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At this time, A.C.M.H.C. was given the opportunity to receive a VISTA (Volunteer in Service to America) to research the problem and make recommendations for mental health programming for abused elders. The following study is a result of the VISTA's effort. These findings are compared to national results in order to lend a clear picture to service providers. This procedure will help determine any differences between Alaska and other states.

### National Findings

Three major elder abuse studies have been done since 1979. They are from Boston, The University of Maryland and the University of Michigan. The latter were partially funded by the federal government. In June of 1979 there was a briefing by the House of Representatives Select Committee on Aging entitled Elder Abuse: The Hidden Problem. This briefing was held in Boston, Massachusetts. On April 28, 1980, a briefing on the same subject, domestic abuse of the elderly, was held in Union, New Jersey. The early research findings of these efforts are remarkably consistent, despite great differences in research approaches and settings.

The major studies of elder abuse point out the tentativeness of their results. Yet, the completed studies provide an excellent approach to the problem, and a profile of the victim and the abuser emerges.

The Massachusetts study, Block's Battered Elder Syndrome, and the Lau-Kosberg study points out the victim tends to be an older elderly person. The Massachusetts survey finds 55% of the citations are persons older than 75 years. All three studies agree that abuse is observed to be of elderly women (87% in Lau-Kosberg, 80% in Massachusetts, and 81% in The Battered Elder Syndrome). The majority of victims live with an adult child or other family members who become the abuser.

Usually the victims suffer from one or more disabilities which place them in a vulnerable position. Of the Massachusetts study respondents, 75% said the victim had physical or mental disabilities which kept him or her from meeting basic daily needs. Marilyn Block finds 62% of the victims could not prepare food, 54% could not self-medicate, and 62% needed help with personal hygiene. Besides physical impairment Lau and Kosberg report 41% are either partially or totally confused or senile. It is easy to imagine from the research that a victim of abuse is usually a person who may need constant attention and skilled care. These two factors can and do cause stress for the caretaker, who is at risk of becoming an abuser.

The Massachusetts survey finds in 75% of the abuse cases, the abuser lives with the victim; 86% of the abusers are relatives of the victim. The Battered Elder Syndrome finds close correlation: 81% of the abusers are related to the victim. Block also finds women, more often than men, are abusers. The figure cited is 58% of abusers are female. The Massachusetts study finds sons (24%), husbands (20%), and daughters (15%), make up the largest categories of abusive relatives. Lau and Kosberg find 30% of abusers are daughters, 14% are sons, 14% are grand-daughters, 12% are spouses, and 12% are siblings (usually a sister).

The Massachusetts study finds the abuser is usually experiencing stress when the abuse occurs. The study finds 28% suffer from alcoholism or drug addiction, 18% complain of long-term medical problems, 16% struggle with long-term financial stress and 9% suffered from lack of needed services. The Battered Elder Syndrome points to psychological (58%) and economic (31%) factors leading to abuse. The Massachusetts survey finds 63% of respondents feel that the vulnerable elder,

requiring a high level of emotional and financial support, is a source of stress. In 58% of cases studied, abusers tend to repeat the abuse, according to Block.

One of the most remarkable statistics to come out of these studies has to do with the attempt to make cases of abuse known. Block finds in 95% of the cases studied, some attempt was made to communicate the existence of neglect or abuse to some authority. This fact points to the poor communication skills of the abuser and to the low self-esteem he or she may feel. After a failed attempt to get needed services, the abuser may give up. After a failed attempt to get help, the victim may, out of fear of reprisal or removal from the home, resolve to live with the situation. This fact also points out the failure of social services systems to recognize cries for help from both the victim and the abuser.

#### Methods and Designs

From March 1, 1980 to June 30, 1981, A.C.M.H.C. conducted a survey of service providers concerning elder abuse. Thirty agencies, four clinics and 16 physicians were contacted.

Those who said they had seen cases were further contacted. They were asked to relate cases they had seen from January 1, 1980 to June 30, 1981. They were asked to give the first name and last initial of each person in every case. This was done to prevent duplication of information from agency to agency.

The cases were recorded on the form used by Marilyn Block and Janice Davidson in their study, The Battered Elder Syndrome. All questions were asked for each case (see Appendix A). One additional question was asked of each respondent concerning every case: is alcohol a problem in the situation?

The definition of elder abuse used in this study is the one used by Marilyn Block and Janice Davidson in their study.

Abuse refers to one or more of the following acts:

physical abuse, including direct beatings, lack of food, lack of medical care, and lack of supervision;

psychological abuse, including verbal assault, threat, fear, and isolation;

material abuse, including theft or misuse of money or property and;

violation of rights, including forced removal from home, or forced entry into a nursing home.

We are concerned with people who are 60 years or older. These are people who are in some way dependent on a son, daughter, other relatives or caretaker.

There is a high degree of interviewer reliability since only one person conducts the interviews. Agency contacts, mailings and interviews were all done by the same person.

The data obtained from the survey is summed and the percentages calculated. Thus the data is descriptive in nature and not intended to be baseline data. It must be stressed that the figures obtained from the agency contacts are estimates of what the professional feels are abusive situations. Estimated are based on second-hand knowledge so these results cannot be generalized beyond the agencies cooperating.

## Results

Two major groups were contacted for this study. First, 30 agencies who showed an interest in senior citizens or are service providers were initially interviewed in order to assess which agencies had seen cases

they were willing to relate. The following is the contact list and some preliminary information about each (see below).

