

886

SHESS

HB 446

-

HB

802

1895

electricity for surgical purposes, including cauterization, are included within the term "physical therapy";

(4) "physical therapy assistant" means a person who assists in the practice of physical therapy or portions of it as initiated, supervised, and terminated by a registered physical therapist; his responsibilities include testing or evaluation. (§ 2 ch 74 SLA 1957; am § 11 ch 71 SLA 1974)

Effect of amendment. — The 1974 amendment substituted "State Physical Therapy Board" for "State Medical Board" in paragraph (1), inserted "and physical therapy evaluation, treatment planning, instruction and consultative services" in paragraph (3), and added paragraph (4).

Sec. 08.84.200. Short title. This chapter may be cited as the Physical Therapists Practice Act. (§ 1 ch 74 SLA 1957)

Chapter 86. Psychologists and Psychological Associates

Article

- 1. Board of Psychologist and Psychological Associate Examiners (§§ 08.86.050 — 08.86.050)
- 2. Administration of Board Affairs (§§ 08.86.070 — 08.86.100)
- 3. Licensing of Psychologists (§§ 08.86.120 — 08.86.150)
- 3A. Licensing of Psychological Associates (§§ 08.86.160 — 08.86.162)
- 4. Prohibitions and Penalties (§§ 08.86.170 — 08.86.220)
- 5. General Provisions (§ 08.86.230)

Article 1. Board of Psychologist and Psychological Associate Examiners.

Section	Section
0. Creation and membership of board	40. Assistants
20. Appointment and term of office	50. [Repealed]
30. Board meetings	

Sec. 08.86.010. Creation and membership of board. There is created a Board of Psychologist and Psychological Associate Examiners, which consists of three licensed psychologists, and two persons who have no direct financial interest in the health care industry. (§ 1 ch 136 SLA 1973; am § 1 ch 65 SLA 1973; am § 30 ch 102 SLA 1976)

Effect of amendments. — The 1973 amendment inserted "and Psychological Associate" in the first sentence. The 1976 amendment added "and two persons who have no direct financial interest in the health care industry" at the end of the second sentence.

Sec. 08.86.020. Appointment and term of office. Members of the board are appointed by the governor and confirmed by the legislature for staggered terms of three years. The terms of the public members shall be set so that they do not expire at the same time. A member

Title 7
Boroughs

Title 8
Business and Professions

Books and Periodicals
Section

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 19, 1980

SUBJECT: SCSHB 446 - Board of Psychologist and
Psychological Associate Examiners

TO: Senator Glenr. Fackney
Chairman, Senate Health, Education and
Social Services Committee

FROM: David T. Walker
Co-Revisor of Statutes *DTW*

This bill continues the existence of the Board of Psychologist and Psychological Associate Examiners until June 30, 1983. I have deviated from the format you suggested to take into account Ch. 74, SLA 1979 which accomplished the same technical changes proposed by SB 240.

DTW:ljb

Enclosure

THIS BILL [] RESOLUTION [] CITATION

has been prepared by the staff of the Legislative Affairs Agency in response to the request and at the direction of the sponsoring member or committee. The staff has attempted to place the document in proper legal and clerical form, subject to any special limitations or instructions of the requestor.

If we may be of further assistance in this matter, please contact the Director of Legal Services or the Director of Research Services, as appropriate.

Delivered to requestor 3-19-80

LA-L 40

1) HAS THE BOARD DEMONSTRATED
A PUBLIC NEED?

2) HAS THE BOARD ENCOURAGED
PUBLIC PARTICIPATION IN
ITS DECISIONS (ACCUSED
OF BEING ARBITRARY?)

3) HAVE THEY BEEN RESPONSIVE
TO COMPLAINTS SUBMITTED
TO THE BOARD?

4) ANY PROBLEMS W/ O.L.?

for an examination.

* Section 08.36.160 Issuance of license by credentials. If an applicant for licensure currently holds a valid license to practice dentistry in Arizona, Idaho, Oregon, and Utah, the Board may issue the appropriate dental license to the applicant upon evidence that:

- (1) The applicant is a graduate from a dental school accredited by the Commission on Dental Accreditation, or its successor agency, if any, and;
- (2) The applicant has practiced dentistry in one of the above states full-time at least 5 years out of the five years immediately preceding application, and;
- (3) Licensure requirements in the other states are substantially similar to or higher than those required by this state, and;
- (4) The applicant has not failed the clinical examination of this state, and;
- (5) No disciplinary proceeding, unresolved complaint or professional association's peer review procedure is pending anywhere at the time a license is to be issued by this state, and;
- (6) The applicant has not previously had a license revoked in any state.

Section 08.36.170 Practice outside the state. A dentist licensed to practice in this state and residing and practicing dentistry outside of this state, may maintain his eligibility to practice in this state by biennially registering his name and place of residence with the Division of Occupational Licensing. If the dentist fails to register, the board may reinstate his license without examination upon payment of a penalty of \$25, payment of all delinquent registration fees, and presentation of proof of active practice at his place of residence, certified by the dental board having jurisdiction at his place of residence, or, if there is no board, by evidence satisfactory to the board.

Section 08.36.180 Issuance of license; recordation; display. The Division of Central Licensure shall issue a license to each successful applicant who has paid the required fees. The holders of a license shall register it in the office of the clerk of the superior court in the judicial district of his place of residence. The licensee shall display the license in a conspicuous place where he/she practices.

Section 08.36.190 License to practice as specialist required. No licensed dentist may hold himself out to the public as being especially qualified in a branch of dentistry by announcing through the press, sign, card, letterhead or printed matter,

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447

COMMITTEE REPORT

SENATE

FURTHER: None

4/25/80

Date: 5-9-80

Mr. President:

HEALTH, EDUCATION AND
SOCIAL SERVICES

The Committee on _____ has had CS HB 447

~~terminating the existence of the Board of Nursing Home Administrators~~

Continuing

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 447 same title
- new title

and recommends _____

- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

DePise

CHAIRMAN
DePise

Introduced 4-5-79

Logged 4-25-80

Referrals none

Comm. meeting 5-9-80 - passed as C.S.

" action passed as C.S.

SB 447 "An Act terminating ^{HES 7980} the
By Commerce existence of the Board
single line Administration

He had SB 549 - which passed
Senate.
He had 3 de pass

A M E N D M E N T

OFFERED IN THE SENATE:

By: _____

To: _____ SENATE BILL No. _____

SENATE CS HOUSE BILL No. 447

PAGE: 1

LINE: 14

line 14: insert

"* Sec. 2. AS 08.03.020(c) is amended to read:

(c) A board scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years unless the board is continued or reestablished for a longer period under AS 08.03.010."

RENUMBER REMAINING SECTIONS ACCORDINGLY

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC ASSISTANCE

POUCH H-07
JUNEAU, ALASKA 99811

March 31, 1980

The Honorable Glenn Hackney
Chairman, Senate HESS Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Document# 59-80

Dear Senator Hackney:

House Bill 447 proposes terminating the existence of the Board of Nursing Home Administrators on January 1, 1981 and reassigns its responsibilities to the Department of Commerce and Economic Development.

At the time various Boards and Commissions were being considered for "sunsetting" by the Legislature in 1979, it was found that the existence of the Board of Nursing Home Administrators or some similar type of "peer review" system was, by federal law, (U.S. Code 42 Sub-Chapter XIX S. 1396 a(29)) necessary if the State of Alaska was to continue to receive federal fund participation for Medicaid nursing home services.

Federal fund participation is an essential part of the Medicaid nursing home services funding. Nursing home services comprise 70% of the total Alaska Medicaid budget (twenty-nine million dollars) and therefore, approximately fourteen million dollars (50% matching) could be lost in federal fund participation if some type of "peer review" licensing function is not provided for in Alaska Statute.

When viewed superficially, it is difficult to justify the need for, and cost of a statewide, regionally represented, five member Board of Nursing Home Administrators when only approximately 35 licenses have been issued since 1976. However, with approximately fourteen million dollars in federal fund participation dependent upon the state having "either a Board of Nursing Home Administrators or an agency of the state responsible for licensing under the Healing Arts Act of the state" the cost and need is easier rationalized.

What seems needed is a method of administrating the issuance of Nursing Home Administrators licensured through the Department of Commerce and Economic Development while at the same time providing a method of inexpensive "peer review." Some alternatives that we have considered are as follows:

1. Establish the Long Term Care Division of the Alaska State Hospital Association as the board the Department of Commerce and Economic Department must consult with regarding:

March 31, 1980

- a. Promulgating of regulations.
- b. Revocation of licenses.
- c. Establishment of procedures to insure that licenses uphold standards.
- d. Adoption of criteria for educational requirements.

The Long Term Care Division of the Alaska State Hospital Association meets at least bi-annually and at no expense to the State could provide the professional support needed to fulfill federal statute requirements. The Long Term Care Division of the Alaska State Hospital Association is composed of all the nursing home administrators in the State of Alaska.

- II. Establish a Board, for federal purposes, composed of state employees who's offices are in Juneau. This type of board should meet during regular working hours and therefore, should be no added expense to the State.
 - a. Director of Occupational Licensing.
 - b. Director of Public Assistance.
 - c. Director of Public Health.
 - d. Director of Nursing Board.
- III. The development of a comprehensive healing arts act, which would encompass all healing professions.
- IV. Reinstatement of the existing Board of Nursing Home Administrators with appropriate funding and staffing in the Division of Occupational Licensing to accomplish the tasks required.

The Division of Public Assistance opposes House Bill 447 and support the reinstatement of the Board of Nursing Home Administrators. We feel the cost of supporting the operation of such a board are justified when compared to the amount of federal fund participation involved.

Sincerely,

Rod Betit
Rod Betit
Director

MARCH 31, 1980

SENATE HESS COMMITTEE
ASSEMBLY BUILDING, ROOM 106
JUNEAU, ALASKA

REF: ~~HOUSE BILL~~ No. 447

SENATE HACKNEY AND MEMBERS OF THE HESS COMMITTEE:

WE HAVE NO BASIC DISAGREEMENT WITH THE APPARENT INTENT OF H.B. #447. HOWEVER, THERE ARE SOME RELATIONSHIPS WITH FEDERAL REGULATIONS THAT MUST BE CONSIDERED SO AS TO PROTECT THE ABILITY OF NURSING HOMES TO SERVE THE ELDERLY AND THE ILL. THE FOLLOWING IS A BRIEF STATEMENT SETTING FORTH THE PROBLEMS AND SUGGESTING A CURE THRU MODEST CHANGES TO THE BILL,

FOUR "KEY" PHRASES DOMINATE OUR DISCUSSION RELATIVE TO ALASKA'S ELDERLY AND ILL CITIZENS:

HEALING ARTS ACT
BOARD OF NURSING HOME ADMINISTRATORS

PROGRAM COMPLIANCE CONTINUANCE
PROGRAM SUPPORT CONTINUANCE

UNDER THE TERMS OF THE FEDERAL SOCIAL SECURITY RULE NO NURSING HOME MAY OPERATE UNLESS IT IS LICENSED - A REQUIREMENT OF THE "HOME'S" LICENSE IS THAT IT BE ADMINISTERED BY A PERSON LICENSED AS A NURSING HOME ADMINISTRATOR.

