definition section is repealed in sec. 8. Section 8 of the bill also repeals existing statutes that address reports of abuse of elderly and disabled persons to the Department of Health and Social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

Section 11 provides a July 1, 1994 effective date for the statutory changes made by the bill.

If this bill is enacted into law, the revisor of statutes will need to make appropriate changes to the existing article structure of AS 47.24.

I urge your support of this important legislation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Walter J. Hickel".

Walter J. Hickel  
Governor

# Christian Science Committee on Publication for Alaska

P.O. Box 873452  
Wasilla, Alaska 99687-3452  
Telephone and fax (907)376-7413

April 26, 1994

To: Members of the House Finance Committee

Re: SB 248 Vulnerable Adults

I recently faxed to your office a letter regarding an amendment to SB 248. I have since found out that action had been taken on the floor of the Senate of which I was not aware. A slightly different version of my suggestion had been adopted by the Senate Rules Committee. However, that amendment was rejected by the Senate. This being the case, I was in error in stating that this amendment would have the support of Senator Halford, the Senate, and the Department of Administration. Furthermore, it has been brought to my attention that it was inappropriate for me to speak, as I did, for an elected official or the Administration. I have since offered an apology to Senator Halford and the Department of Administration for this mistake.

I regret this error and apologize if I have mislead you on this issue. I should have been fully informed of all that had transpired with this bill.

In spite of my inexperience in legislative matters, I hope that you will still consider supporting this amendment. I wouldn't want my lack of understanding of correct procedures to interfere with what I feel is a very important addition to this bill.



Ronald A. Mangelsdorf  
Christian Science Committee on Publication for Alaska

# Christian Science Committee on Publication for Alaska

P.O. Box 873452  
Wasilla, Alaska 99687-3452  
Telephone and fax (907)376-7413

April 22, 1994

Re: SB 248 (or House version HB 376)

Title: An Act relating to services for and protection of vulnerable adults

I represent the Christian Science churches in Alaska, and on their behalf, I have suggested the following amendment, which Representative Martin has agreed to offer:

Page 11, line 26:

Delete "a new section"  
Insert "new sections"

Page 11, after line 26:

Insert new material to read:

"Sec. 47.24.130. TREATMENT THROUGH SPIRITUAL MEANS. This chapter may not be construed to mean that a person is abused, neglected, self-neglected, vulnerable, unable to consent, abandoned, exploited, or in need of emergency or protective services for the sole reason that the person relies on or is being furnished treatment by spiritual means through prayer alone in accordance with the tenets and practices of a church or religious denomination of which the person is a member or adherent.

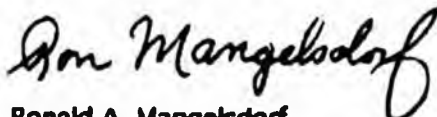
It is my hope that you will agree to support this proposal. As you may or may not know, Christian Scientists rely on spiritual treatment, based on prayer alone, for the healing of physical illness. Reliance on spiritual treatment for healing should not be considered abusive or neglectful simply because an individual chooses prayer in lieu of medical treatment.

Christian Science has been effectively practiced for over 100 years and has a very strong record of documented healings. Its practice is recognized in both federal and state legislation, as well as by most major insurance companies. Many other states have a similar provision in their statutes.

I have been told by Senator Halford's office that the Senate would not object to this suggestion, and if the House adopted this proposal, the Senate would concur with the amendment.

The commissioner of the Department of Administration, Nancy Usera, and the Executive Director of the Older Alaskans Commission, Connie Sipe, have already been advised of my proposal through Sen. Halford's office and they have no objection to it.

If you have any questions about this proposed amendment, please feel free to call me and I will be happy to answer any concerns you may have.



Ronald A. Mangelsdorf  
Christian Science Committee on Publication for Alaska

**SB**

**248**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 3/14/94

FURTHER:

DATE TURNED INTO OFFICE: 3-23-94

The Finance Committee considered **SENATE BILL NO. 248**

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

and recommends:

- replace with \_\_\_\_\_ CS SB 248 (FINANCE)  
 or  adopt previous \_\_\_\_\_ CS \_\_\_\_\_  
 attaches amendment(s)

- same title  
 new title  
 technical title change (HB only)

- adopts \_\_\_\_\_ Letter of Intent  
 further referral to the \_\_\_\_\_

- do pass  
 do not pass  
 no recommendation  
 individual recommendations

**NEW FISCAL NOTES**

	Department	Date	Zero	Fiscal
#4	DVA Pioneer Homes	3-18-94	<del>0</del>	
#5	DVA Senior Serv.	3-18-94		559.6

**PREVIOUS FISCAL NOTES**

	Department	Date	Zero	Fiscal
#1	DHSS Adult Ser.	1-10-94		(364.5)
#2	DHSS-Northern	1-13-94		(68.0)
#3	DHSS-South Central	1-11-94		(127.1)
#6	DPX	2-2-94	<del>0</del>	

Appropriation No Fiscal Note

**DO PASS:**

*[Handwritten signatures]*

1. \_\_\_\_\_  
 2. \_\_\_\_\_

**OTHER RECOMMENDATIONS:**

*No Rec - T. Kelly*

\_\_\_\_\_

\_\_\_\_\_

2. \_\_\_\_\_

3-GS2001N.1 ✓  
Lauterbach  
3/15/94

*MOVED, Sen Rieger*

*PASSED*

*Strong Pleas, Kelly,*

BY SENATOR RIEGER *Rieger*

A M E N D M E N T

OFFERED IN THE SENATE  
TO: CSSB 248(STA)

Page 4, line 4, after "department.":

Insert "A person may not bring an action for damages against a police officer, village public safety officer, the state, or a political subdivision of the state based on a decision under this subsection to take or not to take immediate action to protect a vulnerable adult. If a decision is made under this subsection to take immediate action to protect a vulnerable adult, a person may not bring an action for damages based on the protective actions taken unless the protective actions were performed with gross negligence or intentional misconduct: damages awarded in the action may include only direct economic compensatory damages for personal injury."