Agency Contacted	a.	b.	c.
1. Salvation Army	11	yes	yes
2. Nakoyia	2	yes	yes
3. Adult and Aging Services	5	yes	yes
4. Mable T. Caverly	3	yes	yes
5. Studio Club	2	no	yes
6. Municipality Senior Programs	1	yes	yes
7. Providence Hospital	6	yes	yes
8. Older Persons Action Group	5	yes	yes
9. Legal Services	2	yes	no
10. Home Health Agency	5	yes	yes
11. Chugiak Senior Citizens Center	2	yes	yes
12. Senior Companion/Foster Grandparent	1	yes	yes
13. Alaska Hospital	2	yes	yes
14. S.T.A.R. Standing Together Against Rape	2	yes	yes
15. R.S.V.P. Retired Senior Volunteer Program	1	yes	yes
16. C.I.N.A.. Cook Inlet Native Association	2	yes	yes
17. Anchorage Police Department	1	yes	1*
18. Catholic Social Services	1	yes	yes
19. A.W.A.I.C. Abused Women's Aid in Crisis	3	yes	yes
20. Women's Resource Center	1	yes	no
21. Public Health Nurses	11	yes	yes
22. State Senior Citizen Ombudsman	1	yes	yes
23. Easter Seals Homemakers	2	yes	yes
24. Alaska Native Hospital	7	yes	yes
25. A.C.M.H.C.	6	yes	yes
26. Equal Rights Commission	1	yes	no
27. Palmer Pioneer Home	1	yes	yes
28. Palmer Senior Nutrition Site	2	yes	yes
29. University Justice Center	1	yes	no
30. AK. Public Interest Research Group	2	yes	no

Key to Headings:

- a. Number of persons contacted.
- b. Does agency feel that elder abuse is a problem in Anchorage at this time?
- c. Has agency seen any abuse cases since January, 1980?

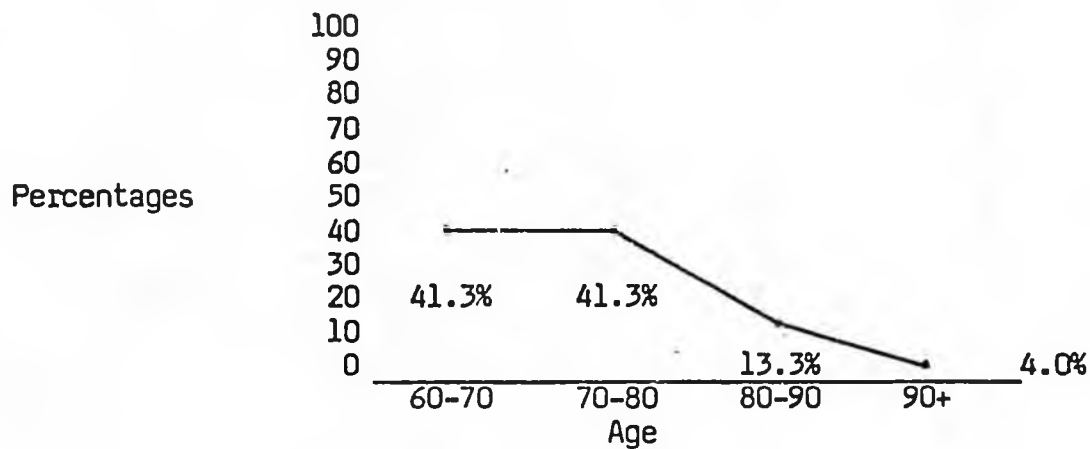
\*1. No record-keeping methods.

The second group contacted were physicians and clinics. A letter (see Appendix B) was sent to 16 physicians and four medical clinics. The names of 12 of the physicians were given to A.C.M.H.C. by the Municipal Senior Citizens Division. These physicians treat many older people or have expressed an interest in aging patients. The letter asked the physician or clinic to relate any cases of elder abuse they may have seen. Of the twenty contacted, none responded.

Twenty agencies related elder abuse cases. Seventy-five in all were related to the interviewer. This breaks down to an average of 3.75 cases per agency. The most cases in one agency was eight, the least was one. Of the 75 cases reported, 34 or 43.3% had some element of physical abuse. The most common physical abuse is not violent in nature. Lack of personal care constitutes 17.3%, bruises and welts 13.3% and lack of food 10.7%. The remaining percentage in all categories are found in Appendix C. Psychological abuse is found in 53 cases or 70%. Material abuse occurs in 43 cases or 57.3%. There is violation of rights in 18 cases or 24%.

The age of the abused elder in the Anchorage area is younger than in the Lower 48. Unlike the national studies, the exact ages of the victims can not be determined. Most professionals know only the general range of their client's age. Of the 75 cases, 82.6% were under 80 years. This statistic is not surprising considering the general youth of the Anchorage population. The abuser in our area is also younger than in other urban areas. The abuser is under 50 years old in 65.4% of the cases related to the interviewer.

Figure I. Percentage of Abused by Age



The abused elder is most likely to be female. In 76% of the cases the victim is a woman. This percentage is comparable to the national statistics. Also similar to the national statistic is the sex of the abuser. In Anchorage 53.4% of the abusers are women. In Marilyn Block's study 58% of the abusers are women. Daughters are first on the list at 22.7%, sons second at 21.3%, husbands are third at 10.7% and daughters-in-law are fourth at 9.3%.

The abused elder is most often observed to be white (69.3%). The statistic for the Native population is 18.7%; the Black population figure is 9.3%; and the Hispanic figure is 1.3%. Because the elder in most cases lives with a spouse or family member (55%), the statistic concerning the ethnic group of the abuser is almost exactly the same as the victim.

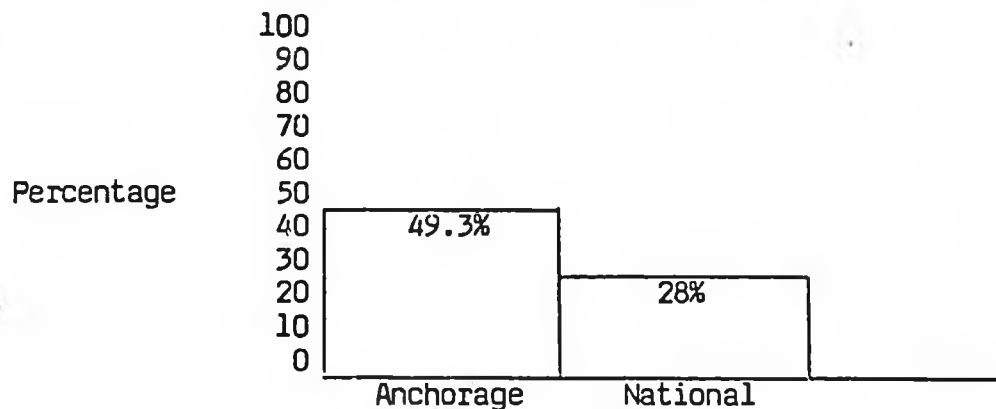
In most cases given to us, both the victim and abuser are low-income. Of the 75 cases, 54% of the victims and 44% of the abusers fit this category.