ONLY TWO OPTIONS ARE AVAILABLE FOR THE LICENSING OF NURSING HOME ADMINISTRATORS:

- A- LICENSED UNDER TERMS OF A HEALING ARTS ACT.
- B- LICENSED BY A BOARD OF NURSING HOME ADMINISTRATORS.

ALASKA DOES NOT HAVE A "HEALING ARTS ACT". ALASKA HAS A "BOARD OF NURSING HOME ADMINISTRATORS" ABOUT TO BE SUNSETTED.

WHAT ARE SOME OF THE CONSEQUENCES OF NOT HAVING A "BOARD"?

MARCH 30, 1980

PAGE 2

FIRST, THE MINUTE THE "BOARD" NO LONGER EXISTS, THE LICENSES OF THE ADMINISTRATORS BECOME INVALID -- THUS THE NURSING HOMES ARE NOT IN COMPLIANCE AND THE PATIENTS MUST BE MOVED ALMOST IMMEDIATELY, RETURNED TO THEIR HOMES OR BE PLACED IN NON-EXISTING FACILITIES.

SECONDLY, MEDICAID HAS THE RIGHT AT THAT POINT TO STOP PAYMENT OF THE FIFTY (50%) PERCENT SUPPORT.

THE OBVIOUS RESULT OF ONE AND TWO IS THE REMOVAL OF MEDICAL CARE FROM APPROXIMATELY 500 ILL AND ELDERLY PATIENTS -- NONE OF WHOM HAVE A PLACE TO GO -- SOME OF WHOM ARE COMATOSE -- ALL OF WHOM ARE UNABLE TO CARE FOR THEMSELVES -- NONE OF WHOM HAVE FAMILIES ABLE TO CARE FOR THEM OR THEY WOULD NOT BE IN NURSING HOMES -- MOST OF WHOM ARE WARM, CARING, LOVING PEOPLE DOING THEIR VERY BEST UNDER VERY TRYING STATES OF HEALTH.

WHAT CAN BE DONE TO STOP THE POTENTIAL SERIOUS DANGER TO THE PRESENT AND PROSPECTIVE RESIDENTS OF NURSING HOMES; THE AGED, AND THE ILL, BOTH YOUNG AND OLD?

RETAIN THE BOARD OF NURSING HOME ADMINISTRATORS. THE LEGISLATURE MAY WELL DESIRE TO CHANGE THE MANNER IN WHICH THE BOARD IS CONSTITUTED, AND WE WOULD APPRAISE ANY CHANGE THAT BROUGHT ABOUT COST SAVING WITHOUT DESTROYING EFFECTIVENESS. THE SIZE OF THE BOARD MAY BE AS SMALL AS THREE MEMBERS; ONE COULD WELL BE FROM THE STAFF OF HEALTH AND SOCIAL SERVICES, ONE FROM THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT AND THE OUTSIDE MEMBER COULD BE THE ADMINISTRATOR OF A JUNEAU-BASED NURSING HOME. THUS, THE ONLY COST INVOLVED WOULD BE CLERICAL AS RELATED TO THE SCHEDULED MEETINGS AND EXAMINATIONS. NO TRAVEL AND NO PER DIEM. AND THIS SYSTEM COMPLIES WITH FEDERAL REQUIREMENTS.

MARCH 30, 1980

PAGE 3

AS AN ASIDE, I WOULD MENTION THAT IN MY MIND THE CONSIDERATION OF DOING AWAY WITH A BOARD MUST INCLUDE DEEP AND CAREFUL THOUGHT UPON THE TOTAL RELATIONSHIPS INVOLVED AND NOT ONLY THE APPARENT COST AND PRODUCTIVITY OF A BOARD. MUCH WORK MUST BE DONE ON A NATIONAL LEVEL TO CHANGE FEDERAL RULES IF ALASKA TRULY WISHES TO LESSEN EXTERNAL CONTROLS. LET'S LET THAT BE A SEPERATE CONCERN.

FOR NOW WE SHOULD ALL WORK TOGETHER TO RETAIN ANACCEPTABLE, TO US AND TO FEDERAL AUTHORITIES, "BOARD OF NURSING HOME ADMINISTRATORS" AND RETAIN OUR ABILITY TO PROVIDE PROPER MEDICAL HELP FOR OUR ELDERLY AND OUR ILL. SECONDARILY, LET US MAINTAIN OUR ABILITY TO SHARE THE COST WITH THE FEDERAL GOVERNMENT.

REMEMBER, NO "BOARD OF NURSING HOME ADMINISTRATORS" COULD MEAN AN ALMOST IMMEDIATE CLOSURE OF THE NURSING HOMES THROUGH NON-COMPLIANCE----AND, AN ULTIMATE LOSS OF FEDERAL FUNDING.

THE COMPLIANCE WITH FEDERAL STANDARDS AND THE CURE OF THE PROBLEM ARE SIMPLE MATTERS. COMPOSE THE BOARD FROM THE REPRESENTATIVE OF APPROPRIATE STATE AGENCIES PLUS A REPRESENTATIVE OF THE NURSING HOME INDUSTRY AND CONTINUE TO OPERATE UNDER THE PRESENT RULES

SINCERELY YOURS,



JIM L. BUCK

POSITION PAPER

SENATE BILL NO. ~~547~~am

In relation to
X HB 447

"An act relating to professional licensing and to the regulation of Nursing home administrators, and providing for an effective date."

Senate Bill 549am revises current statutes and adds new sections to clarify and strengthen the administration of nursing home administrators licensing procedures. The bill gives the Board of Nursing Home Administrators the authority to develop regulations for the purpose of requiring disciplinary sanctions and making renewal of licenses dependent upon proof of continued competency.

The bill provides specific administrative procedures for applying disciplinary sanctions, and spells out specific grounds for discipline.

The terms of members of the Board of Nursing and limited to approximately eight years and the nursing home administrators license is to be renewed every four years rather than annually.

The Department of Health and Social Services supports Senate Bill 549am as it is written.

As evidenced by the attached letter from Rod Betit, Director, Division of Public Assistance, the existence of and the smooth operation of a Board of Nursing Home Administrators is important to the operation and funding of the State of Alaska's Medicaid program.

The bill does not fiscally affect the cost of operation of the Department of Health and Social Services other than the federal fund participation for the Medicaid program.

Recommended By:

Rod Betit

Date

May 5, 1980

Rod Betit, Director
Division of Public Assistance

Approved By:

Helen D. Beirne

Date

5/9/80

Helen D. Beirne, Commissioner
Department of Health and Social Services

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No 549am
Title "An act relating to professional licensing & regulation of Nursing Home Administrators"
Requested by Commissioner's Office Date 5/6/80

II. FISCAL DETAIL. Department of Health and Social Services

Agency Affected Department of Health and Social Services

Program Category Affected Health /Division of Public Assistance

BRU, Program, or Subprogram(s) Affected Medicaid

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	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

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (Must Legislator Named)

Robert H. Jensen
Prepared by: Rod Lett Date: 5/6/80
Division/Office: Public Assistance PI: 465-3356
Department of Health & Social Services

Approval DHS Budget. & Mgt: _____ Date: _____



of the **AMERICAN ASSOCIATION OF RETIRED PERSONS, Inc.**

March 25, 1980

Senate Health, Education & Welfare Committee

Attn: Senator Glen Hackney
Pouch V
Juneau, Alaska 99811

Subject: Sunsetting of Board of Nursing

Honorable Senator Hackney:

As President of the American Association of Retired Persons and as a ~~Home Administrator~~ member of the Board of Nursing Home Administration, I have been requested to express concern regarding the possible sunsetting of this Board. Although I feel that your Committee will in no way jeopardize the loss of Federal funds which support the care of patients in the nursing homes, I feel obliged to relate the concern of Nursing Homes and Older Alaskans.

March 19, the Mt. Juneau Chapter of the American Association of Retired Persons voted unanimously to support Mr. Buck's request. Please refer to the inclosed copy of his letter.

Thank you for your concern for our elderly Alaskans.

Respectfully,

Dove M. Kull
Dove M. Kull, President

Copy : Jack Buck, Administrator
St. Ann's Nursing Home
415 Sixth Street
Juneau, Alaska 99801

DMK:EEJ

ST. ANN'S NURSING HOME
415 Sixth Street, Juneau, Alaska 99801 (907) 586-3883

March 13, 1980

Dove M. Kull, President
American Association of Retired Persons
Mendenhall Apts.
326 4th Street, Apt. 1010
Juneau, Alaska 99801

Dear Madam President:

St. Ann's Nursing Home would like to invite the membership of your organization to cooperate in an attempt to reverse legislation which will be very injurious to many of the elderly citizens of this state.

The sunseting of the Board of Nursing Home Administrators, as we understand, will have the affect of putting Alaska in substantial non-compliance with Federal statutory requirements and automatically cancel this state's participation in Medicaid cost sharing. Since the federal matching funds for nursing home care amount to approximately ten million dollars annually, we feel this is a matter of serious budgetary concern for the people.

Our main concern, however, is caring for the nearly 500 patients in the state's long-term care facilities. What is to become of them without the Medicaid program? At a time of life when many of these patients are living on a barely subsistence level income (Social Security Benefit and Longevity Bonus), we strip them of the assurance that they can obtain the medical coverage many of them will need.

We would like to urge your organization, and individual members, to take a formal position against the sunseting of the Board of Nursing Home Administrators. We further request that you communicate your organization's position to members of the legislature in order to redress this apparent injustice to our elderly citizens.

Dove M. Kull, President
American Association of Retired Persons
March 13, 1980
Page 2

Time is limited, we have only this legislative session
to attain relief for our crippled or ill. Please hurry, they
are depending on you.

Sincerely,
ST. ANN'S NURSING HOME

A handwritten signature in cursive script that reads "Jack W. Buck". The signature is written in dark ink and is positioned above the typed name and title.