*3-23-94*

*Phoned to  
Legal*

*9:10am*

SENATE FINANCE  
COMMITTEE  
Amendment Number: ①  
Bill Number: SB 248  
Sponsor: Rieger Date: 3/22/94  
Logged In By: (Signature)

FISCAL NOTE

25

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSSB 248 (STA)

Revision Date: \_\_\_\_\_  
Title: "An Act relating to services for and protection of vulnerable adults."  
Sponsor: Rules Committee  
Requestor: (S) FIN

Department Affected: Administration  
BRU: Senior Services  
Component: Senior Services Administration  
COMPONENT SERIAL NO. 1981

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	258.5	263.7	268.9	274.3	279.8	285.4
TRAVEL	20.0	20.4	20.8	21.2	21.6	22.1
CONTRACTUAL	264.1	269.4	274.8	280.3	285.9	291.6
SUPPLIES	5.0	5.1	5.2	5.3	5.4	5.5
EQUIPMENT	12.0	12.2	12.5	12.7	13.0	13.2
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>559.6</b>	<b>570.8</b>	<b>582.2</b>	<b>593.8</b>	<b>605.7</b>	<b>617.8</b>
CAPITAL EXPENDITURES	0	0	0	0	0	0
CHANGE IN REVENUES ( )	0	0	0	0	0	0

FUNDING SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	538.0	549.2	560.6	572.3	584.1	596.2
1005 GF/Program Receipts						
1006 GF/MHTIA	21.6	21.6	21.6	21.6	21.6	21.6
OTHER						
<b>TOTAL</b>	<b>559.6</b>	<b>570.8</b>	<b>582.2</b>	<b>593.9</b>	<b>605.7</b>	<b>617.8</b>

Estimate of any current year (FY 94) cost: \$ 0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

Future costs inflated at 2 percent annual increase. This fiscal note reflects the transfer of staff and support for Adult Protection Services to the Senior Services BRU. See fiscal notes from the Department of Health and Social Services for equivalent reductions.

Further analysis is on the attached pages.

Prepared by: Connie J. Sipe, Director *Connie J. Sipe*  
Division: Senior Services

Phone: 465-4879  
Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usura *Nancy Bear Usura*  
Agency: Department of Administration

Date: 3/18/94

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**FISCAL NOTE**

**STATE OF ALASKA  
1994 LEGISLATIVE SESSION**

**BILL NO. CSSB 248 (STA)**

**ANALYSIS:** (continued)

**Transfers:**

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

Three full-time Social Worker positions, range 16, PCNs 063714, 063426, and 063725.

Total = \$ 195.1

2. Transfer from the Department of Health and Social Services, Purchased Services BRU, Adult Services Component:

Adult foster/residential care, other purchased protective and contractual services.

Total = \$ 364.5

3. Transfer from Department of Administration, Senior Services BRU, Pioneers' Homes Component:

a. One full-time position (vacant) transferred within the BRU and reclassified to Clerk Typist, Anchorage.

b. One position will be reclassified to become a Social Worker in Anchorage for adult protective services.

**TOTAL FUNDS TRANSFERRED** 559.6

**Adult Protective Services will use the funds as follows:**

<u>Personal Services:</u>	<u>Months</u>	<u>Subtotal</u>	<u>Total</u>
1 PFT Social Worker III (Fairbanks)	12	66.8	
2 PFT Social Worker III (Anchorage)	24	128.3	
1 PFT Social Worker I (Anchorage)	10	35.1	
1 PFT Clerk Typist (Anchorage)	10	28.3	
<b>TOTAL PERSONAL SERVICES</b>			<b>258.5</b>

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

Travel 20.0

Contractual Services:

Purchased protective services, adult foster/residential	190.0
Lease space	33.0
Telephone (800 number, 24-hour answering/paging)	34.0
Risk Management and other contractual costs	7.1

**TOTAL CONTRACTUAL SERVICES** 264.1

Supplies 5.0

Equipment: software, telephones, computers, furniture 12.0

**TOTAL TRANSFERRED IN FOR PROTECTIVE SERVICES** 559.6

FISCAL NOTE

#4

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSSB 248 (STA)

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

Department Affected: Administration  
 BRU: Senior Services  
 Component: Pioneers' Homes  
 COMPONENT SERIAL NO. 1950

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL EXPENDITURES</b>	0	0	0	0	0	0
<b>CHANGE IN REVENUES ( )</b>	0	0	0	0	0	0

FUNDING SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

Estimate of any current year (FY 94) cost: \$ 0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Connie J. Sipe, Director  
 Division: Senior Services

Phone: 465-4879  
 Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usura  
 Agency: Department of Administration

Date: 3/18/94

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CS FOR SENATE BILL NO. 248<sup>Fix</sup>(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 3/14/94  
Referred: Finance

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

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

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

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

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

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

1 PERSON];

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

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

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

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

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

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

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

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

1 [HARM], the reporting person may [SHALL] make the report [OF HARM] to a  
2 police officer or a village public safety officer. The police officer or village public  
3 safety officer shall take immediate action to protect the vulnerable adult [ELDERLY  
4 PERSON] and shall, at the earliest opportunity, notify the department.

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

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

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

11 Sec. 47.24.011. DUTIES OF THE DEPARTMENT REGARDING SERVICES  
12 AND PROTECTION FOR VULNERABLE ADULTS. In order to facilitate the  
13 provision of supportive and protective services for vulnerable adults, the department  
14 shall

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

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

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

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

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

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

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

31 and

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

2 Sec. 47.24.013. REPORTS OF ABANDONMENT, EXPLOITATION, ABUSE,  
3 NEGLECT, OR SELF-NEGLECT OF VULNERABLE ADULTS IN OUT-OF-HOME  
4 CARE FACILITIES. (a) If a report received under AS 47.24.010 regards the  
5 abandonment, exploitation, abuse, neglect, or self-neglect of a vulnerable adult who is  
6 60 years of age or older that is alleged to have been committed by or to have resulted  
7 from the negligence of the staff or a volunteer of an out-of-home care facility,  
8 including a facility licensed under AS 18.20, in which the vulnerable adult resides, and  
9 if the Department of Health and Social Services licenses that type of facility, the  
10 Department of Administration shall transfer the report for investigation to the long  
11 term care ombudsman under AS 44.21.232 and the Department of Health and Social  
12 Services.