A question concerning the impairment of the victim was asked of all respondents. In 38.7% of the cases the abused elder is physically or mentally disabled to a great degree. In 21.3% of the cases the person

needed assistance with the Activities of Daily Living. In 40% of the cases the victim is physically self-sufficient.

Alcohol as a contributing factor in elder abuse seems to be a much greater problem in Anchorage than other areas. The national statistic is 28%, and in Anchorage it is 49.3%.

Figure II. Percentage of Alcohol as a Contributing Factor



In most of the cases observed (74.7%) the abuse had been going on for a long time. In some cases the abuse continued for years. In 53% of the cases the victim did seek help. But, just as significantly, 41.3% of the cases had not asked for assistance. The agencies responding found out about the abuse in any number of ways. The most common way was from the client (49.3%). Other reporting sources were hospitals or clinics (27.2%), private physicians (5.3%) and public or private social service agencies (12%). The agencies, when contacted by a reporting source, in most cases, responded to the victim with the services that the agency provides. In some cases the agency referred the clients to other agencies that could respond to other areas of need. Case studies are an excellent way to better understand how cases were being handled at the time of the survey.



E. Violation of Rights

- forced from home
- forced into nursing home
- forced social isolation
- other \_\_\_\_\_

F. Rating of Environment

- dirt in house
- vermin in house
- inadequate heat
- smell of urine
- no food in house
- other \_\_\_\_\_
- none

G. Degree of Physical Impairment

- bedridden
- cannot perform basic personal hygiene without help, bathing, toilet
- cannot prepare own food
- cannot take own medicine
- none

II. Information on Abuser

A. Relationship to victim girlfriend

Age at time of incident 62

Sex \_\_\_\_\_

Religion unknown

Race or ethnic group caucasian

Economic status low

Occupation on disability

Does the abuser live with the victim? Yes  No

B. What led to this mistreatment as far as you know?

She wants his money

1. Is alcohol a problem in this situation? no

- C. Has this mistreatment happened before?  
 no  4 or more times  
 once  
 2 or 3 times

III. Reporting of Incident

- A. How did you know about the case?  
 self report  
 private medical M.D.  
 hospital or clinic  
 police  
 public social service agency  
 private social service agency (nursing home)  
 public health  
 other by ongoing therapy \_\_\_\_\_  
\_\_\_\_\_

- B. Did the victim ever attempt to seek help?  no \_\_\_\_\_  
What help? \_\_\_\_\_

- C. Action taken (what did you do for this case?)  
Provide mental health services

- D. Additional comments:

Abuse Report Form

I. Unknown  
First Name Last

I. Information on Victim

A. Age at time of incident 65  
Sex F  
Race or ethnic group caucasian  
Religion \_\_\_\_\_  
Economic status low-income  
Who resides at the same address husband

B. Physical Abuse Sustained

<input type="checkbox"/> none	<input type="checkbox"/> bone fracture
<input checked="" type="checkbox"/> bruises, welts	<input type="checkbox"/> direct beating
<input type="checkbox"/> sprains dislocations	<input type="checkbox"/> lack of personal care
<input type="checkbox"/> malnutrition	<input type="checkbox"/> lack of food
<input type="checkbox"/> freezing	<input type="checkbox"/> medicine withheld
<input type="checkbox"/> burns, scalding	<input type="checkbox"/> no medicine purchased when prescribed
<input type="checkbox"/> abrasions, lacerations	<input type="checkbox"/> no false teeth when needed
<input type="checkbox"/> wounds, cuts, punctures	<input type="checkbox"/> no hearing aid when needed
<input type="checkbox"/> internal injuries	<input type="checkbox"/> no glasses when needed
<input type="checkbox"/> dismemberment	

Comments \_\_\_\_\_

C. Psychological Abuse Sustained

verbal assault  
 threat  
 fear

D. Material Abuse Sustained

theft of money or property  
 misuse of money or property  
 other: \_\_\_\_\_

E. Violation of Rights

- forced from home
- forced into nursing home
- forced social isolation
- other \_\_\_\_\_

F. Rating of Environment

- dirt in house
- vermin in house
- inadequate heat
- smell of urine
- no food in house
- other \_\_\_\_\_

G. Degree of Physical Impairment

- bedridden
- cannot perform basic personal hygiene without help, bathing, toilet
- cannot prepare own food
- cannot take own medicine
- none

II. Information on Abuser

- A. Relationship to victim husband
- Age at time of incident 62
- Sex \_\_\_\_\_
- Religion unknown
- Race or ethnic group native
- Economic status middle
- Occupation laborer
- Does the abuser live with the victim? Yes  No \_\_\_\_\_

- B. What led to this mistreatment as far as you know?
- Gets angry when drinking, fighting.
- \_\_\_\_\_
- \_\_\_\_\_

1. Is alcohol a problem in this situation? yes

C. Has this mistreatment happened before?

- no
- 4 or more times
- once
- 2 or 3 times

III. Reporting of Incident

A. How did you know about the case?

- self report
- private medical M.D.
- hospital or clinic
- police
- public social service agency
- private social service agency (nursing home)
- public health
- other \_\_\_\_\_

B. Did the victim ever attempt to seek help? yes  
What help? Admission to Pioneer Home.

C. Action taken (what did you do for this case?)  
Helping her to get a divorce and assist with Pioneer Home admission.

D. Additional comments:

## Conclusions and Recommendations

From the study done by A.C.M.H.C. several conclusions and recommendations can be made. Most results are similar to the national statistics, but there are some differences.