Jack W. Buck
Administrator

JWB:ar

HB

567

CSHB 567 am "An Act relating to ^{S. HESS 79/80}
By Judiciary interpreted phrase"

Introduced 4-25-80

Logged 5-15-80

Referrals xme

Comm. Meeting

" Action

1

Drunkness
(emer. treat-
ment)

HOUSE BILL NO. 567, by the Judiciary Committee. Adds new section to AS 11.66 relating to committing the crime of public drunkenness, if a person is "intoxicated in a private place, not his own property or his usual place of abode, or in a public place, . . ." and is in danger of loss of life or limb, provokes a violent response, makes unreasonably loud noises, or subject another to offensive physical contact. States that public drunkenness is a class B misdemeanor. Repeals AS 47.--37.170 (Treatment and services for intoxicated persons and persons incapacitated by alcohol)(under the Uniform Alcoholism and Intoxication Treatment Act). Amends the same to read: "DECLARATION OF POLICY. It is the policy of the state that alcoholics and intoxicated persons [SHOULD NOT BE CRIMINALLY PROSECUTED FOR THEIR CONSUMPTION OF ALCOHOLIC BEVERAGES AND THAT THEY] should be afforded a continuum of treatment so they may lead normal lives as productive members of society, however nothing in this chapter is inconsistent with the criminal prosecution of public drunkenness. (Note: underlined material added, bracketed material added). Does not provide for an effective date.

Introduced January 18 and referred to Judiciary.

Public
Drunkness
(emergency
treatment)
(SUBSTITUTE
offered)

HOUSE BILL NO. 567, (see page 38). Reported back to the House on April 25 by Judiciary with a majority recommending it be replaced with a SUBSTITUTE and that it do pass and attaches a fiscal note. The substitute deletes all language of original bill and is entitled "An Act relating to intoxicated persons." Amends the Uniform Alcoholism and Treatment Act (AS 47.37) section 170 (Treatment and services for intoxicated persons and persons incapacitated by alcohol) by changing the length of time for which a person may be detained at a detention facility for a maximum of 24 hours (was 12), and adds language indicating that a confidential record may be made of protective custody for the purpose of establishing grounds for involuntary commitment. Amends section 190 (Involuntary commitment of alcoholics) relating to the petition for commitment, stating that the petition shall allege that the person is an alcoholic who habitually lacks self-control in using alcoholic beverages and that he "(3) has been taken into protective custody under AS 47.-37.170(b) three times in the preceding six months and is in need of a more sustained treatment program.", and deletes language which states "A refusal to undergo treatment does not constitute evidence of lack of judgment as to the need for treatment." Adds new definitions of "incapacitated by alcohol" stating: "incapacitated by alcohol" means a person who, as a result of consumption of alcohol, is rendered unconscious or has his judgment or physical mobility so impaired that he cannot recognize or extricate himself from conditions of apparent or imminent danger to his health or safety." (Now reads: "incapacitated by alcohol" means a person who is unconscious or has his judgment otherwise so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment, as evidenced objectively by extreme physical debilitation, physical harm or threats of harm to others or chronic inability to hold regular employment;"). Changes definition of "intoxicated" or "intoxicated person" to read: ". . . means a person whose physical or mental conduct is substantially impaired as a result of the introduction of an alcoholic beverage into his body and who exhibits those plain and easily observed or discovered outward manifestations or behavior commonly known to be produced by the use of alcoholic beverages." (Now reads: "intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol;"). Repeals AS 47.37.170(j), the definition of "incapacitated by alcohol" for a person who appears to be incapacitated in a public place. To Rules.

Public
Drunkenness
(emer. treat-
ment)

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THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 567 - "An Act relating to public drunkenness and
 Title emergency treatment of intoxicated persons".
 Requested by _____ Date 4/7/80

II. FISCAL DETAIL

Agency Affected Public Safety
 Program Category Affected _____
 BRIJ, Program, or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE April 7, 1980 PREPARED BY Michael J. Clemens
 AGENCY Public Safety
 PHONE 465-4336
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

HB

572

Introduced 4-10-80

Logged 4-24-80

Referred Judiciary
Comm. Meeting

Comm. action

5/15/80

Ret'd CSHB 572 X Senate Page

Rec'd Sam Rose

CSHB (31 pages)

29 pages in SB 339

Relates HB 339 in
S. Judiciary

CSHB 572
By: Judiciary Comm.

S.H.E.S. 14-80
"An Act relating to
guarantees and
conservation and
providing for effective
te".

(original HB 572 & SB 339
identical)

CSHB 572 adds new sections

Original sponsor: Parr

Offered: 4/10/80
Referred: Rules

Handwritten notes:
Merrill
waived
referred
+ it is now
going to Judiciary

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 572

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to guardians and conservators; and
7 providing for an effective date."

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

9 * Section 1. AS 13.26.005(1) is repealed and re-enacted to read:

10 (1) "Incapacitated person" means a person whose ability to
11 receive and evaluate information or to communicate decisions is impaired
12 for reasons other than minority to the extent that he lacks the ability
13 to provide for himself the essential requirements for his physical
14 health or safety without court-ordered assistance;

15 * Sec. 2. AS 13.26.005 is amended by adding new paragraphs to read:

16 (5) "essential requirements for physical health or safety"
17 means the health care, food, shelter, clothing, personal hygiene and
18 protection without which serious physical injury or illness is more
19 likely than not to occur;

20 (6) "partial guardian" means a guardian who possesses fewer
21 than all of the legal duties and powers of a full guardian, and whose
22 rights, powers, and duties have been specifically enumerated by court
23 order;

24 (7) "full guardian" means a guardian who possesses the legal
25 duties and powers enumerated in AS 13.26.150(c);

26 (8) "visitor" means a person trained or experienced in law,
27 medical care, mental health care, pastoral care, education, rehabilita-
28 tion, or social work, who is an officer, employee, or special appointee
29 of the court with no personal interest in the proceedings;

1 (9) "guardian" includes full guardian and partial guardian;

2 (10) "respondent" means a person who, in a guardianship pro-
3 ceeding under this chapter, is alleged to be incapacitated and for whom
4 the appointment of a guardian or alternative assistance is sought;

5 "respondent" includes a person seeking the appointment of a guardian or
6 alternative assistance for himself.

7 * Sec. 3. AS 13.26 is amended by adding a new section to read:

8 Sec. 13.26.013. COURT RECORDS OF PROCEEDINGS; ACCESS; SEALING.

9 (a) A notice of the filing of a petition, a summary of all formal
10 proceedings, and a dispositional order or modification or termination of
11 a dispositional order relating to a proceeding under this chapter shall
12 be available for public inspection. All other information contained in
13 the court records relating to a proceeding under this chapter is con-
14 fidential and available only upon court order for good cause shown or to
15 the following persons:

16 (1) the person who is the subject of the court record, his
17 attorney or guardian ad litem;

18 (2) a person designated by the person who is the subject of
19 the court record;

20 (3) the guardian of the person who is the subject of the
21 court record or the attorney of the guardian;

22 (4) the conservator of the estate of the person who is the
23 subject of the court record or the attorney of the conservator;

24 (5) a party to the proceeding and his attorney;

25 (6) the judge or judges hearing or reviewing the matter; and

26 (7) a member of the clerical or administrative staff of the
27 court if access is essential for authorized internal administrative
28 purposes.

29 (b) Upon finding that a petition under this chapter was malicious,

1 frivolous, or without just cause, the court may order that all informa-
2 tion contained in the court records relating to the proceeding be sealed
3 and that the information be disclosed only upon court order for good
4 cause shown.

5 * Sec. 4. AS 13.26 is amended by adding a new section to article 3 to
6 read:

7 Sec. 13.26.090. PURPOSE AND BASIS FOR GUARDIANSHIP. Guardianship
8 for an incapacitated person shall be used only as is necessary to pro-
9 mote and protect the well-being of the person, shall be designed to
10 encourage the development of maximum self-reliance and independence of
11 the person, and shall be ordered only to the extent necessitated by the
12 person's actual mental and physical limitations. An incapacitated
13 person for whom a guardian has been appointed is not presumed to be
14 incompetent and retains all legal and civil rights except those which
15 have been expressly limited by court order or have been specifically
16 granted to the guardian by the court.

17 * Sec. 5. AS 13.26.095 is amended by adding a new subsection to read:

18 (e) A testamentary appointment of a guardian by the parent of an
19 incapacitated person, or by the spouse of a married incapacitated
20 person, may grant all guardianship powers and duties which the deceased
21 parent or spouse held, subject to modification by the court under
22 AS 13.26.125.

23 * Sec. 6. AS 13.26.105 is repealed and re-enacted to read:

24 Sec. 13.26.105. PETITION. (a) Any person may petition the court
25 for a finding of incapacity and the appointment of a guardian for
26 himself or for another person.

27 (b) The petition for appointment of a guardian shall state

28 (1) the name, age, and address of the petitioner and his
29 relationship to the respondent;

- 1 (2) the name, age, and present address of the respondent;
- 2 (3) the name and address of the person or facility presently
- 3 having care, custody, guardianship, or conservatorship of the respon-
- 4 dent, if any, and the existence of any other restrictions on the legal
- 5 capacity of the respondent to act in his own behalf;
- 6 (4) the nature and degree of the alleged incapacity;
- 7 (5) the particular type and duration of appointment and the
- 8 protection and assistance being sought;
- 9 (6) the names and addresses, unless they are unknown and
- 10 cannot reasonably be ascertained, of the individuals most closely re-
- 11 lated to the respondent by blood or marriage;
- 12 (7) the facts supporting the allegations of incapacity and
- 13 the need for appointment of a guardian;
- 14 (8) the names and addresses of persons known to the peti-
- 15 tioner who have knowledge that might prove helpful in determining the
- 16 capacity and needs of the respondent.

17 (c) The petition may also nominate a guardian and include a re-

18 quest for temporary guardianship as provided in AS 13.26.140 if the

19 petitioner believes there is an imminent danger that the physical health

20 or safety of the respondent will be seriously impaired during the pen-

21 dency of the guardianship proceeding. A request for temporary guard-

22 ianship shall specify facts which cause the petitioner to believe that a

23 temporary guardian is necessary.

24 * Sec. 7. AS 13.26 is amended by adding new sections to read:

25 Sec. 13.26.106. INITIAL COURT PROCEDURES. (a) Upon the filing of

26 a petition, the court shall schedule a hearing on the issue of incapac-

27 ity. The hearing shall be conducted within 120 days from the filing of

28 the petition unless the court postpones the hearing for cause.