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

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

23 (1) conduct an investigation as appropriate under AS 44.21.232 or  
24 AS 47, respectively;

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

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

30 (d) If the long term care ombudsman or the Department of Health and Social  
31 Services receives directly a report regarding the abandonment, exploitation, abuse,

1 neglect, or self-neglect of a vulnerable adult in an out-of-home care facility, the  
2 ombudsman or the Department of Health and Social Services shall provide the report,  
3 and the results of their actions or investigations regarding the report, to the central  
4 information and referral service of the Department of Administration. The Department  
5 of Administration may investigate the report as described in AS 47.24.015 if the  
6 department determines that action is appropriate.

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

12 Sec. 47.24.015. ACTION ON REPORTS. (a) Upon the department's receipt  
13 of a report under AS 47.24.010 that is not transferred under AS 47.24.013, the  
14 department, or its designee, shall promptly initiate an investigation to determine  
15 whether the vulnerable adult who is the subject of the report suffers from  
16 abandonment, exploitation, abuse, neglect, or self-neglect. The department, or its  
17 designee, shall conduct a face-to-face interview with the subject of the report unless  
18 that person is unconscious or the department, or its designee, has determined that a  
19 face-to-face interview could further endanger the vulnerable adult.

20 (b) After the department conducts an investigation under (a) of this section,  
21 the department shall prepare a written report of the investigation, including findings,  
22 recommendations, and a determination of whether and what kind of supportive or  
23 protective services are needed by and are to be offered to the vulnerable adult. After  
24 the department's designee conducts an investigation under (a) of this section, the  
25 designee shall prepare a written report of the investigation, including findings,  
26 recommendations, and a proposed determination of whether and what kind of  
27 supportive or protective services are to be offered to the vulnerable adult. The  
28 department shall prepare, and attach to the designee's report, a final determination  
29 regarding services to be offered to the vulnerable adult.

30 (c) The department, or its designee, shall immediately terminate an  
31 investigation under this section upon the request of the vulnerable adult who is the

1 subject of the report made under AS 47.24.010. However, if the investigation to that  
2 point has resulted in reasonable cause to believe that the vulnerable adult is in need  
3 of protective services,

4 (1) the department may petition the court as set out in AS 47.24.019;

5 or

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

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

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

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

17 Sec. 47.24.016. SURROGATE DECISION MAKERS FOR VULNERABLE  
18 ADULTS. (a) If the department determines under AS 47.24.015 that a vulnerable  
19 adult is in need of protective services, but the department cannot obtain the vulnerable  
20 adult's consent to receive the services because the vulnerable adult is unable to consent  
21 or lacks decision making capacity, and has no guardian or attorney in fact to serve as  
22 the vulnerable adult's surrogate decision maker, the department may select from the  
23 following list, in the order of priority listed, an individual who is willing to be the  
24 vulnerable adult's surrogate decision maker for the purpose of deciding whether to  
25 consent to the vulnerable adult's receipt of protective services:

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

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

28 or

29 (B) the vulnerable adult or the spouse have initiated divorce or  
30 dissolution proceedings;

31 (2) an individual who lives with the vulnerable adult in a spousal

1 relationship or as a domestic partner and who is 18 years of age or older;

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

4 (4) a parent of the vulnerable adult;

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

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

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

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

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

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

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

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

22 (d) The department may not continue to provide protective services to a  
23 vulnerable adult based on the consent of a surrogate decision maker serving under this  
24 section if the department determines that the vulnerable adult has become able to  
25 consent or has regained decision making capacity since the surrogate's consent was  
26 given. The department may continue protective services to a vulnerable adult who has  
27 become able to consent or has regained decision making capacity only if the vulnerable  
28 adult consents.

29 **Sec. 47.24.017. DELIVERY OF PROTECTIVE SERVICES FOR**  
30 **VULNERABLE ADULTS.** (a) If the department determines under AS 47.24.015 that  
31 a vulnerable adult is in need of protective services and either the vulnerable adult, the

1 vulnerable adult's guardian or attorney in fact, or a surrogate decision maker selected  
2 under AS 47.24.016 consents to receipt of the protective services, and to the extent  
3 that resources are available, the department shall ensure that the protective services for  
4 the vulnerable adult are provided by the department or its designee within 10 working  
5 days after the department received the report under AS 47.24.010 regarding the  
6 abandonment, exploitation, abuse, neglect, or self-neglect of the vulnerable adult.  
7 However, if circumstances beyond the control of the department or the department's  
8 designee make it impossible to provide the protective services within the 10 working  
9 days, the department shall ensure that the services are provided as soon as possible  
10 after that time.

11 (b) Notwithstanding (a) of this section, if the department determines that an  
12 emergency situation exists that necessitates provision of protective services to a  
13 vulnerable adult, the department may provide the necessary protective services in a  
14 manner determined by the department to be the most appropriate in light of the  
15 emergency situation, regardless of whether the vulnerable adult or any other person has  
16 consented to receipt of the services.

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

21 Sec. 47.24.019. PETITIONING COURT FOR CERTAIN PROTECTIVE  
22 SERVICES. (a) If, after investigation under AS 47.24.015, the department has  
23 reasonable cause to believe that a vulnerable adult is in need of protective services and  
24 is an incapacitated person, the department may petition the court under AS 13.26 for  
25 appointment of a guardian or temporary guardian for the vulnerable adult for the  
26 purpose of deciding whether to consent to the receipt of protective services for the  
27 vulnerable adult.

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

1 proceeding.

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

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

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

13 \* Sec. 10. AS 47.24.050 is amended to read:

14 Sec. 47.24.050. CONFIDENTIALITY OF REPORTS. (a) Investigation  
15 reports and reports of the abandonment, exploitation, abuse, neglect, or self-neglect  
16 of a vulnerable adult [HARM] filed under this chapter [AS 47.24.010 - 47.24.100]  
17 are confidential and are not subject to public inspection and copying under  
18 AS 09.25.110 - 09.25.125. However, in accordance with this chapter [AS 47.24.010  
19 - 47.24.100] and regulations adopted under this chapter [AS 47.24.010 - 47.24.100],  
20 investigation reports may be used by appropriate [GOVERNMENTAL] agencies or  
21 individuals inside and outside the state, in connection with investigations or judicial  
22 proceedings involving the abandonment, exploitation, abuse, neglect, or self-neglect  
23 of a vulnerable adult [HARM TO AN ELDERLY PERSON].