The abused elder in the Anchorage area is most likely to be a White, low-income woman over 70. She lives with an adult child or family member. A person in Anchorage is more likely to be physically independent than the national counterpart. The abuser is apt to be a middle aged White, low-income woman. In a sense, she is a victim of her situation. In many cases she is experiencing stress due to crowded living conditions, inadequate income, health problems, ignorance about services and feeling as if she is parenting a parent.

These stresses can result in many kinds of abuse. Physical mistreatment is clearly acknowledged as abuse. The results of physical abuse are more obvious and often deemed more serious than the results of other types of abuse. Psychological abuse may be less obvious but it is no less damaging to the elderly person. Cases of psychological abuse were sited far more frequently than other types. All 20 agencies reported cases involving some form of psychological abuse. Of the 75 cases of elder abuse, 70% involved this abuse.

The dependence of elderly people on others leaves their financial affairs open to misuse and theft. Because some elderly feel as if they are a burden or they may be left alone, they do not always move to remedy a case of economic abuse. In Alaska, the existence of the longevity bonus, native claims settlement payments and a high incidence of alcohol abuse make elders prime candidates for financial exploitation by caretakers.

Alcohol as a contributing factor to elder abuse is much greater than in other areas of the United States. Alcohol abuse is not limited to the

abuser. In some cases the elder abuse victim misuses alcohol and in other situations it is family-wide. A.C.M.H.C. as well as other service providers feel that this possibility should be considered when providing services to abused elders and caretakers.

Agencies surveyed believe that there are some things that can be done that would help them deal more effectively with the problem of elder abuse. A list of these actions follows:

1. An elder abuse mandatory reporting law.
2. Improving low-income housing opportunities for the elderly.
3. Beginning an adult day care center in the Anchorage area.
4. Some provisions for in-home respite care.
5. More staff for protective services.

There was one major problem in doing a study of this nature in Alaska. The group studies is age 60 and older. The older native population has a gap in that age group because many of that generation died during the tuberculosis epidemic. There is a lack of information concerning elder native Alaskans because of this factor.

Though some conclusions about abusers and victims can be made, these people come from any race, social or income group. The elder abuse cases given to the A.C.M.H.C. are only a few of the cases that enter the social service system. The real numbers are still to be discovered. Through a pilot project, A.C.M.H.C. is launching a concentrated program of public education. We hope to encourage a public awareness that will foster voluntary reporting by service providers and the general public. We are far from solving the problems of elder abuse, but by using some of the same methods used by child abuse researchers in the 1960's we hope to gain a better understanding of and form a methodology for dealing with the serious social problem of elder abuse.

REFERENCES

Block, Marilyn R., and Sinnott, Jan D., eds. The Battered Elderly Syndrome; and Exploratory Study. College Park, Md.: The University of Maryland, 1979.

Douglass, Richard L., Hickey, Tom, and Noel, Catherine. "A Study of the Maltreatment of the Elderly and Other Vulnerable Adults." Ann Arbor, Mi.: University of Michigan, 1979.

Holden, David F., and Carey, Peggy L., eds. "Tennessee Conference on Abuse of Older Persons." Knoxville, Tennessee: University of Tennessee, 1980.

APPENDIX A  
ELDER ABUSE REPORTING FORM

Abuse Report Form

\_\_\_\_\_

First Name

\_\_\_\_\_

Last

I. Information on Victim

- A. Age at time of incident \_\_\_\_\_  
Sex \_\_\_\_\_  
Race or ethnic group \_\_\_\_\_  
Religion \_\_\_\_\_  
Economic status \_\_\_\_\_  
Who resides at the same address \_\_\_\_\_  
\_\_\_\_\_

B. Physical Abuse Sustained

- |                               |  |
|-------------------------------|--|
| _____ none                    | _____ bone fracture                        |
| _____ bruises, welts          | _____ direct beating                       |
| _____ sprains dislocations    | _____ lack of personal care                |
| _____ malnutrition            | _____ lack of food                         |
| _____ freezing                | _____ medicine withheld                    |
| _____ burns, scalding         | _____ no medicine purchased when presented |
| _____ abrasions, lacerations  | _____ no false teeth when needed           |
| _____ wounds, cuts, punctures | _____ no hearing aid when needed           |
| _____ internal injuries       | _____ no glasses when needed               |
| _____ dismemberment           |  |
- Comments \_\_\_\_\_

C. Psychological Abuse Sustained

- \_\_\_\_\_ verbal assault  
\_\_\_\_\_ threat  
\_\_\_\_\_ fear

D. Material Abuse Sustained

- \_\_\_\_\_ theft of money or property  
\_\_\_\_\_ misuse of money or property  
\_\_\_\_\_ other \_\_\_\_\_

E. Violation of Rights

- forced from home  
 forced into nursing home  
 forced social isolation  
 other \_\_\_\_\_

F. Rating of Environment

- dirt in house  
 vermin in house  
 inadequate heat  
 smell of urine  
 no food in house  
 other \_\_\_\_\_

G. Degree of Physical Impairment

- bedridden  
 cannot perform basic personal hygiene without help, bathing,  
toilet  
 cannot prepare own food  
 cannot take own medicine  
 none

II. Information on Abuser

- A. Relationship to victim \_\_\_\_\_  
Age at time of incident \_\_\_\_\_  
Sex \_\_\_\_\_  
Religion \_\_\_\_\_  
Race or ethnic group \_\_\_\_\_  
Economic status \_\_\_\_\_  
Occupation \_\_\_\_\_  
Does the abuser live with the victim? Yes \_\_\_\_\_ No \_\_\_\_\_

- B. What led to this mistreatment as far as you know?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1. Is alcohol a problem in this situation? \_\_\_\_\_

- C. Has this mistreatment happened before?
- no  4 or more times
- once
- 2 or 3 times

III. Reporting of Incident

- A. How did you know about the case?
- self report
- private medical M.D.
- hospital or clinic
- police
- public social service agency
- private social service agency (nursing home)
- public health
- other \_\_\_\_\_
- \_\_\_\_\_

- B. Did the victim ever attempt to seek help? \_\_\_\_\_
- What help? \_\_\_\_\_

- C. Action taken (what did you do for this case?)