29 (b) The respondent is entitled to be represented by an attorney in

1 the proceedings. If the respondent is financially unable to employ an
2 attorney to assist him, the court shall appoint an attorney to represent
3 the respondent in the proceedings.

4 (c) The court shall appoint a visitor as defined in AS 13.26.-
5 005(8). The visitor shall arrange for evaluations to be performed and
6 prepare a written report to be filed with the court. The court shall
7 also appoint an expert who has expertise in regard to the alleged or
8 admitted incapacity to investigate the issue of incapacity.

9 (d) The visitor shall interview the respondent and the person
10 seeking appointment as guardian, if any. The visitor shall conduct the
11 interviews and investigations necessary to prepare his report and shall
12 arrange for the respondent to be examined by the expert appointed under
13 (c) of this section. The expert's written report shall be attached to
14 the visitor's report.

15 (e) Interviews and examinations shall take place in the respon-
16 dent's usual residence unless

17 (1) the respondent consents to being examined or interviewed
18 in a medical or mental health facility; or

19 (2) the visitor considers it necessary to conduct interviews
20 or examinations in a medical or mental health facility.

21 Sec. 13.26.107. NOTICE OF RIGHTS. (a) Upon appointment, the
22 visitor shall promptly

23 (1) explain to the respondent, in a language or communication
24 system he can understand, the purpose of the interview and possible
25 consequences of the proceedings;

26 (2) serve a copy of the petition on the respondent in accor-
27 dance with the procedure described in AS 13.06.110;

28 (3) explain and provide to the respondent a written statement
29 of the following rights:

1 (A) he may communicate with an attorney or an expert in
2 the alleged incapacity before proceeding with the interview;

3 (B) if he does not have an attorney, an attorney, whose
4 name, address, and telephone number shall be included in the state-
5 ment, will be designated to advise and represent him before and at
6 any judicial hearings, and the attorney may arrange for an examina-
7 tion and consultation with an expert; and

8 (C) he may, instead, employ an attorney or expert of his
9 own choice; and

10 (4) offer assistance to the respondent in contacting an
11 attorney.

12 (b) A substantive interview of the respondent or other investi-
13 gation may not be conducted until (a) of this section has been satis-
14 fied.

15 Sec. 13.26.108. VISITOR'S REPORT. (a) The visitor shall file
16 with the court his evaluation report, proof of service of the petition
17 upon the respondent and proof of service of his report upon the respon-
18 dent, his attorney, and the petitioner, within 90 days after the date on
19 which the petition was filed.

20 (b) The visitor shall, as part of the evaluation report, explain
21 alternatives to guardianship and recommend any which will safeguard the
22 respondent's essential requirements for physical health and safety. The
23 evaluation report may recommend personal guardianship only if the
24 visitor determines that the needs of the respondent cannot be met by
25 other alternatives.

26 (c) The evaluation report shall include

27 (1) the results and analyses of medical and other tests and
28 examinations performed which describe the respondent's mental, emo-
29 tional, physical, and educational condition, adaptive behavior and

1 social skills, and which specify the data on which the description is
2 based;

3 (2) recommendations regarding the types and extent of assis-
4 tance, if any, necessary to meet the essential requirements for the
5 physical health and safety of the respondent;

6 (3) an evaluation of the respondent's need for mental health
7 treatment and whether there is a substantial probability that available
8 treatment will significantly improve his mental condition;

9 (4) an evaluation of the respondent's need for educational or
10 vocational assistance or personal care and whether these can be made
11 available to the respondent;

12 (5) an evaluation of the probability that the incapacity may
13 significantly lessen, and the type of services or treatment which will
14 facilitate improvement in the respondent's condition or skills;

15 (6) a list of the names and addresses of all individuals who
16 examined, interviewed, or investigated the respondent and of the names
17 and addresses of all persons contacted in preparation of the report;

18 (7) a summary of the information which

19 (A) was supplied by the persons described in (6) of this
20 subsection; and

21 (B) supports the conclusions of the report;

22 (8) a description of the alternatives to guardianship which
23 were considered and not recommended and an explanation of why they are
24 not feasible to meet the respondent's needs;

25 (9) a description of the present home and living arrangement
26 of the respondent and of any other proposed placement and a recommenda-
27 tion for the respondent's living arrangement that provides the least
28 restrictive setting necessary to protect the respondent from serious
29 illness, injury, or disease; and

1 (10) a specification of the financial resources of the respon-
2 dent and his entitlements to insurance benefits and publicly operated or
3 sponsored health, mental health, and welfare assistance which might be
4 employed in the provision of services to him.

5 (d) If personal guardianship is recommended, the evaluation report
6 required under (c) of this section shall include a guardianship outline
7 which identifies

8 (1) potential guardians;

9 (2) the specific services necessary and available to protect
10 the respondent from serious injury, illness or disease, and, to the
11 extent possible, return the respondent to full capacity in handling his
12 own affairs;

13 (3) the means by which the services described in (2) of this
14 subsection may be financed;

15 (4) the specific, least restrictive authority needed by the
16 guardian to provide the services described in (2) of this subsection.

17 (e) The petitioner and the respondent may file responses to the
18 evaluation report within 10 days of receiving it. The court may grant
19 additional time if requested for cause.

20 Sec. 13.26.109. EVALUATIONS: RIGHT TO REMAIN SILENT; RESPONDENT'S
21 ATTORNEY OR EXPERT. (a) A ward or respondent has the right to refuse
22 to respond to questions in the course of examinations and evaluations.
23 However, he may be required to submit to interviews for the purpose of
24 ascertaining whether he lacks the capacity to make informed decisions
25 about care and treatment services.

26 (b) Statements of a ward or respondent in the course of evalua-
27 tions, examinations, and treatment under AS 13.26.090 - 13.26.155 are
28 privileged and confidential and not admissible without the ward's or
29 respondent's consent in any civil or criminal proceeding other than

1 proceedings under AS 13.26.090 - 13.26.155. A ward or respondent at all
2 times has the right to refuse to answer questions if the answers may
3 tend to incriminate him.

4 (c) During an interview or testing conducted under AS 13.26.090 -
5 13.26.155, a ward or respondent has the right to be accompanied by an
6 attorney or expert of his own choosing.

7 (d) The court, if requested by a ward or respondent in preparation
8 for and in connection with a hearing held under AS 13.26.090 - 13.26.155,
9 shall appoint an expert having expertise in regard to the alleged or
10 admitted incapacity to examine the respondent and testify on his behalf.
11 The request shall be filed in court at least five days before the hear-
12 ing. An expert appointed under this subsection may be the same expert
13 appointed under AS 13.26.106(c).

14 Sec. 13.26.111. DUTIES AND POWERS OF RESPONDENT'S ATTORNEY. (a)
15 The principal duty of an attorney representing a ward or respondent is
16 to represent the ward or respondent zealously. Zealous representation
17 includes at least

18 (1) personal interviews with the ward or respondent; unless
19 good cause exists, the first contact with the ward or respondent shall
20 be at least two weeks before the hearing;

21 (2) explaining, if possible, to the ward or respondent in
22 terms which the ward or respondent can understand, the nature and
23 possible consequences of the proceeding, the alternatives which are
24 available, and the rights to which he is entitled;

25 (3) securing and presenting evidence and testimony and offer-
26 ing arguments to protect the ward's or respondent's rights and to
27 further his interests.

28 (b) To the maximum extent possible, the ward or respondent shall
29 remain responsible for determining his interests. However, his attorney

1 may seek appointment of a guardian ad litem if the circumstances of
2 AS 13.26.112 apply.

3 Sec. 13.26.112. APPOINTMENT OF A GUARDIAN AD LITEM. (a) Upon the
4 request of a ward or respondent or his attorney, the court shall appoint
5 a guardian ad litem to protect the rights of the ward or respondent in
6 proceedings under AS 13.26.090 - 13.26.155 if the court is satisfied
7 that because of impaired ability to effectively receive and evaluate
8 information regarding the proceedings or because of impaired ability to
9 communicate decisions regarding the proceedings, the ward or respondent
10 cannot determine his own interests without assistance, and

- 11 (1) a guardian has not been appointed;
- 12 (2) his interests and those of his guardian conflict; or
- 13 (3) the appointment is otherwise in the interests of justice.

14 (b) The guardian ad litem shall assist the ward or respondent in
15 determining his interests in regard to the legal proceedings in which he
16 is involved. If the ward or respondent is entirely incapable of deter-
17 mining his own interests, the guardian ad litem shall make that deter-
18 mination and advise the court and counsel for all parties accordingly.
19 The guardian ad litem shall

20 (1) inquire thoroughly into all the circumstances that a
21 prudent individual in the position of the ward or respondent would
22 consider in determining his own interests in the proceedings; and

23 (2) encourage the ward or respondent to participate, to the
24 maximum extent of his capability, in all decisions and to act on his own
25 behalf on all matters in which he is able.

26 (c) The attorney may also be the guardian ad litem for the ward or
27 respondent if there is no other party readily available and able to
28 serve as a guardian ad litem and whose interests would not conflict with
29 those of the ward or respondent.

1 Sec. 13.26.113. HEARING. (a) At the hearing scheduled under
2 AS 13.26.106, the respondent has the right to

- 3 (1) present evidence on his own behalf;
4 (2) cross-examine witnesses who testify against him;
5 (3) remain silent;
6 (4) have the hearing open or closed to the public as he
7 elects;

8 (5) be present unless the court determines that his conduct
9 in the courtroom is so disruptive that the proceedings cannot reasonably
10 continue with him present;

11 (6) be tried by jury on the issue of incapacity.

12 (b) The burden of proof by clear and convincing evidence is upon
13 the petitioner, and a determination of incapacity shall be made before
14 consideration of proper disposition.

15 (c) If the respondent is found to be incapacitated, the court
16 shall determine the extent of the incapacity and the feasibility of
17 alternatives to guardianship to meet the needs of the respondent.

18 (d) If it is found that alternatives to guardianship are feasible
19 and adequate to meet the needs of the respondent, the court may dismiss
20 the action and order an alternative form of protection.

21 (e) If it is found that the respondent is able to perform some,
22 but not all, of the functions necessary to care for himself, and al-
23 ternatives to guardianship are not feasible or adequate to provide for
24 the needs of the respondent, the court may appoint a partial guardian,
25 but may not appoint a full guardian.

26 (f) If it is found that the respondent is totally without capacity
27 to care for himself and that a combination of alternatives to guardian-
28 ship and the appointment of a partial guardian is not feasible or ade-
29 quate to meet the needs of the respondent, the court may appoint a full

1 guardian.

2 (g) If it is necessary to appoint a guardian, the court shall
3 consider the ward's preference.