24 (b) The department shall disclose a report of the abandonment, exploitation,  
25 abuse, neglect, or self-neglect of a vulnerable adult [HARM] if the vulnerable adult  
26 [ELDERLY PERSON] who is the subject of the report consents in writing. The  
27 department shall, upon request, disclose the number of verified reports of  
28 abandonment, exploitation, abuse, neglect, or self-neglect of a vulnerable adult  
29 [HARM] that occurred at an institution that provides [FOR] care for vulnerable  
30 adults [OF THE ELDERLY].

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

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

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

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

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

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

19           Sec. 47.24.900. DEFINITIONS. In this chapter,

20           (1) "abandonment" means desertion of a vulnerable adult by a  
21 caregiver;

22           (2) "abuse" means

23                   (A) the wilful, intentional, or reckless nonaccidental, and  
24 nontherapeutic infliction of physical pain, injury, or mental distress; or

25                   (B) sexual assault under AS 11.41.410 or 11.41.420;

26           (3) "caregiver" means

27                   (A) a person who is providing care to a vulnerable adult as a  
28 result of a family relationship, or who has assumed responsibility for the care  
29 of a vulnerable adult voluntarily, by contract, or by court order; or

30                   (B) an employee of an out-of-home care facility who provides  
31 care to one or more vulnerable adults;

1 (4) "decision making capacity" means the ability to understand and  
2 appreciate the nature and consequences of a decision and the ability to reach and  
3 communicate an informed decision;

4 (5) "department" means the Department of Administration;

5 (6) "designee" means another state agency or a community-based  
6 program, individual, or provider of supportive services that has been licensed, or  
7 authorized by agreement with the department, to provide one or more services to  
8 vulnerable adults;

9 (7) "exploitation" means unjust or improper use of another person or  
10 another person's resources for one's own profit or advantage;

11 (8) "incapacitated person" means a person whose ability to receive and  
12 evaluate information or to communicate decisions is impaired to the extent that the  
13 person lacks the ability to provide or arrange for the essential requirements for the  
14 person's physical health or safety without court-ordered assistance;

15 (9) "neglect" means the intentional failure by a caregiver to provide  
16 essential care or services necessary to maintain the physical and mental health of the  
17 vulnerable adult;

18 (10) "police officer" has the meaning given in AS 18.65.290;

19 (11) "protective services" means services that are intended to prevent  
20 or alleviate harm resulting from abandonment, exploitation, abuse, neglect, or self-  
21 neglect and that are provided to a vulnerable adult in need of protection; "protective  
22 services" includes protective placement;

23 (12) "self-neglect" means an act or omission by a vulnerable adult that  
24 results, or could result in the deprivation of essential services necessary to maintain  
25 minimal mental, emotional, or physical health and safety;

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

30 (14) "unable to consent" means refusal to, or inability to, accept  
31 services because

1 (A) the person is an incapacitated person or apparently is an  
2 incapacitated person;

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

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

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

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

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

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

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

24 (c) The Department of Administration may proceed to adopt regulations necessary to  
25 implement the changes made by this Act. The regulations may not take effect before July 1,  
26 1994.

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

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

No. 6

# FISCAL NOTE

Bill Version: SB 248

(S) Publish Date: 2-18-94

STATE OF ALASKA  
1994 LEGISLATIVE SESSI

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety

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

Component: Detachments

Sponsor: S. RULES by Request

Requestor: S. HES COMPONENT SERIAL NO. 799

### EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ( ) Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

### FUNDING: (Thousands of Dollars)

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

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

### POSITIONS:

FULL-TIME	0	0	0
PART-TIME	0	0	0
TEMPORARY	0	0	0

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

3-11-94 date [Signature] Comte Aide (initial)

### ANALYSIS: (Attach a separate page if necessary.)

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

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

2/16/94 date [Signature] Comte Aide (initial)

Prepared By: Lee Ann Lucas Phone: 465-4322

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

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

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

FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

No: 1  
Bill Version: SB 248  
(S) Publish Date: 1-14-94

Revision Date: 1/10/94 Dept. Affected: Health and Social Services  
Title: Vulnerable Adults Protective Services BRU: Purchased Services  
Component: Adult Services  
Sponsor: Rules Committee  
Requestor: by Request of Governor COMPONENT SERIAL NO. \_\_\_\_\_

Expenditures/Revenues:

	(Thousands of Dollars)					
	FY95	FY96	FY97	FY98	FY99	FY00
<b>OPERATING</b>						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	(364.5)					
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>(364.5)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGES IN REVENUES</b>						
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FUND SOURCE

	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF	(342.9)					
1008 GF/Program Receipts						
1008 GF/MHTIA	(21.6)					
Other						
<b>TOTAL</b>	<b>(364.5)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS:

FULL-TIME			
PART-TIME			
TEMPORARY			

Changes in CS SB 248 (HES) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.  
2/16/94 hab  
date Comte Aide (initial)

Estimate of current year (FY94) impact: None

ANALYSIS: (Attach a separate page if necessary)

When the existing Protection of the Elderly statute was passed in 1983, no funding was provided. In the late 70's, the department had also been given statutory responsibility for licensing adult facilities. Again no funds were provided for licensing and no funds were provided for upgrading the care of dependent adults residing in existing facilities, then called, boarding homes.

In 1983, the department obtained funds for residential and foster care for dependent adults. Those funds became the Adult Services Component of the Purchased Services BRU and are being transferred from the Division of Family and Youth Services, DHSS, to the Division of Senior Services, Department of Administration to support the Protection of Vulnerable Adults Legislation.