- D. Additional comments:

APPENDIX B

LETTER TO PHYSICIANS AND CLINICS



Dear Doctor:

During the last few months Anchorage Community Mental Health Center has been researching the problem of elder abuse in the Anchorage area. We are very interested in any experience you may have had with your patients or their families. The information is purely for research purposes. Names are not necessary and all reports are confidential.

We are using the definition used by Marilyn R. Block and Janice L. Davidson in their study The Battered Elder Syndrome.

Abuse refers to one or more of the following acts:

physical abuse, including direct beatings, lack of food, lack of medical care, and lack of supervision;

psychological abuse, including verbal assault, threat, fear and isolation;

material abuse, including theft or misuse of money or property and

violation of rights, including forced removal from home, or forced entry into a nursing home.

When you are searching your mind for cases that you believe may qualify as elder abuse, keep in mind that the age we are referring to is 60 or older. These are people who are in some way dependent on a son, daughter, or other relative or caretaker.

Any response or comment by you is considered essential to this study. Please call me by August 21, 1981 at A.C.M.H.C. 276-5400.

Teri Spires  
Research Specialist

**PLEASE NOTE: THE PRECEDING PAGES WERE TREATED  
AS A UNIT IN THE ORIGINAL DOCUMENT.**

AN ANALYSIS OF LAWS CONCERNING ELDER ABUSE: LRSE SUMMARY  
(Alaskan statutory provisions substituted)

The following is a summary of the above referenced publication which was prepared by Legal Research and Services for the Elderly of Boston. Alaskan statutory provisions have been substituted to assist the reader to understand what legal remedies are available in Alaska.

The problem of elder abuse requires social service and legal remedies. In LRSE's view, the response models of child and spouse abuse are limited because they "have not necessarily been effective and because the elderly raise distinct issues."

The abuse elderly person is typically in a vulnerable and dependent position. The primary caretaker is often also the abuser.

I. TWO CLIENT GROUPS

- a. Those who are willing and eager to pursue on their own initiative, service provisions or a legal (criminal or civil) remedy;
- b. those who cannot or do not seek assistance and who enter the system through intervention procedures
  1. some form of State intervention may be an alternative
  2. the primary consideration is the individual's capacity to make the needed decision.

II. RESPONSES

- a. "Responses must make available and provide accessible, effective social services, alternative housing, health care, emotional support, etc. The parameters of these options must be expanded beyond what is currently available."
- b. "Legislation, drafted to include a means for providing social and health services to the abused, must set forth the framework for procedures which can establish surrogate authority in cases where the abused elderly person lacks the capacity to consent to services or manage his/her own life and property. Concurrent with these procedures there must be protection of the due process rights of the elderly individual."

III. CRIMINAL REMEDY

- a. Filing of criminal complaint, e.g., assault; blackmail.
- b. If pursued, it should be in conjunction with a civil remedy or inclusion of protective orders during the criminal proceeding.
- c. Linkage with service provision is necessary.

## IV. CIVIL REMEDY

- a. Under AS 9.55.600, "a person subjected to domestic violence may petition a superior court for injunctive relief restraining the infliction of further domestic violence against the petitioner by the respondent." (Domestic violence means a crime under AS 11.41.100 - 11.41.530 committed against a spouse, former spouse, or a member of the social unit comprised of those living together in the same dwelling as the respondent.) The order may include provisions which:
1. restrain the respondent from subjecting the petitioner to domestic violence;
  2. direct the respondent to vacate the home of the petitioner;
  3. restrain the respondent from communicating directly or indirectly with the petitioner;
  4. direct the respondent to pay medical expenses incurred by the petitioner as a result of the domestic violence.

The court must send a copy of the order to the appropriate local law enforcement agency. Peace officers shall use every reasonable means to enforce an order.

AS 9.55.610 provides for emergency injunctive relief.

- b. According to LRSE the degree of protection provided under such statutes depends on enforcement provisions. "...if protective orders are violated, the abused individual must return to court for further remedy. This not only makes the process more cumbersome, but also fails to address the need for immediate and effective protection and enforcement by the police. Particularly (sic) cases of elderly abuse, reliance on this procedure would significantly increase the difficulty on the part of any infirm individual to rely on the remedy of the law."

## V. ISSUES RE LEGAL REMEDIES

"Often the elderly person will not agree to go to seek a legal remedy. Even if the individual is willing and eager to go to court, removing the caretaker from the home will require the social service system be able and willing to compensate for the lost support and assistance. Furthermore, shelters, which have been established to provide alternative housing for abuse victims often cannot meet the needs of the infirm or more dependent elder."

## VI. PROTECTIVE SERVICES

The "social service agency must seek and obtain the consent of the individual before making a referral, discussing a case inter-agency, or instituting a case plan" in order to ensure the individual's right to privacy. LRSE also points out that this right which is fundamental to our legal system cannot be rationalized by the notion of the "best interests" of the client.

a. Non-judicial alternatives for elderly persons who need assistance but who do not lack capacity:

1. managing finances or access to resources

- a. joint bank accounts, restricted bank accounts, direct deposit
- b. representative payee for Social Security

2. Power of Attorney

3. Trusts

b. Judicial Alternatives

There are three judicial alternatives in Alaska: conservatorship, guardianship and civil commitment

1. Conservatorship

A. AS 13.26.165 states that a conservator may be appointed in relation to the estate and affairs of a person if the court determines that:

- i. the person is unable to manage his property and affairs effectively for reasons such as mental illness, mental deficiency, advanced age, chronic use of drugs, chronic intoxications, confinement, detention by a foreign power, or disappearance; and
- ii. the person has property which will be wasted or dissipated unless proper management is provided, or that funds are needed for the support, care and welfare of the person or those entitled to be supported by him and that protection is necessary or desirable to obtain or provide funds

B. This may be an appropriate course of action in a case of exploitation if the elderly person lacks the capacity to manage his property.

2. Guardianship

A. Under AS 13.26 a guardian may be appointed for an "incapacitated person," i.e., "a person whose ability to receive and evaluate information or to communicate decisions is impaired for reasons other than minority to the extent that he lacks the ability to provide for himself the essential requirements for his physical health or safety without court-ordered assistance."