4 (h) At the time a guardian is appointed, the court shall make a
5 reasonable effort to acquaint the ward with his right to request, at a
6 later time, his guardian's dismissal or a modification of the guardian-
7 ship order. The court shall provide a written statement to the ward,
8 explaining his rights and specifying the procedures to be followed in
9 petitioning the court.

10 Sec. 13.26.114. PSYCHOTROPIC MEDICATION INFLUENCING WARDS OR
11 RESPONDENTS AT JUDICIAL HEARINGS. (a) A ward or respondent has a right
12 to participate to the maximum extent possible in all judicial proceed-
13 ings concerning him and to be free from the influence of psychotropic
14 medication during the proceedings.

15 (b) It is the responsibility of the attorney for the ward or
16 respondent to determine if the ward or respondent is being treated with
17 psychotropic medication the effects of which would continue during the
18 judicial proceedings and, if so, to inform the court in writing a
19 reasonable time before the hearing.

20 (c) The court, upon receipt of the information provided under (b)
21 of this section, shall require a medical examination of the ward or
22 respondent, if the court determines that the medical examination is
23 necessary, and shall determine the advisability of continuation or
24 suspension of the treatment for the duration of the judicial proceedings.
25 The court may make any appropriate order it considers necessary. The
26 court in making its determination shall balance the interest of maximum
27 participation of the ward or respondent in the hearings against the
28 medical and rehabilitative needs of the ward or respondent.

29 (d) If the ward or respondent is under the influence of psycho-

1 tropic medication during the judicial proceeding determining capacity,
2 the trier of fact shall take that fact into consideration in making its
3 determination.

4 Sec. 13.26.116. GUARDIANSHIP ORDER. (a) If the court or jury
5 determines that a person is incapacitated and the services of a guardian
6 are necessary, the court shall enter an order which

7 (1) names the guardian and establishes a guardian-ward rela-
8 tionship;

9 (2) includes findings of fact which support each grant of
10 authority to the guardian;

11 (3) adopts a guardianship plan.

12 (b) The guardianship plan shall specify the authority which the
13 guardian has with regard to

14 (1) medical care for the ward's physical condition;

15 (2) mental health treatment which the guardian considers to
16 be in the ward's best interests;

17 (3) housing for the ward with consideration of the following:

18 (A) the wishes of the ward;

19 (B) the preferability of allowing the ward to retain
20 local community ties; and

21 (C) the requirement for services to be provided in the
22 least restrictive setting;

23 (4) personal care, educational and vocational services neces-
24 sary for the physical and mental welfare of the ward and to return the
25 ward to full capacity;

26 (5) application for health and accident insurance and any
27 other private or governmental benefits to which the ward may be entitled
28 to meet any part of the costs of medical, mental health, or related
29 services provided to the ward;

1 (6) physical and mental examinations necessary to determine
2 the ward's medical and mental health treatment needs; and

3 (7) control of the estate and income of the ward to pay for
4 the cost of services which the guardian is authorized to obtain on
5 behalf of the ward.

6 (c) The guardianship plan may not be more restrictive of the
7 liberty of the ward than is reasonably necessary to protect the ward
8 from serious physical injury, illness or disease and to provide him with
9 medical care and mental health treatment for his physical and mental
10 health. The guardianship plan shall be designed to encourage a ward to
11 participate in all decisions which affect him and to act on his own
12 behalf to the maximum extent possible. The court may not assign a duty
13 or power to a guardian unless the need for it has been proven to the
14 satisfaction of the court and no less restrictive alternative or combi-
15 nation of alternatives is sufficient to satisfy the need.

16 (d) The duration of the term of guardianship shall be determined
17 by the court order. Upon receipt of a report or other information that
18 requires further consideration, the court may order a review hearing if
19 it determines that the hearing is in the best interests of the ward.

20 Sec. 13.26.117. GUARDIANSHIP IMPLEMENTATION REPORT. Within 90
21 days after appointment as guardian, the guardian shall submit to the
22 court a report. The report shall describe the guardian's program for
23 implementing the guardianship plan. The primary goal of the program
24 described in the report shall be, to the maximum extent possible, to
25 develop or regain the ward's abilities to handle his own affairs. The
26 report shall consider housing, medical care, and educational and voca-
27 tional needs and resources. In developing the report, the guardian
28 shall consult with his ward to the maximum extent possible. The office
29 of public guardian shall contact the guardian to offer assistance in

1 preparing the report. The report shall specify the services which are
2 necessary to meet the essential requirements for the ward's physical
3 health or safety and the means for obtaining the services. The report
4 shall specify the manner in which the guardian will exercise and share
5 decision-making authority and other items which will assist in fulfill-
6 ing the needs of the ward, the terms of the guardianship order, and the
7 duties of the guardian.

8 Sec. 13.26.118. REPORTING. (a) A guardian shall submit a report
9 to the court or request that a visitor be appointed to prepare and
10 submit a report at least annually. A court-appointed visitor shall
11 prepare the report at least once in each three-year period. The guard-
12 ian shall submit an additional report to the court when

13 (1) the court orders it;

14 (2) there is a significant change in the capacity of the ward
15 to meet the essential requirements for his health and safety or to
16 protect his rights;

17 (3) the guardian resigns or is removed;

18 (4) the guardianship is terminated; or

19 (5) the ward requests it.

20 (b) The report shall contain, but is not limited to, the following
21 information:

22 (1) the name and address of the ward and the guardian;

23 (2) the ward's present mental, physical, and social condi-
24 tions and present living arrangements and the ward's opinion of these
25 arrangements;

26 (3) changes in the capacity of the ward to meet essential
27 requirements for his physical health and safety;

28 (4) the services being provided to the ward;

29 (5) the significant actions taken by the guardian during the

1 reporting period in regard to his ward;

2 (6) a financial accounting of the estate which has been
3 subject to the possession or control of the guardian;

4 (7) a list of the number and nature of the contacts between
5 the guardian and ward if the ward does not reside with the guardian;

6 (8) any other information requested by the court or necessary
7 or desirable in the opinion of the guardian or visitor.

8 Sec. 13.26.131. COSTS IN GUARDIANSHIP PROCEEDINGS. (a) Subject
9 to (d) of this section, the state shall bear the costs of the visitor
10 and expert appointed under AS 13.26.106(c).

11 (b) Subject to (c) and (d) of this section, the respondent shall
12 bear the costs of the attorney appointed under AS 13.26.106(b), of the
13 expert appointed under AS 13.26.109(d), of the guardian ad litem
14 appointed under AS 13.26.112, and of other court and guardianship costs
15 incurred under this chapter.

16 (c) The state shall pay all or part of the costs described in (b)
17 of this section if the court finds that the payment is necessary to
18 prevent the respondent from suffering financial hardship or from becom-
19 ing dependent upon a government agency or a private person or agency.

20 (d) The court may require the petitioner to pay all or some of the
21 costs described in (a) and (b) of this section if the court finds that
22 the petitioner initiated a proceeding under this chapter that was
23 malicious, frivolous, or without just cause.

24 * Sec. 8. AS 13.26.120 is amended to read:

25 Sec. 13.26.120. TERMINATION OF GUARDIANSHIP FOR INCAPACITATED
26 PERSON. The authority and responsibility of a guardian for an incapa-
27 citated person terminates upon the death of the guardian or ward, the
28 determination of incapacity of the guardian, the [OR UPON] removal or
29 resignation of the guardian as provided in AS 13.26.125, or upon the

1 expiration of the period specified by court order as the duration of the
2 guardianship. Testamentary appointment under an informally probated
3 will terminates if the will is later denied probate in a formal proceed-
4 ing. Termination does not affect a guardian's [HIS] liability for prior
5 acts nor his obligation to account for [FUNDS AND] assets of the [HIS]
6 ward over which he exercised control.

7 * Sec. 9. AS 13.26.125 is amended to read:

8 Sec. 13.26.125. REMOVAL OR RESIGNATION OF GUARDIAN; CHANGE IN OR
9 TERMINATION OF GUARDIANSHIP [INCAPACITY]. (a) On petition of the ward,
10 the guardian, or any person interested in the ward's [HIS] welfare, the
11 court may (1) review and amend a decision of a guardian; or (2) if
12 alternatives which are less restrictive than guardianship or less re-
13 strictive than the existing guardianship plan would assist the ward in
14 meeting his essential requirements for physical health and safety,
15 modify the provisions of its order to (A) amend the guardianship plan
16 or the responsibilities of the guardian; (B) remove a guardian and
17 appoint a successor; or (C) terminate the guardianship [IF IN THE BEST
18 INTERESTS OF THE WARD]. On petition of the guardian, the court may
19 accept his resignation and make any other order which may be appropriate.

20 (b) The [AN ORDER ADJUDICATING INCAPACITY MAY SPECIFY A MINIMUM
21 PERIOD, NOT EXCEEDING ONE YEAR, DURING WHICH NO PETITION FOR AN ADJUDI-
22 CATION THAT THE WARD IS NO LONGER INCAPACITATED MAY BE FILED WITHOUT
23 SPECIAL LEAVE. SUBJECT TO THIS RESTRICTION, THE] ward, the guardian, or
24 any person interested in the ward's [HIS] welfare may petition for an
25 order that the ward [HE] is no longer incapacitated or no longer incapa-
26 citated to the same extent as he was when the original guardianship
27 order was made or when the court last amended the guardianship order,
28 and for removal or resignation of the guardian, termination of the guard-
29 ianship, or a change in the responsibilities of the guardian. A request

1 for this order may be made by informal letter to the court or judge and
2 any person who knowingly interferes with transmission of this kind of
3 request to the court or judge may be held in [ADJUDGED GUILTY OF] con-
4 tempt of court.

5 (c) Before removing a guardian, changing his responsibilities,
6 accepting the resignation of a guardian, or ordering that a ward's
7 guardianship be changed or [INCAPACITY HAS] terminated, the court,
8 following the same procedures to safeguard the rights of the ward as
9 apply to a petition for appointment of a guardian and applying the least
10 restrictive alternative necessary to meet the needs of the ward after
11 consideration of alternatives to guardianship services, may send a
12 visitor to the residence of the present guardian and to the place where
13 the ward resides or is detained, to observe conditions and report in
14 writing to the court.

15 (d) If at any time the ward requests or indicates to his guardian
16 or to the agency responsible for his care or its employee that he
17 desires a change in guardianship, the guardian or the agency providing
18 care shall inform the court of the request or indication.