Prepared by: Deborah R. Wing, Director Deborah R. Wing  
Division: Division of Family & Youth Services

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

Approved by Commissioner: Margaret Lowe, M. Ed., Ed. S.  
Agency: Department of Health & Social Services

Changes in CSSB 248 (STA) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.  
3/11/94 [Signature]  
date Comte Aide (initial)

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FISCAL NOTE

No. 2

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

Bill Version: SB 248

(S) Publish Date: 1-14-94

Revision Date: 1/10/94 Dept. Affected: Health and Social Services  
 Title: Vulnerable Adults Protective Services BRU: Family & Youth Services  
 Sponsor: Rules Committee Component: Northern Region  
 Requestor: By Request of Governor COMPONENT SERIAL NO. 255

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	(68.0)					
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>(68.0)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

CHANGES IN REVENUES						
---------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(68.0)					
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>(68.0)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS:

FULL-TIME	1		
PART-TIME			
TEMPORARY			

Changes in CSSB 248 (HES)  
 reflect NO FISCAL CHANGE from the original  
 fiscal note. This fiscal note is appropriate.  
2/16/94 hsh  
 date Comte Aide (initial)

Estimate of current year (FY94) impact: None

ANALYSIS: (Attach a separate page if necessary)

One Adult Protective Services (APS) specialist is being transferred from the Division of Family and Youth Services (DFYS) Northern Region to the new Division of Senior Services to support the Protection of Vulnerable Adults Legislation.

When the existing Protection of the Elderly statute was passed in 1983, no funding was provided, other than 5.0 for brochures. The specialist position in Fairbanks was created from child protective services funds. Subsequent efforts to expand funding for a credible adult protective services program have not been fruitful. The Task Force that reviewed APS within DFYS recommended it be consolidated with other senior services where it is believed the program may be better supported and developed.

Prepared by: Deborah R. Wing, Director  
 Division: Division of Family & Youth Services  
Margaret R. Lowe  
 Approved by Commissioner: Margaret Lowe, M. Ed., Ed. S.  
 Agency: Department of Health & Social Services

Phone: 465-3191  
 Date: 01/12/94  
 Date: 1-13-94

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Changes in CSSB 248 (STA)  
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 fiscal note. This fiscal note is appropriate.  
3/11/94 [Signature]  
 date Comte Aide (initial)

(Rev 10/93)94feno.xls/DBR

FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

No. 3

Bill Version: SB 248

(S) Publish Date: 1-14-94

Revision Date: 1/10/94 Dept. Affected: Health and Social Services  
 Title: Vulnerable Adults Protective Services BRU: Family & Youth Services  
 Component: Southcentral Region  
 Sponsor: Rules Committee  
 Requestor: By Request of Governor COMPONENT SERIAL NO. 254

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	(127.1)					
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>(127.1)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
---------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(127.1)					
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>(127.1)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS:

FULL-TIME	2		
PART-TIME			
TEMPORARY			

Estimate of current year (FY94) impact: None

Changes in CS SB 248 (HES)  
 reflect NO FISCAL CHANGE from the original  
 fiscal note. This fiscal note is appropriate.  
2/14/94 date Kuh Comte Aide (initial)

ANALYSIS: (Attach a separate page if necessary)

Two Adult Protective Services (APS) specialists are being transferred from the Division of Family and Youth Services (DFYS) Southcentral Region to the new Division of Senior Services to support the Protection of Vulnerable Adults Legislation.

When the existing protection of the Elderly statute was passed in 1983, no funding was provided, other than 5.0 for brochures. The Adult Protective Services Specialist positions in Anchorage were created from child protective services funds. Subsequent efforts to expand funding for a credible adult protective services program have not been fruitful. The Task Force that reviewed APS within DFYS recommended it be consolidated with other senior services where it is believed the program may be better supported and developed.

Prepared by: Deborah R. Wing, Director  
 Division: Division of Family & Youth Services

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

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

Date: 1-11-94

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Changes in CS SB 248 (STA)  
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 fiscal note. This fiscal note is appropriate.

3/11/94 date [Signature] Comte Aide (initial)

## DEPARTMENT OF ADMINISTRATION

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

Governor Hickel has introduced this bill with the intent to make significant improvements in the way that protective services would be provided to vulnerable adults who are victims of abuse, neglect or exploitation. The bill would transfer the authority for adult protective services from the Department of Health & Social Services (Division of Family & Youth Services) to the Department of Administration (Division of Senior Services).

Briefly, here are the highlights of improvements and changes contained in the bill. A more detailed analysis follows.

CSSB 248 (STA) would:

- Combine protective services for the elderly and other adults
- Offer protection to the "vulnerable," without interfering with elderly or disabled adults capable of caring for themselves
- Streamline abuse reporting and reduce duplicative work by state investigating agencies
- Open a central information and referral service for all vulnerable adults and their caregivers
- Promote more coordination with local service provider agencies to the same population
- Use local service providers as more "friendly" outreach workers wherever possible
- Honor a competent adult's refusal of services or request to terminate investigation
- Share appropriate information on status of investigation with the reporter of the abuse

- Use family members as "surrogate decision makers" when abuse victim is not able to give consent to receipt of services
- Clarify when and for what relief the state may seek judicial intervention to protect a person
- Redefine abuse to focus on intentional or reckless - not accidental - harm to adults
- Redefine neglect to focus on intentional failure to provide care, not inability to care
- Redefine exploitation to include exploitation of the victim's person as well as resources
- Provide for a smooth transition between the departments

## **DETAILED ANALYSIS OF BILL'S IMPROVEMENTS**

Section 1 of the bill brings into conformity with the new bill a section of the existing licensing law for psychologists or psychological associates. Under existing law, psychologists and associates must report "elder abuse," whereas SB 248 would require them to report incidents of abuse to "vulnerable adults," which is the new term used to define the protected class of citizens.

**New perspective on who are "vulnerable adults" and what is "abuse."** Section 2 of the bill amends the current AS 47.24.010 (a), and defines the protected class of persons as "vulnerable" adults who suffer abandonment, exploitation, abuse, neglect or self-neglect. This new definition in effect combines two formerly separate statutes: one for elder abuse and one for abuse of disabled persons. The definition also more correctly recognizes that not all elderly and not all disabled persons are "vulnerable." This section transfers the function of receiving reports to a new central information and referral service to be located in the Department of Administration.

**Reporting of abuse updated and streamlined.** Section 2 then amends the list of persons who are currently required by law to report their belief that a vulnerable adult is suffering from one of the listed types of abuse. Mostly the changes are to bring the language into compliance with the new reference to Department of Administration. One new category of required reporters is added: "caregivers." (For brevity's sake, this paper will use "abuse" generally to refer to the entire list of types of harm covered by the bill.)