B. AS 13.26.090 states:

Guardianship for an incapacitated person shall be used only as is necessary to promote and protect the well-being of the person, shall be designed to encourage the development of

maximum self-reliance and independence of the person, and shall be ordered only to the extent necessitated by the person's actual mental and physical limitations. An incapacitated person for whom a guardian has been appointed is not presumed to be incompetent and retains all legal and civil rights except those which have been expressly limited by court order or have been specifically granted to the guardian by the court.

- C. LRSE points out that this is a "drastic remedy" and "rarely constitutes the needed and least restrictive option which is required by the large class of persons in need of protective services. Agencies often look to a guardianship as a means of getting decisions made that the elderly person refuses to make. Thus, it becomes a tool to enforce the service agencies' notions of (supposedly) the 'best interests' of the client."

### 3. Civil Commitment

AS 47.30.655 - 47.30.915 outlines the procedure for involuntary commitment procedures for a person alleged to be mentally ill and, as a result of that condition, alleged to be gravely disabled or to present a likelihood of serious harm to himself or others.

## VII. STATE INTERVENTION AND PROTECTIVE LEGISLATION

"Elder Abuse in Massachusetts: A Survey of Professionals and Paraprofessionals" conducted by LRSE indicated "that in a majority of the reported cases of abuse the elderly client is unable or unwilling to pursue a legal remedy on his/her own behalf. The survey results indicate that in a large proportion of cases a barrier to service provisions existed. The greatest percentage reported that this barrier was the refusal of the victim to acknowledge the problem or take action about it."

"The abuse, exploitation, neglect and abandonment of persons sixty and older often affects individuals who are infirm, confused and dependent. These persons may lack the physical ability or mental capacity to seek services or to consent to assistance. In such cases, remedies which require the initiation of the client are insufficient."

The issues of how and when to intervene in elder abuse cases in such cases poses a dilemma.

"Thus, is raised the classic conflict between the right of the individual to privacy and self-determination in opposition to the power of the state to intervene where state interests of protection of vulnerable persons exist.

Basic to our legal system is the individuals' right of self-determination and right to privacy. This constitutional right is an expression of the sanctity of individual free choice and self-determination as fundamental constituents of life. The individual's civil rights are not absolute or without limit. The state can and does intervene by regulation and prohibiting certain behavior. Intervention by the state results from a balancing of the state's interests against the interests of the individual to be left alone. The

parameters of state intervention are often unclear, reflecting historical and social trends,

Theoretically, state intervention occurs pursuant to two legal concepts:

- a. the police power gives the state authority to regulate activities that involve the health and safety of society;
- b. parens patriae gives the state authority to act in a parental capacity for persons who cannot care for themselves or who are dangerous to themselves.

While the state's exercise of its police powers has theoretically always been limited by the strictest of procedural safeguards in order to protect the individual from deprivation of his/her constitutional rights, the exercise of the parens patriae power has traditionally been marked by an atmosphere of informality. These informal procedures have been justified by the impression that the court's determination was to be based solely on the individual's 'best interest,' thus, eliminating the need for an adversarial process. This reasoning, although still adhered to, conflicts with reality in that the exercise of parens patriae often includes serious limitations on individual rights in the form of involuntary placement or institutionalization. Although clearly an infringement of the individual's rights, this rationale continues to enable the state to act in the supposed 'best interests' of the individual, often with minimal due process safeguards."

"The issues raised by this legislation are controversial, as well as complicated. Any discussion involves complex questions of a legal, medical and psychological nature. To these questions one brings the need for the intricate and delicate balance between the principle that society has the duty to protect those unable to protect or provide for themselves, and the constitutionally assured right of personal choice and individual freedoms.

The critical provisions of an abuse reporting and protective services law are those which determine and define how this conflict, between individual rights and state intervention, is resolved. These provisions primarily center around the definition of persons covered by the law, the standards for reporting and investigation as they affect rights of privacy and confidentiality, the right of access into private homes to investigate and to provide services, and due process safeguards in the determination and provision of involuntary services. In addition, there is the critical issue whether such laws are linked with service provision systems capable of meeting the needs of persons under the purview of the law. Further, the payment procedures for these services causes administration and legal difficulties.

#### Persons Covered

The premise of the protective services legislation is that persons exist in society who are unable to care for and/or protect themselves. Society, in the form of the State, as parens patriae, assumes the responsibility of this care and protection. The criteria for State intervention should clearly be one linked to the existence of abuse, neglect, exploitation and/or abandonment and a functional, mental or physical, inability to care for or protect oneself. The scope of the law and the determination of need on the part of persons covered should be defined according to this premise to

assure that vulnerable persons who are abuse victims are protected and reached by services."

### VIII. LRSE STATUTORY RECOMMENDATIONS

The following are the LRSE recommendations for a protective services and abuse reporting statute:

1. The law should apply to persons sixty and over who are abused, neglected, exploited or abandoned, and to persons 18 and older who lack the physical or mental capacity to care for their basic needs and/or protect themselves.
2. Abuse includes, but is not limited to, the willful infliction of physical pain, injury or mental anguish, or the willful deprivation by a caretaker of services which are necessary to maintain physical or mental health.

Neglect refers to an elderly or incapacitated person who is either living alone and not able to provide for him/herself the services which are necessary to maintain physical and mental health, or is not receiving the said necessary services from the responsible caretaker.

Exploitation refers to the act or process of taking advantage of an elderly or incapacitated person by another person or caretaker whether for monetary, personal, or other benefit, profit or gain.

Abandonment refers to the desertion or willful foresaking of an elderly or incapacitated person by a caretaker and obligations owed an elderly or incapacitated person by a caretaker or other person.

All other terms use should be clearly defined in the statute.

3. One State agency shall be responsible for developing an adult protective services program for all citizens. This designated agency or department shall provide services to persons covered by this statute.
4. A report should be required to be made by certain categories of persons, including physician, nurses, social workers, coroners, medical examiners, dentists, hospital staff, nursing home staff, home health agency and staff, home care corporation (staff and homemakers), clergy, adult foster care facility, police officers, pharmacists, etc.