19 (e) If the guardian dies, or if on the basis of a petition filed
20 under this section or a report or other information, there is probable
21 cause to believe a guardian is not performing his responsibilities
22 effectively and there is an imminent danger that the physical health or
23 safety of the ward will be seriously impaired, the court shall take what-
24 ever action is necessary to protect the ward, including the dismissal of
25 the guardian and appointment of a temporary guardian without a hearing.

26 * Sec. 10. AS 13.26.135 is amended to read:

27 Sec. 13.26.135. NOTICES IN GUARDIANSHIP PROCEEDINGS. (a) In a
28 proceeding for the appointment, change in responsibilities, [OR] removal
29 of a guardian, or termination of guardianship, [OF AN INCAPACITATED

1 PERSON] other than the appointment of a temporary guardian or temporary
2 suspension of a guardian, notice of hearing shall be given to each of
3 the following:

4 (1) the ward or respondent by the visitor as provided in
5 AS 13.26.107 [THE PERSON ALLEGED TO BE INCAPACITATED AND HIS SPOUSE,
6 PARENTS AND ADULT CHILDREN];

7 (2) any person who is serving as his guardian, conservator or
8 who has his care and custody; [AND]

9 (3) in case no other person is notified under (4) [(1)] of
10 this subsection, at least one of his closest adult relatives, if any can
11 be found;

12 (4) the spouse, parents, and adult children of the ward or
13 respondent;

14 (5) any person who performed an evaluation for the visitor's
15 report within the previous two years;

16 (6) the ward's or respondent's attorney; and

17 (7) the ward's or respondent's guardian ad litem if one
18 has been appointed.

19 (b) Notice shall be served personally on the ward's or respon-
20 dent's [ALLEGED INCAPACITATED PERSON, AND HIS] spouse and parents if
21 they can be found within the state. Except as provided in (a)(1) of
22 this section, notice [NOTICE] to the spouse and parents, if they cannot
23 be found within the state, and to all other persons [EXCEPT THE ALLEGED
24 INCAPACITATED PERSON] shall be given as provided in AS 13.06.110.
25 [WAIVER OF NOTICE BY THE PERSON ALLEGED TO BE INCAPACITATED IS NOT
26 EFFECTIVE UNLESS HE ATTENDS THE HEARING OR HIS WAIVER OF NOTICE IS
27 CONFIRMED IN AN INTERVIEW WITH THE VISITOR. REPRESENTATION OF THE
28 ALLEGED INCAPACITATED PERSON BY A GUARDIAN AD LITEM IS NOT NECESSARY.]

29 (c) The notice shall set out the date, time, place, purpose and

1 possible consequences of the hearing and the rights of the ward or
2 respondent and any other parties to the proceedings.

3 * Sec. 11. AS 13.26.140 is repealed and re-enacted to read:

4 Sec. 13.26.140. TEMPORARY GUARDIANS. (a) If during the pendency
5 of an initial petition for guardianship it appears that the respondent
6 is in need of immediate services to protect him against serious injury,
7 illness or disease and the respondent is not capable of procuring the
8 necessary services, the petitioner may request the appointment of a
9 temporary guardian to authorize the services. The request shall state
10 the reasons and factual basis for the request. The petitioner shall
11 immediately file the request with the court and serve copies on the
12 respondent and his attorney. The court shall conduct a hearing within
13 72 hours after the filing.

14 (b) At the temporary guardianship hearing, the respondent shall
15 have the rights set out in AS 13.26.113(a).

16 (c) The burden of proof at the hearing shall be by a preponderance
17 of the evidence and shall be upon the petitioner.

18 (d) If the court determines that a temporary guardian should be
19 appointed, it shall make the appointment and grant to the guardian only
20 the authorities that are least restrictive upon the liberty of the
21 respondent and which enable the temporary guardian to provide the emer-
22 gency services necessary to protect the respondent from serious injury,
23 illness or disease.

24 (e) The temporary guardianship shall expire at the time of the
25 appointment of a full or partial guardian or upon the dismissal of the
26 petition for guardianship.

27 (f) If no guardianship petition is pending but the court is in-
28 formed of a person who is apparently incapacitated and in need of emer-
29 gency life-saving services, the court may authorize the services upon

1 determining that delay until a guardianship hearing can be held would
2 entail a life-threatening risk to the person.

3 * Sec. 12. AS 13.26 is amended by adding a new section to read:

4 Sec. 13.26.141. EMERGENCY POWERS. Notwithstanding the limits of a
5 temporary guardianship or guardianship order, a temporary guardian and
6 guardian at all times have the right to authorize the provision of
7 emergency life-saving services. This right includes the power to autho-
8 rize hospitalization without advance court approval.

9 * Sec. 13. AS 13.26.145 is repealed and re-enacted to read:

10 Sec. 13.26.145. WHO MAY BE GUARDIAN; PRIORITIES. (a) The court
11 may appoint a competent person, the public guardian, or a private asso-
12 ciatio or nonprofit corporation with a guardianship program for
13 incapacitated persons, as guardian of an incapacitated person.

14 (b) The court may not appoint a person to be a guardian of an
15 incapacitated person if the person

16 (1) provides, or is likely to provide during the guardianship
17 period, substantial services to the incapacitated person in a profes-
18 sional or business capacity, other than in his capacity as guardian;

19 (2) is, or is likely to become during the guardianship
20 period, a creditor of the incapacitated person, other than in his
21 capacity as guardian;

22 (3) has, or is likely to have during the guardianship period,
23 interests which may conflict with those of the incapacitated person; or

24 (4) is employed by a person who would be disqualified under
25 (1) - (3) of this subsection.

26 (c) A person may be appointed as the guardian of an incapacitated
27 person notwithstanding the provisions of (b) of this section if he is
28 the spouse, adult child, parent, or sibling of the incapacitated person
29 and the court determines that the potential conflict of interest is

1 insubstantial and that the appointment would clearly be in the best
2 interests of the incapacitated person.

3 (d) Subject to (e) of this section, qualified persons have prior-
4 ity for appointment as guardian in the following order:

5 (1) a person, association, or private nonprofit corporation
6 nominated by the incapacitated person, if at the time of the nomination
7 the incapacitated person had the capacity to make a reasonably intel-
8 ligent choice;

9 (2) the spouse of the incapacitated person;

10 (3) an adult child or parent of the incapacitated person;

11 (4) a relative of the incapacitated person with whom the
12 incapacitated person has resided for more than six months during the
13 year before the filing of the petition;

14 (5) a relative or friend who has demonstrated a sincere,
15 longstanding interest in the welfare of the incapacitated person;

16 (6) a private association or nonprofit corporation with a
17 guardianship program for incapacitated persons;

18 (7) the public guardian.

19 (e) The priorities established in (d) of this section are not
20 binding, and the court shall select the person, association, or non-
21 profit corporation that is best qualified and willing to serve. The
22 court shall also give consideration to a nomination by a person
23 described in (d) of this section and to a nomination in the will of a
24 deceased parent or spouse of the incapacitated person.

25 * Sec. 14. AS 13.26.150 is repealed and re-enacted to read:

26 Sec. 13.26.150. GENERAL POWERS AND DUTIES OF GUARDIAN. (a) A
27 guardian shall diligently and in good faith carry out the specific
28 duties and powers assigned by the court. In carrying out his duties and
29 powers, the guardian shall encourage the ward to participate to the

1 maximum extent of his capacity in all decisions which affect him, to act
2 on his own behalf in all matters in which he is able, and to develop or
3 regain, to the maximum extent possible, his capacity to meet the essen-
4 tial requirements for his physical health or safety, to protect his
5 rights, and to manage his financial resources.

6 (b) A partial guardian of an incapacitated person has only the
7 powers and duties respecting his ward enumerated in the court order.

8 (c) A full guardian of an incapacitated person has the same powers
9 and duties respecting his ward that a parent has respecting his uneman-
10 cipated minor child except that the guardian is not liable for the care
11 and maintenance of the ward, or to third persons for acts of the ward
12 solely by reason of guardianship. Except as modified by order of the
13 court, a full guardian's powers and duties include, but are not limited
14 to, the following:

15 (1) he is entitled to custody of the person of his ward and
16 shall assure that the ward has a place of abode in the least restrictive
17 setting consistent with the essential requirements for the ward's physi-
18 cal health and safety;

19 (2) he shall assure the care, comfort, and maintenance of the
20 ward;

21 (3) he shall assure that the ward receives the services
22 necessary to meet the essential requirements for the ward's physical
23 health and safety and to develop or regain, to the maximum extent pos-
24 sible, the capacity to meet his needs for physical health and safety;

25 (4) he shall assure through the initiation of court action
26 and other means that the ward enjoys all personal, civil, and human
27 rights to which the ward is entitled;

28 (5) he may give consents or approvals necessary to enable the
29 ward to receive medical or other professional care, counsel, treatment

1 or services except as otherwise limited by (e) of this section;

2 (6) if a conservator for the estate of the ward has not been
3 appointed, the guardian may receive money and property deliverable to
4 the ward and apply the money and property for support, care, and educa-
5 tion of the ward; however, the guardian may not apply the ward's money
6 or property for his services as guardian or for room and board which he,
7 his spouse, parent, or child have furnished the ward unless, before
8 payment, the court finds that the ward is financially able to pay and
9 that the charge is reasonable; notice of a request for payment approval
10 shall be provided to at least one relative of the ward if possible; the
11 guardian shall exercise care to conserve any excess money or property
12 for the ward's needs;

13 (7) if a conservator of the estate of the ward has been
14 appointed, the guardian shall pay all of the ward's estate received by
15 the guardian in excess of the money expended to meet current expenses
16 for support, care, and education of the ward, to the conservator for
17 management as provided in AS 13.26.165 - 13.26.315, and the guardian
18 shall account to the conservator for money expended.

19 (d) A guardian of a ward, for whom a conservator has also been
20 appointed, shall have the custody and care of the ward and is entitled
21 to receive reasonable sums for his services and for room and board
22 furnished to the ward as agreed upon between the guardian and the con-
23 servator. The guardian may request the conservator to expend the ward's
24 estate for the ward's care and maintenance.

25 (e) A guardian may not

26 (1) place the ward in a facility or institution for the
27 mentally ill other than through a formal commitment proceeding under
28 AS 47.30.070 in which the ward has a separate guardian ad litem;

29 (2) consent on behalf of the ward to an abortion, steriliza-

1 tion, psychosurgery, or removal of bodily organs except when necessary
2 to preserve the life or prevent serious impairment of the physical
3 health of the ward;

4 (3) consent on behalf of the ward to the withholding of
5 life-saving medical procedures;

6 (4) consent on behalf of the ward to the performance of an
7 experimental medical procedure or to participation in a medical experi-
8 ment not intended to preserve the life or prevent serious impairment of
9 the physical health of the ward;

10 (5) prohibit the marriage or divorce of the ward;

11 (6) consent on behalf of the ward to termination of the
12 ward's parental rights;

13 (7) prohibit the ward from registering to vote or from
14 casting a ballot at public election;

15 (8) prohibit the ward from applying for and obtaining a
16 driver's license.