Section 3 amends the existing AS 47.24.010(b) to replace references to "elder person" with the new bill language of "vulnerable adult."

Section 4 amends the existing AS 47.24.010(c) to clarify the Department of Administration's responsibility to report to the Department of Law any of the listed required "reporters" of abuse who fail to comply with the mandatory reporting law. This section updates current law to replace references to "harm" with the new list of abandonment, exploitation, abuse, neglect, or self-neglect. Failure to report remains a "non-criminal violation" under AS 11.81.900(b), which carries a penalty of a fine only.

Section 5 amends current law, AS 47.24.010(d), to add the new list of types of abuse and shortens the section while still retaining its intent, namely that any of the required reporters in the list mentioned above, as well as "any other person" may report any abuse that has come to that person's attention, whether or not it comes to a required reporter "in the performance of their professional duties."

Section 6 amends the existing section AS 47.24.010(e), to clarify that when an abuse victim is in imminent risk of serious physical harm, the reporting person may contact a local police officer if the reporter is unable to contact the department's central information and reporting service. As under current law, the police officer is then obligated to take action to protect the vulnerable adult.

Section 7 is an addition to existing law. Section 7 states that a person who observes abuse in an out-of-home care facility may fulfill the person's duty to report by making a report to the long term care ombudsman (of the Older Alaskans Commission) or the Department of Health & Social Services (the licensing section of the Medical Assistance Division or the Division of Mental Health & Developmental Disabilities).

**Department of Administration's new system for serving vulnerable adults who are abused.** Section 8, AS 47.24.011, describes the duties of the department under the amended law. The Department of Administration will compile information on abuse, maintain a central information and referral (I & R) line, run a statewide system to serve abused adults.

**More coordination with local service providers.** AS 47.24.011 also allows the department to designate other (willing) state agencies or community-based service providers to deliver some or all of the supportive and protective services needed. This would be a major improvement over the current system, as the Department could use local provider agencies more familiar and less threatening to the alleged victim of abuse, such as the outreach worker from the local senior center to make initial contact and offer services. If cases involve serious abuse, the department might immediately send its social worker, or the social worker could pick up the case after the local senior center's first contact and assessment of the situation.

**Reducing duplicate investigations by state agencies.** Section 8, section 47.24.013, is one of the bill's major improvements over the current delivery system. Currently, an allegation that abuse has occurred in a nursing home or hospital requires reporting to the Division of Family & Youth Services and to the Certification and Licensing Unit of Medical Assistance. In addition, the Long Term Care Ombudsman has jurisdiction under federal and state law to investigate the same situation if the office is called. Facilities often find themselves dealing with three to five state agencies over one allegation.

The bill, at section 47.24.013(a), improves this inefficient use of state resources by stating that when a facility is licensed by Health & Social Services (nursing homes, hospitals) and the victim is over the age of 60, then the report of abuse will be transferred for investigation and action to the appropriate licensing unit in D.I&SS and the long term care ombudsman's office, which will be required under 47.24.013(c) to investigate, coordinate their investigations and responses, and to

provide a report of the results to the central I & R service of Administration within 60 days.

Similarly, in section 47.24.013(b), when the alleged victim of abuse in a licensed out-of-home care facility is under age 60, the case will still be transferred to the appropriate licensing agency within DH&SS, and the protective services unit in Administration will not be required to duplicate efforts by investigating the same case.

**Investigative duties.** The new section 47.24.015 outlines how the Department of Administration will be required to take action on reports of possible abuse. The department is required to initiate a prompt investigation, which must include a face-to-face interview with the subject of the report, unless a personal interview would endanger the vulnerable adult. Note that the department may use a designee agency to conduct this work. The department's investigation must be summarized in a written report, including a summary of services to be provided.

**Victim's request to drop investigation.** Under subsection 47.24.015(c), if the subject of the report requests that the investigation cease, the department or its designee must terminate the investigation. However, in an improvement over current law, the department is not forced to abandon the case altogether upon the alleged victim's request. Rather, when the investigation to date has already resulted in "reasonable cause to believe that the vulnerable adult is in need of protective services," the department may either petition the court for certain protective services or may report the case for criminal investigation.

This new procedure recognizes the reality of many cases where the alleged victim is too scared of or threatened by the perpetrator to be willing to cooperate with any investigation, or where the victim appears to be temporarily or permanently incapable of making an informed decision about his or her own safety and affairs.

**Sharing of information with reporter of abuse.** New subsection 47.24.015(d) will cure a problem in the current delivery system for protective services for adults. This section explicitly requires the department to notify the person who made the abuse report about the status of the investigation regarding the vulnerable adult. This will improve relations with reporters who are ongoing caregivers for the subject adult, as these caregivers need to know whether the person is safe and how the caregiver can best interact with the subject adult in the future.

The new subsections 47.24.015(e) will forbid any person from bringing a damages action for decisions by the department whether or not to offer protective services to a vulnerable adult. Subsection .015(f) will forbid damages actions based on the provision of protective services unless the legal action is based on gross negligence or intentional misconduct, and in any event, damages are limited to only direct economic compensatory damages for personal injury.

**New use of surrogate decision makers.** A new official recognition of "surrogate decision makers" for vulnerable adults is included in the new section 47.24.016. Under this section, when the department finds that a vulnerable adult needs protective services, but the adult victim lacks decision making capacity or is "unable to consent" due to illness, coercion, fear of reprisal from or dependency on the perpetrator, then the department may seek consent from a guardian or attorney in fact for the victim. Under this new law, if there is no guardian, the department may select from the statute's list of surrogate decision makers for the person, for the purpose of deciding whether the person will "consent" to receiving protective or supportive services.

The surrogate decision maker selection process in the bill is modeled after similar acts in several other states. It allows the department to use --in the priority order listed-- the consent of the vulnerable adult's spouse, domestic partner, adult child, parent, sibling, or close adult friend or relative. An incompetent person or an alleged perpetrator of the abuse may not be used as a surrogate. If more than one willing surrogate exists at the chosen priority level--like three adult children--then those persons may choose among themselves or make surrogate decisions by a majority vote.