Anyone of the above categories who has reasonable cause to believe or suspect that an elderly or incapacitated person has been abused, neglected, exploited or abandoned, or is in a condition which is the result of such treatment shall make a report to the appropriate agency withing 24 hours.

5. Anyone else who has 'reasonable cause to believe or suspect' may report this information to the appropriate agency.
6. The identity of the reporting person should be confidential and be disclosed only with the consent of that person or by judicial process.

A person acting in good faith who makes a report should be immune from civil and criminal liability.

7. A person required to report, but who fails to do so, should be liable for a fine of \$500 to \$1,000.
8. One State agency should be responsible for receiving and investigating all reports: Each report received should be registered by the agency with all available information from the reporter.

The agency chosen to receive and investigate reports should have a system and personnel to:

- A. receive reports 7 days a week, 24 hours a day;
- B. keep records;
- C. have knowledge of services available;
- D. have access to services;
- E. have a statewide mandate;
- F. have the ability and staff (trained) to respond quickly.

A centralized intake system should be geared into a regional response system if possible.

The investigating agency should also either provide services or coordinate service provision by subcontracting and referral. This should be determined according to existing State service systems.

9. The initial investigation should be conducted by persons trained in human services.
10. Upon receiving a report made in accord with the law, the agency should commence an investigation. This investigation should include a home visit and consultation with service agencies, and persons with knowledge of the case, (including the reporter for further information if possible and necessary). The initial investigation for verification and assessment should be completed within 72 hours. The investigator should have access to a multi-disciplinary geriatric team for consultation.
  - A. If the report is not verified, the case is closed.
  - B. If the report is verified, an assessment of the individual's functional capacity, the situation and the resources available to the person should be made by a multi-disciplinary team with expertise in the particular field of disability.
11. In conducting the investigation, the agency may seek the assistance of law enforcement officials and the courts. If access is denied to the investigator, either by the elderly or incapacitated person or a caretaker, the agency may petition for a court order to enjoin intervention with access to investigate. Such an order shall be issued upon specific facts shown that: 1) there is a reasonable cause

to suspect that the person in question is or has been abused, neglected, exploited or abandoned; and 2) access has been denied to the representatives of the agency required to investigate such reports.

12. Regulations should be promulgated which assure continuity of case management for investigation, assessment, case plan development and service provision.
13. Voluntary services shall be provided for the least restrictive alternative, client self-determination, and continuity of care.

A fair hearing procedure should be developed and implemented so that any service plan can be appealed on denial of application for specific services or for failure to provide the least restrictive alternative.

14. The department/agency should establish by regulation a sliding fee scale to be used in determining fees for services provided on a voluntary basis.

The department should maximize all available Federal reimbursements for such services. There should be no charge to the individual in question for the cost of the investigation, assessment, etc. These costs are to be borne by the State.

15. If an adult refuses services or withdraws consent, the agency must terminate intervention proceedings. This is consistent with the right of the adult to refuse treatment. The case is closed unless the department seeks to provide services pursuant to involuntary provision procedures.

16. Standards of non-emergency involuntary intervention and services provision must include the following:

A. Assessment of need and eligibility

adult refuses services  
lacks capacity to consent  
no one else can/willing to consent (See #22)

B. Clear and convincing evidence

C. Least restrictive alternative; non-institutional placement where possible

D. a geriatric/clinical assessment by social worker, physician, mental health practitioner, lawyer to assure appropriate case plan and placement should be required to any court order.

E. Placement shall not be made in a mental institution, nor will any proceeding be a determination of incompetency.

17. Any voluntary service provision or placement shall only be authorized pursuant to a court order after a hearing on the merits.

The adult in question shall be assured the right to counsel; if she/he is indigent, the court shall appoint counsel. The adult shall also

have the right to be present and to cross-examine the parties involved. If counsel is waived, the court shall appoint a guardian ad litem to act in the interest of the adult in question.

18. Adequate notice should be assured. At least 14 days prior to the hearing, the court should order served upon the person and any interested party, a copy of the petition and notice including an explanation of the proceedings, the date, time and location; the proposed service plan; and the rights of the adult in question at said hearing to counsel, to be present, etc.
19. The court order for any protective placement must be specific as to such placement, including reasons for finding it necessary and that it is the least restrictive alternative. This should be stated in the court record.
20. The initial care plan submitted to the court should specify details of services, medical treatment, and relocation. The court order issued should be specific as to services, treatment, placement approved.

Any modification can only be made pursuant to court order.

21. The court should limit the order to six months or less; upon court review, it can be extended for another period of time (up to six months).
22. The determination of 'lacks the capacity to consent' should be made according to the following:

the adult bases decisions on delusions or hallucinations, is unable to make or implement decisions, or is unable to comprehend a decision's effect. The decision itself for refusing services cannot be the sole evidence for finding the person lacks capacity to consent.

23. Involuntary services should be borne by the State unless a court, after a determination of financial ability, orders the client to pay or the client agrees to pay.
24. Standards of emergency involuntary intervention and service provision must include the following:

Emergency means that an elderly or incapacitated person is living in conditions which present a substantial risk of death or immediate and serious physical harm to him/herself or others:

a finding based on clear and convincing evidence that the adult in question is incapacitated and in need of services,

an emergency exists,

the individual lacks the capacity to consent, no one else can/is willing to consent,

the proposed order is substantially supported by the findings.'

In issuing an emergency order, the court shall adhere to the following limitations:

- A. The court should specifically order those services necessary to remove the conditions creating the emergency.
  - B. Hospitalization or change of residence shall not be included unless specifically ordered by the court upon a finding that such action is necessary.
  - C. Emergency intervention should be limited to a period of 72 hours, renewable for 72 hours upon a showing to court of necessity to remove emergency conditions.
  - D. Court should appoint a temporary guardian with responsibility for the person's welfare and authority to give consent for emergency services (as ordered by the court) for the duration of the order.
  - E. Court should provide that the elderly person is assured all rights except those limitations provided for in the order.
  - F. Access to the premises will be ordered by the court to carry out the order in cases where voluntary access has been denied.
26. Notice shall be provided (including relevant and factual information of the basis of the petition) to the person, his/her spouse, children, next of kin, or guardian at least 24 hours prior to the hearing.