17 * Sec. 15. AS 13.26.195 is amended by adding a new subsection to read:

18 (d) The court shall investigate alternatives to a conservator and
19 the use of a special conservator as provided in AS 13.26.205(c). A con-
20 servator may be appointed only if a less restrictive protective order or
21 the services of a special conservator are not adequate to protect the
22 estate of the protected person. The court shall, to the extent pos-
23 sible, consult with the protected person in determining what action
24 should be taken.

25 * Sec. 16. AS 13.26.205(c) is amended to read:

26 (c) Before approving a protective arrangement or other transaction
27 under this section, the court shall consider the interests of creditors
28 and dependents of the protected person and, in view of his disability,
29 whether the protected person needs the continuing protection of a con-

1 servator. If only certain powers need be given to the conservator or
2 the services of a conservator are needed only for a limited number of
3 transactions, a special conservator may be appointed. The court may
4 appoint a special conservator to assist in the accomplishment of any
5 protective arrangement or other transaction authorized under this sec-
6 tion who shall have the authority conferred by the order and serve until
7 discharged by order after report to the court of all matters carried out
8 under [DONE PURSUANT TO] the order of appointment.

9 * Sec. 17. AS 13.26 is amended by adding a new section to read:

10 Sec. 13.26.218. PUBLIC BOND. (a) If the public guardian is
11 appointed as a conservator, the court may not require a bond under
12 AS 13.26.215.

13 (b) If the court requires a conservator to provide a bond under
14 AS 13.26.215 and the conservator is financially unable to provide the
15 bond, the court may order the cost of the bond to be paid from court
16 funds.

17 * Sec. 18. AS 13.26 is amended by adding new sections to read:

18 ARTICLE 6. PUBLIC GUARDIANS.

19 Sec. 13.26.360. PURPOSE. The legislature recognizes that many
20 Alaskans, for reasons of incapacity or minority, are in need of a
21 guardian or conservator. Often these persons cannot find a person able
22 and willing to serve as guardian or conservator. The legislature in-
23 tends through AS 13.26.360 - 13.26.410 to establish the office of public
24 guardian for the purpose of furnishing guardianship and conservatorship
25 services. It further intends by establishing this office to provide
26 assistance to guardians throughout the state in securing necessary
27 services for their wards and to assist the courts, attorneys, visitors,
28 proposed guardians, and respondents in the orderly and expeditious
29 handling of guardianship proceedings.

1 Sec. 13.26.370. PUBLIC GUARDIAN. (a) The public administrator
2 (AS 22.15.310) shall also act as the public guardian for the judicial
3 district for which he is appointed.

4 (b) A court may order the public guardian to act as full guardian,
5 partial guardian, conservator, or special conservator for a person who
6 is determined under this chapter to be in need of guardianship or con-
7 servatorship service if no person or private guardianship association is
8 willing and qualified to perform the function.

9 Sec. 13.26.380. POWERS AND DUTIES OF PUBLIC GUARDIAN. (a) The
10 public guardian has the same powers and duties with respect to his wards
11 and protected persons as a private guardian or conservator.

12 (b) The public guardian, when appointed as guardian or conserva-
13 tor, shall endeavor, for as long as practical, to find a suitable pri-
14 vate guardian or conservator for his ward or protected person. For each
15 ward and protected person, the public guardian shall report to the court
16 having jurisdiction of the ward or protected person, at least once every
17 six months, his efforts to find a private guardian or conservator.

18 (c) The public guardian shall

19 (1) establish and maintain relationships with governmental,
20 public, and private agencies, institutions, and organizations to assure
21 the most effective guardianship or conservatorship program for each ward
22 and protected person;

23 (2) visit each of his wards and protected persons at least
24 once every quarter to monitor their welfare;

25 (3) keep and maintain financial and statistical records of
26 all cases in which the public guardian provides guardianship or conser-
27 vatorship services;

28 (4) provide information and referrals to the public regarding
29 guardianship and conservatorship proceedings, but not information which

1 would identify a particular case;

2 (5) assist guardians and court-appointed visitors of wards
3 and respondents in the preparation and revision of guardianship plans
4 and reports;

5 (6) assist guardians to understand the disabilities of wards
6 and to foster the increased independence of wards;

7 (7) assist guardians in securing the rights, benefits, and
8 services to which their wards are entitled;

9 (8) develop and maintain a current listing of public and
10 private medical, mental health, social advocacy, educational, rehabili-
11 tative, counseling, therapeutic, homemaking, recreational, and financial
12 services and programs available to assist wards and protected persons
13 and their families.

14 (d) The public guardian may

15 (1) contract for services necessary to carry out the duties
16 of his office;

17 (2) accept the services of volunteer workers or consultants
18 and reimburse them for their necessary expenses.

19 Sec. 13.26.390. INTERVENTION. The public guardian may, on his own
20 motion or at the request of the court, intervene in a guardianship or
21 conservatorship proceeding if he or the court considers the intervention
22 to be justified because

23 (1) an appointed guardian or conservator is not fulfilling
24 his duties;

25 (2) the estate is subject to waste as a result of the costs
26 of the guardianship or conservatorship;

27 (3) a willing and qualified guardian or conservator is not
28 available; or

29 (4) the best interests of the ward, respondent, protected

1 person, or person who is the subject of a conservatorship proceeding
2 require the intervention.

3 Sec. 13.26.400. DELEGATION OF POWERS AND DUTIES. The public
4 guardian may employ staff and delegate to members of his staff or to
5 volunteers his powers and duties as guardian or conservator and other
6 powers and duties under this chapter. However, the public guardian
7 retains responsibility for the proper performance of the delegated
8 powers and duties. All delegations shall be to persons who meet the
9 eligibility requirements of AS 13.26.145.

10 Sec. 13.26.410. ALLOCATION OF COSTS. (a) If a public guardian is
11 appointed guardian or conservator, the administrative costs of his
12 services and the costs incurred in the appointment procedure may not be
13 charged against the income or the estate of the ward or protected person
14 unless the court determines that the ward or protected person is finan-
15 cially able to pay all or part of the costs.

16 (b) The court shall determine the ability of the ward or protected
17 person to pay for administrative costs of a public guardian or costs
18 incurred in the appointment procedure by determining the financial
19 ability of the ward or protected person to pay a private guardian or
20 conservator, considering the nature, extent, and liquidity of assets of
21 the ward or protected person, the disposable net income of the ward or
22 protected person, the nature of the guardianship or conservatorship, the
23 type, duration and complexity of the services required, and any other
24 foreseeable expenses.

25 (c) The public guardian shall investigate the financial status of
26 (1) a person who requests the appointment of the public guardian as his
27 guardian or conservator; and (2) a ward for whom a court has appointed
28 the public guardian.

29 (d) The public guardian may require a person described in (c) of

1 this section to execute and deliver written requests or authorizations
2 necessary under law to provide the public guardian with access to
3 records of public or private sources, otherwise confidential, needed to
4 evaluate the person's financial eligibility. The public guardian may,
5 upon request and without payment of fees otherwise required by law,
6 obtain information from any office of the state or of a political sub-
7 division or agency of the state which possesses public records.

8 (e) The reasonable value of the services rendered without cost to
9 the ward or protected person shall be allowed as a claim against the
10 estate upon the death of the ward or protected person.

11 * Sec. 19. AS 22.15.310 is amended to read:

12 Sec. 22.15.310. APPOINTMENT. When authorized by the supreme
13 court, the presiding judge in each judicial district shall appoint a
14 person to act as public administrator of the estates of deceased per-
15 sons, [AND] as coroner, and as public guardian.

16 * Sec. 20. AS 22.15.350 is amended to read:

17 Sec. 22.15.350. DUTIES [AS CORONER]. In addition to his other
18 duties, a public administrator shall perform the duties set out in
19 AS 22.15.110 and shall perform the duties of public guardian as set out
20 in AS 13.26.360 - 13.26.410.

21 * Sec. 21. AS 13.26.110 and 13.26.130 are repealed.

22 * Sec. 22. TRANSITION. No later than July 1, 1983, all guardianships for
23 incapacitated persons established before July 1, 1980, and in effect on
24 July 1, 1980 shall be reviewed by the court. Until the review, a guardian
25 appointed before July 1, 1980, whose guardianship is still in effect on
26 July 1, 1980, shall retain the powers assigned to him, unless a petition for
27 modification under AS 13.26.125 amended by sec. 8 of this Act is granted.
28 Before the review, the guardian shall submit one report in the form pre-
29 scribed in AS 13.26.118 added by sec. 6 of this Act.

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* Sec. 23. This Act takes effect July 1, 1980.

HB

610

COMMITTEE REPORT
SENATE

FURTHER: FINANCE

4/24/80

Date: _____

Mr. President:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 610

making a special appropriation to the Dept. of Administration, Older Alaskans Commission, for programs to benefit older Alaskans

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Kevin Gooding

CHAIRMAN

77--
Chenoweth

Copy

Introduced: 1/24/60
Referred: Health, Education & Social
Services and Finance

<u>Funding Information</u>	
General Fund	\$1,000,000
Other Funds	-0-
	<u>\$1,000,000</u>

BY THE RULES COMMITTEE BY REQUEST
OF THE LEGISLATIVE COUNCIL (for the
Interim Committee on Services for
the Elderly)

1 IN THE HOUSE

2 HOUSE BILL NO. 610

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the Depart-
7 ment of Administration, Older Alaskans Commission, for
8 programs of benefit to older Alaskans; and providing
9 for an effective date."

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

11 * Section 1. The sum of \$1,000,000 is appropriated from the general fund
12 to the Older Alaskans Commission, Department of Administration, for grants
13 for service programs to older Alaskans in accordance with the provisions of
14 AS 47.65.010 - 47.65.060.

15 * Sec. 2. The unexpended and unobligated portion of the appropriation
16 made by this Act lapses into the general fund June 30, 1961.

17 * Sec. 3. This Act takes effect on the effective date of a version of an
18 Act entitled, "An Act authorizing state aid for service programs for the
19 benefit of older Alaskans."
20
21

HB

615

Introduced 1-24-80
Logged 4-24-80
Referrals Finance
Comm. meeting
" activity

HB 615 ~~SB 319~~ ~~Bill~~ relating to an exemption from
municipal property taxation
and providing for effective date.
By: Public Comm.
Encl. of Legislative
Cabinet for the
Interim Comm. on
Business for the
Elderly.