Allowing surrogate decision making will allow the department to more quickly move ahead with protective services in many situations, and will avoid the expense of petitioning the court for orders or for a guardianship in those many situations where the crisis is only temporary and can be remedied by health care treatments or movement to a new safer environment. (Remember that this power can not be used when the vulnerable adult victim retains capacity and capability to make his or her own consent decisions.)

The last subsection, 47.24.016(d) clarifies that if the vulnerable adult regains the ability to consent or the capacity to make decisions, then the department must get the adult's consent before continuing to provide protective services.

**Delivery of protective services.** Sec. 47.24.017 discusses service delivery. When the department determines that a vulnerable adult needs protective services, and the person or appropriate surrogate has consented, the department will provide services within 10 days, to the extent of resources available from all sources (department, client, other agencies). When an emergency situation exists the department may provide protective services without consent. Services are always to be delivered in a culturally relevant manner that protects the adult's right to live in the "least restrictive environment" and maximizes the person's own decision making capabilities.

**Petitioning the court for protective services.** Section 47.24.019 gives the department authority to petition the court for appointment of a guardian in order to decide if the person will consent to services, or to petition for involuntary commitment

when the person is mentally ill and likely to seriously harm self or others, or to petition the court to issue an injunction against any caregiver who is interfering with the person's receiving services which the person has consented to receive.

**Monitoring.** Section 9 of the bill reenacts AS 47.24.040, to state that when the department provides ongoing protective services, that the department will monitor the situation until it determines that protective services are no longer needed.

**Confidentiality and disclosure of reports.** Section 10 of the bill amends AS 47.24.050. Under the proposed bill, confidential reports about investigations may be shared with "appropriate agencies or individuals," not just governmental agencies. The department must delineate who is appropriate and how information will be shared, but this section would ease a problem in the current law where confidentiality requirements can be so strictly interpreted that, for example, a local service provider such as an adult day care center which cares for a senior five days a week can not be asked to help monitor the status of a client who is living with a perpetrator who was abusive before the department intervened.

Section 11 of the bill retains current law's requirement that abuse regulations be provided for review to the Older Alaskans Commission before they are adopted.

**Immunity from liability or retaliation.** This existing statutory protection for persons who make good faith reports of abuse is maintained in the bill, section 12.

**Definitions.** Section 13 contains many definitions which are different from or additions to current law. The most important changes are highlighted here.

**"Abuse"** will no longer mean any harm to an elder or disabled person. The proposed bill says that abuse is the wilful, intentional or reckless infliction of injury or mental distress, or sexual assault. The new definition will eliminate current investigations of purely accidental harm where other professionals who witness the accidental harm (such as in a nursing home) feel compelled by law to make a formal report of the abuse.

(One actual case that could have been ignored under this new definition was the accidental dropping from two feet above to the bed by one of two nurses' aides doing a difficult transfer of a resident with a recent hip surgery. Although everyone saw the aide crying in remorse over the accident, and the aide had no history of carelessness or abuse, under the current statute, the elder was "harmed" and other employees felt the technical incident of "abuse" had to be reported.)

**"Designee"** of the department, who or which can assist with investigation or provision of services to vulnerable adults includes state agencies, community-based

programs, individuals, or providers of supportive services licensed or authorized by agreement with the department .

**"Exploitation"** will include unjust or improper use of either the vulnerable person or his or her resources for another person's profit or advantage.

**"Neglect"** will mean the intentional failure by a caregiver to provide essential care, and not just the financial or physical inability of the caregiver to render care.

**"Protective services"** can include protective placement or other services intended to prevent or alleviate harm.

**"Unable to consent,"** as discussed earlier, will be broader than just those persons who are permanently incapacitated from decision making, and will include persons who are unable to consent due to coercion, fear, dependency, or inability to perceive the imminent and substantial risk of death or irreparable injury if the person refuses assistance.

**"Vulnerable adult"** means a person over age 18 who, because of physical or mental impairment, is unable to meet his or her own needs, or is unable to seek help. Note that the bill would change the current law's presumption that all elderly persons and all physically, developmentally or mentally disabled persons are vulnerable and subject to special scrutiny , protection and possible interference in their affairs by state protective services .

**General provisions of the bill.** Section 14 repeals the existing "abuse of the disabled" law, because these persons are included, as appropriate, under the definition of vulnerable adult.

Section 15 specifies how the transition and transfer of resources, cases, and ongoing contracts will be handled between agencies upon the effective date of the Act. The bill authorizes the Department of Administration to proceed with regulations while awaiting the effective date of the Act.

Section 16 states that the transition section, section 15 of the bill, has an immediate effective date upon the Governor's signature.

Section 17 states that the rest of the bill would be effective July 1, 1994.

### Hazel J. Edmands, Elder Care

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

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

Senate Committee for State Affairs  
Chairman: Rick Halford

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

Senate Bill # 249

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

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

### Hazel J. Edmands. Elder Care

Post-It™ brand fax transmittal memo 7671		# of pages > 4
To S. STA	From JLE LHO	
Co. Written Testimony	Co.	
Dept.	Phone #	
Fax #	Fax #	

Senate bill #248

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

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

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

**Hazel J. Edmands, Elder Care**

Sec 47.33.430 COMPLAINT

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

This subsection should be amended to include:

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

Sec 47.33.520 INVESTIGATION

A subsection under investigation should read:

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

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

**Hazel J. Edmands, Elder Care**

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

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



Larry Edmands, Director

SB248



# KOTZEBUE IRA



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

February 10, 1994

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

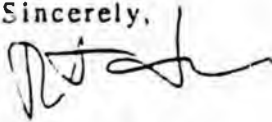
Dear Governor Hickel:

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

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

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

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

Sincerely,  


Pete Schaffer  
Chairman

cc: Senate & House legislators

WALTER J. HICKEL  
GOVERNOR



P. O. Box 110001  
Juneau, Alaska 99811-GOC1  
(907) 465-3500

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 14, 1994

The Honorable Rick Halford  
President of the Senate  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Mr. President:

*Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to services for and protection of vulnerable adults. This bill will place responsibility for the delivery of services to vulnerable adults within the Department of Administration. This bill also extends the scope of existing adult protective services to include all vulnerable adults who are in need of such services.*

*Section 1 of the bill clarifies the circumstances that give rise to a duty to make a report of a vulnerable adult. The circumstances are abandonment, exploitation, abuse, neglect, or self-neglect. Under this section, the report will be made to the Department of Administration. This section also deletes the existing liability immunity provisions, which are later reestablished in sec. 6 of the bill.*

*Section 2 sets out the duties of the Department of Administration regarding services and protection for vulnerable adults. The duties include establishing a central information and referral service for vulnerable adults, establishing criteria and procedures for the delivery of community-based services, designation of local service providers as department designees to meet local service needs, and adoption of regulations to implement the program.*

*Section 2 also sets out provisions regarding certain reports of abandonment, exploitation, abuse, neglect, or self-neglect, and regarding the action that is to be taken on all reports. The investigation required to be done by the Department of Administration includes a face-to-face interview and a written report of findings. Section 2 also provides for delivery of protective services and assures that, to the extent practicable, the services will be delivered in a timely and culturally relevant manner.*

The Honorable Rick Halford  
January 14, 1994  
Page 2

Section 2 provides authorization for family members or friends to be surrogate decision makers for a vulnerable adult who is in need of protective services but is unable to consent to services. This provision allows for the delivery of necessary protective services without the necessity of seeking an emergency guardianship in adult abuse cases. Section 2 also sets out the procedures available for providing protective services when court action to protect the adult is necessary.

Section 3 repeals and reenacts an existing statute to provide for monitoring of vulnerable adults who are receiving ongoing protective services. Section 4 addresses the confidentiality of reports made under these provisions; sec. 5 requires that regulations being adopted by the Department of Administration be provided to the Older Alaskans Commission; and sec. 6 provides for immunity from liability for individuals who make reports of vulnerable adults.

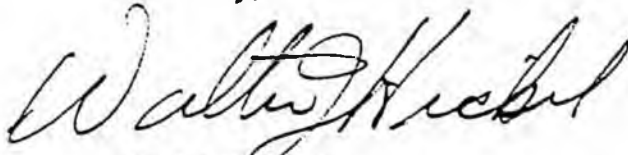
Section 7 sets out, in a more appropriate location, definitions for terms used in AS 47.24. The existing definition section is repealed in sec. 8. Section 8 of the bill also repeals existing statutes that address reports of abuse of elderly and disabled persons to the Department of Health and Social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

Section 11 provides a July 1, 1994 effective date for the statutory changes made by the bill.

If this bill is enacted into law, the revisor of statutes will need to make appropriate changes to the existing article structure of AS 47.24.

I urge your support of this important legislation.

Sincerely,

A handwritten signature in cursive script, reading "Walter J. Hickel".

Walter J. Hickel  
Governor

# FISCAL NOTE

No. 5  
 Bill Version: SB 248  
 (S) Publish Date: 1-14-94

STATE OF ALASKA  
 1994 LEGISLATIVE SESSION

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

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	258.5	263.7	268.9	274.3	279.8	285.4
TRAVEL	20.0	20.4	20.8	21.2	21.6	22.1
CONTRACTUAL	264.1	269.4	274.8	280.3	285.9	291.6
SUPPLIES	5.0	5.1	5.2	5.3	5.4	5.5
EQUIPMENT	12.0	12.2	12.5	12.7	13.0	13.2
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>559.6</b>	<b>570.8</b>	<b>582.2</b>	<b>593.9</b>	<b>605.7</b>	<b>617.8</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGE IN REVENUES ( )</b>						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	538.0	549.2	560.6	572.3	584.1	596.2
1005 GF/Program Receipts						
1006 GF/MHTIA	21.6	21.6	21.6	21.6	21.6	21.6
Other						
<b>Total</b>	<b>559.6</b>	<b>570.8</b>	<b>582.2</b>	<b>593.9</b>	<b>605.7</b>	<b>617.8</b>

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

**POSITIONS:**

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

**ANALYSIS:** (Attach a separate page in necessary)  
 Future costs inflated at 2% annual increase.  
 This fiscal note reflects the transfer of staff and support for Adult Protective Services to the Senior Services BRU. See fiscal notes from the Department of Health and Social Services for equivalent reductions.

Further analysis is on the attached pages.

Prepared by: Connie J. Sipe, Director  
 Division: Older Alaskans Commission

Approved by Commissioner: [Signature]  
 Agency: Administration

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Changes in CS SB 248 (HES)  
 reflect NO FISCAL CHANGE from the original  
 fiscal note. This fiscal note is appropriate.  
 2/16/94 [Signature]  
 date Comte Aide (initial)

Date: 2/11/94  
 Changes in CS SB 248 (STA)  
 reflect NO FISCAL CHANGE from the original  
 fiscal note. This fiscal note is appropriate.  
 2/11/94 [Signature]  
 date Comte Aide (initial)

Fiscal Note Analysis  
Adult Protective Services

Transfers:

1. Transfer from Department of Health and Social Services, Family and Youth Services BRU, Southcentral and Northern Regional Office Components: Three full-time Social Worker positions, range 16, PCNs 06-3714, 06-3426, and 06-3725.  
Total = 195.1
  
2. Transfer from Department of Health and Social Services, Purchased Services BRU, Adult Services Component:  
Adult foster/residential care, other purchased protective and contractual services.  
Total = 364.5.
  
3. Transfer from Department of Administration, Senior Services BRU, Pioneers' Homes Component:
  - a. One full-time position (vacant) transferred within the BRU and reclassified to Clerk Typist, Anchorage.
  - b. One position will be reclassified to become a Social Worker in Anchorage for adult protective services.

Total Funds transfer = 559.6

Adult Protective Services will use the funds as follows:

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

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

Travel 20.0

Contractual:		
Purchased protective services, adult foster/residential	190.0	
Lease space	33.0	
Telephone (800 number, 24 hr. answering/paging)	34.0	
Risk management and other contractual costs	7.1	
Total Contractual services		264.1
Supplies		5.0
Equipment: software, telephones, computers, furniture		<u>12.0</u>
Total Transferred In for Protective Services		<u>559.6</u>