Sen. Hackney advised

NOTE

→ This is same as SB 319 which passed out
of C & R. Affairs & in Health Finance
Arles Sturgulowski would like us to hear.

Ret'd Senate Secy

X Jeff. C. Jeffers

HB

651

F/H-Klein
copy books (part of
training (copy))

SHES 79-80
CSHB 651 AM
By HESS
Mentoring for STUDY
at the end of the
program

III III

Reference 4-14-80
Report 5-17-80
Reference name
"in meeting"
"ready"

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. CSHB 651 (Page 1 of 4)
 Title Study of Community College System
 Requested by House HESS Date 4/1/80

II. FISCAL DETAIL
 Agency Affected EDUCATION
 Program Category Affected Alaska Commission on Postsecondary Education
 BRU, Program, or Subprogram(s) Affected Commission on Postsecondary Education
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES			16.0			
200 TRAVEL			48.9			
300 CONTRACTUAL			10.1			
400 COMMODITIES			.5			
500 EQUIPMENT			0			
600 LAND & STRUCTURES			0			
700 GRANTS, CLAIMS, ETC.			0			
TOTAL	0	0	75.5	0	0	0

FUNDING (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
GENERAL FUND	N.A.	N.A.	75.5	N.A.	N.A.	N.A.
FEDERAL FUNDS			0			
OTHER (Specify Fund Source)						

POSITIONS

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
FULL TIME	N.A.	N.A.	0	N.A.	N.A.	N.A.
PART TIME			0			
TEMPORARY			2.0			

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Personal Services:

1 Research Analyst : 6 mos. @ 2132 plus fringe

Contractual:

- (a) Consultant 12 days @ \$300/day 3,600
- (b) Printing, copying, etc. 3,000
- (c) State Computer Time and system support. . . 3,500

TRAVEL:

See attached sheets.

IV. DATE April 4, 1980 PREPARED BY [Signature]
 AGENCY Commission on Postsecondary Education
 Original: Legislative Finance PHONE 485-2524
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

CS 743 651

TABLE 1: IN-STATE TRAVEL COST ANALYSIS
FOR SPECIAL STUDY OF ALASKA COMMUNITY COLLEGES

<u>Member/Representing</u>	<u>Residence</u>	<u>ANCHORAGE</u>		<u>BETHEL</u>		<u>FAIRBANKS</u>	
		<u>Per Diem</u>	<u>Travel</u>	<u>Per Diem</u>	<u>Travel</u>	<u>Per Diem</u>	<u>Travel</u>
Senate	Anchorage	55	0	160	192	55	128
Senate	Fairbanks	55	128	160	325	55	0
House	Anchorage	55	0	160	192	55	128
House	Fairbanks	55	128	160	325	55	0
Commission	Kenai	55	45	160	370	55	173
Commission	Anchorage	55	0	160	192	55	128
Commission	Nome	110	350	160	184	110	222
Commission	Juneau	55	212	160	404	110	340
Staff	Juneau	55	212	160	404	110	340
Staff	Juneau	55	212	160	404	110	340
Staff	Juneau	55	212	160	404	110	340
TOTAL		\$ 660	\$1,499	\$1,760	\$3,396	\$ 880	\$2,139

<u>Member/Representing</u>	<u>Residence</u>	<u>KENAI</u>		<u>KETCHIKAN</u>		<u>KODIAK</u>	
		<u>Per Diem</u>	<u>Travel</u>	<u>Per Diem</u>	<u>Travel</u>	<u>Per Diem</u>	<u>Travel</u>
Senate	Anchorage	68	45	52	280	136	122
Senate	Fairbanks	136	173	104	398	136	165
House	Anchorage	68	45	52	280	136	122
House	Fairbanks	136	173	104	398	136	165
Commission	Kenai	68	0	104	325	136	167
Commission	Anchorage	68	45	52	280	136	122
Commission	Nome	136	395	104	538	136	472
Commission	Juneau	136	514	104	125	136	334
Staff	Juneau	136	514	104	125	136	334
Staff	Juneau	136	514	104	125	136	334
Staff	Juneau	136	514	104	125	136	334
TOTAL		\$1,224	\$2,932	\$ 980	\$2,999	\$1,496	\$2,522

CSHB 651

TABLE 1 (Continued)

<u>Member/Representing</u>	<u>Residence</u>	<u>KOTZEBUE</u>		<u>NOME</u>		<u>PALMER</u>	
		<u>Per Diem</u>	<u>Travel</u>	<u>Per Diem</u>	<u>Travel</u>	<u>Per Diem</u>	<u>Travel</u>
Senate	Anchorage	192	224	168	350	62	60
Senate	Fairbanks	192	232	168	222	62	173
House	Anchorage	192	224	168	350	62	60
House	Fairbanks	192	232	168	222	62	173
Commission	Kenai	192	269	168	395	62	105
Commission	Anchorage	192	224	168	350	62	60
Commission	Nome	192	122	84	0	124	268
Commission	Juneau	192	436	168	562	62	272
Staff	Juneau	192	436	168	562	62	272
Staff	Juneau	192	436	168	562	62	272
Staff	Juneau	192	436	168	562	62	272
TOTAL		<u>\$2,112</u>	<u>\$3,271</u>	<u>\$1,764</u>	<u>\$4,137</u>	<u>774</u>	<u>\$1,987</u>

<u>Member/Representing</u>	<u>Residence</u>	<u>SITKA</u>		<u>VALDEZ</u>	
		<u>Per Diem</u>	<u>Travel</u>	<u>Per Diem</u>	<u>Travel</u>
Senate	Anchorage	124	220	60	80
Senate	Fairbanks	124	322	60	241
House	Anchorage	124	220	60	80
House	Fairbanks	124	322	60	241
Commission	Kenai	124	265	60	125
Commission	Anchorage	124	220	60	80
Commission	Nome	124	514	120	368
Commission	Juneau	62	95	120	292
Staff	Juneau	62	95	120	292
Staff	Juneau	62	95	120	292
Staff	Juneau	62	95	120	292
TOTAL		<u>\$1,116</u>	<u>\$2,463</u>	<u>\$ 960</u>	<u>\$2,383</u>

CS14B 651

TABLE 2: IN-STATE TRAVEL COST ANALYSIS FOR
COMMUNITY COLLEGE UNIT COST OF INSTRUCTION STUDY

<u>Representing</u>	<u>Residence</u>	<u>ANCHORAGE</u>		<u>FAIRBANKS</u>	
		<u>Per Diem</u>	<u>Travel</u>	<u>Per Diem</u>	<u>Travel</u>
Staff	Juneau	330	636	110	340
Staff	Juneau	330	636	110	340
University	Anchorage	165	0	55	128
University	Fairbanks	220	384	55	0
TOTAL		\$1,045	\$1,656	\$ 330	\$ 808

TABLE 3: OUT-OF-STATE TRAVEL COST FOR
ONE CONSULTANT (TWO TRIPS TO ALASKA)

		<u>JUNEAU</u>	
		<u>Per Diem</u>	<u>Travel</u>
Consultant	Denver (est.)	\$ 804	\$ 820

HB

802

111

Introduced 3-27-80

Logged: 4-1-80

Referrals: Rules

Comm. meeting: - 5-19-80

Comm. action: 5-19-80 Passed unanimously. 3 do pass - 2 absent

CSHB 802 AM "An Act relating to ~~state~~ ^{state} ~~services~~ ^{services} and the coverage of the midnight rule of the state to define of

Notified ASS

" Sen. Kenny Moore, Dir. to be here.

FN herein

Position paper requested

Voting record

31 yeas

4 nays

5 not voting

At last

General Walker ✓

189-5977

Commissioner

576-1077

COMMITTEE REPORT

SENATE

4/1/80

FURTHER: Judiciary

Date: 5-19-80

Mr. President:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had CSIB 802 am health care services

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- [x] do pass [] do not pass
[] do pass with attached amendments(s) [] same title
[] replace with CS for [] new title
and recommends
[] AND attaches a "Letter of Intent" [] New Fiscal Note
[] reports it back without recommendation
[] referred to the Committee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

Handwritten signatures for members signing do pass.

Blank lines for members having other recommendations.

Signature of Chairman.

CHAIRMAN

Nurse
Midwives
(SUBSTITUTE
offered)

HOUSE BILL NO. 802, (see page 238). Reported back to the House by HESS with a majority recommending replace with a SUBSTITUTE and that it do pass. Not concurring: Chatterton has no recommendation. The substitute deletes provisions added in the original bill relating to disability policies issued or delivered in the state to provide indemnity in reasonable amount for cost of maternity services furnished by certified nurse midwives. Deletes proposed amendment to Group and Disability Insurance relating to the same. Deletes provisions which called for certificate or other evidence of a contract of health insurance issued or delivered by a society in state to provide indemnity for nurse midwife service. Deletes section which added provisions outlining nurse midwife services that must be furnished by medical service corporations, hospital service corporations, or combined medical and hospital service corporations. The substitute adds "nurse midwife" to the definition of "physician" under AS 21.87 (Insurance. Hospital and Medical Service Corporations.) Adds section 21.42.347 (Coverage for Cost of Services Provided by Nurse Midwives) to AS 21.87.340(15) (Hospital and Medical Service Corporations. Other provisions applicable). To Rules.

SENATE

HESS

Bills Remaining in
Committee at End
of Session
June, 80



ALASKA STATE MEDICAL ASSOCIATION



~~1135 W. Eighth Avenue • Suite 6 • Anchorage, Alaska 99501 • (907) 277-6891~~
4107 Laurel Street, #1, Anchorage, AK 99504

April 18, 1980

Senator Glenn Hackney, Chairman
Senate HESS Committee
Pouch V, MS 3100
Juneau, AK 99811

Re: HB's 417, 80 and 802

Dear Senator Hackney:

The language of these bills proposes to use the term "physician" to mean providers other than Doctors of Osteopathy and Medicine.

We object to this perversion of the term "physician" since:

- 1) Use of "physician" in other places in the Alaska and Federal Statutes does not have the proposed meaning.
- 2) The proposed meaning is highly divergent from the usual understanding of this term in common usage for decades, and despite technical definition must theoretically lead to ambiguity, misunderstanding and difficulties in administering regulations.

Sincerely,

Robert Whaley, M.D.
52

Robert Whaley, M.D.
Legislative Committee Member

RW/sel

cc: ASMA Executive Council Members
ASMA Legislative Committee Members
Jeff Landry