This notice may be waived upon a showing that: 1) immediate and reasonable foreseeable physical harm will result from the delay; and 2) reasonable attempts have been made to give notice to the above parties.

27. Emergency placement: If it appears probable from the personal observation of a police officer that an elderly person will suffer immediate and irreparable physical injury or death if medical care is not provided, and that person is incapable of giving consent, and that it is not possible to follow the hearing procedures, that office should be able to transport the person to an appropriate medical facility for medical treatment.

Notice of this action shall be given to persons listed in #26 within four hours. A petition for emergency medical intervention should be required to be filed within 24 hours of this action and a hearing should be held with all due process guarantees with 48 hours of the transfer.

28. In all cases, the drafting and adoption of adult protective service provisions should be linked with the developing of extensive service systems which emphasize alternatives to institutional care."

## Protective Services Legislation for the Elderly

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Department of Sociology  
and Center on Aging Studies  
University of Missouri-Columbia

- ✓ An 89-year-old woman lives alone in a trailer court outside a southern Missouri town. She is blind and has become too weak to lift a jug of water.
- ✓ A man in his sixties, who was once left bound hand and foot in a car by his caretakers, signs over his pension check to them each month because he is afraid they otherwise would turn him out.
- ✓ A 77-year-old man is chronically depressed and disoriented from the interaction of excessive dosages of medication being given to him by another person charged with his care.

These are only three of the estimated 19,000 elderly Missourians who need protection from abuse, neglect, or exploitation. This guide will describe forms of abuse and situations in which it is likely to occur, and summarize the provisions of Missouri law to deal with abuse.

### The law

In response to public concern, the Protective Services Law for the Elderly was passed by the Missouri General Assembly and signed by the Governor in 1980. This law is designed to assist and protect persons age 60 or older who are unable to perform or obtain essential services or to protect their own interests. The protective services provided by this law consist of visits by social workers supplemented by such community functions as visiting nurses services, home-



maker services, hot meal delivery, and telephone checks. Legal intervention may also enter the picture in the form of guardianship, commitment, emergency service delivery, and protective placement.

Missouri is one of only thirteen states that has a law specifically designated to help prevent abuse and neglect of the elderly. This law establishes a system for reporting instances of abuse and neglect and provides for assistance to be given to the victims.

## How to report abuse or neglect

If you have reasonable cause to suspect that an elderly person is suffering serious physical harm and is in need of protective services, use the Elderly Abuse and Neglect Hotline maintained by the Department of Social Services Division of Aging. The hotline number is 1-800-392-0210.

Or, if you prefer, write the Department at:

Central Registry Unit  
Division of Aging  
P.O. Box 1337  
Jefferson City, MO 65102

When making your report include the following information:

1. Name, age, and address of the older person in need.
2. Names and addresses of any individuals responsible for the older person.
3. The nature and extent of the older person's condition.

You are not required to give your name when making a report. If you are uncertain of how to proceed or have any questions, call the toll-free hotline number mentioned above.

## Types of abuse

To assist you in identifying cases of abuse, the law describes four basic situations in which serious harm is likely to come to an individual.

1. **Self-neglect.** This situation is indicated by the elderly person's failure or inability to provide for his or her own essential needs, resulting in substantial risk that physical harm will ensue.
2. **Self-abuse.** In this situation there is reason to believe that an elderly person will inflict physical harm upon himself, as evidenced by his own actions or threats to do so.
3. **Abuse to others by an elderly person.** This situation is one in which there is a substantial risk that an elderly person will inflict physical harm upon another, as evidenced by his own actions or behavior.
4. **Abuse to elderly by others.** In this situation there is a substantial risk that further physical harm will occur to an older person who has already suffered physical injury, neglect, sexual or emotional abuse, other forms of maltreatment, or the wasting of his financial resources by another person.

The following discussion will focus on abuse to the elderly by others.

## Abuse by others

A study by the Office on Aging in Bergen County, New Jersey has shown that there are four main categories of abuse to the elderly by other persons:

1. **Physical abuse.** This may take various forms, including shaking or shoving, tying the elderly person to a chair so "he won't hurt himself" while others are gone, and encouragement by the family or a physician for the elderly person to be given drugs to make him or her "manageable."
2. **Deprivation.** This is withholding life's necessities, such as food, clothing, shelter, and medical care.
3. **Financial abuse.** This involves the removal of money or real estate from the older person's control when it is not necessary for the good of the individual to do so.
4. **Emotional abuse.** This includes such things as verbal abuse (excessive criticism or unrealistic demands), forcing the elderly person to change his or her residence, and infantilization (denying the older person the right to be treated as an adult, to be informed about his or her own health condition, to participate in family and social situations, and so forth). Emotional abuse is covered by the Protective Services Law only when there is evidence of physical harm resulting from the emotional abuse. Such problems as ulcers and high blood pressure are evidence of such physical harm.

## What happens after you report

If you make a report of abuse or neglect, a local social service worker will visit the older person's residence to evaluate the situation. In emergency cases this visit will be made within twenty-four hours; in less severe cases a maximum of thirty days is permitted.

By reporting abuse or neglect you will not be forcing an older person to accept services he or she does not want. The Protective Services Law states that if an elderly person does not consent to receive protective services, those services will not be given; and if the elderly person withdraws consent previously given, the services will be discontinued. The only exceptions are those cases in which there is reason to believe that the older person lacks the capacity to consent. In such instances the director of the Department of Social Services may seek a court order.

## Abusers cannot interfere

In some abuse cases, an abuser may refuse to allow anyone to visit the person being abused. In such instances the Department of Social Services may petition the court for a warrant. The Department may also petition the court to forbid anyone from interfering with the delivery of services to the elderly person.

## If an older person is unable to give consent

If a case is one of self-neglect or self-abuse and the older person is unable to give consent for assistance, the Department of Social Services may initiate proceedings to provide the necessary protective services.

## When the police are involved

In some instances it is necessary for the police to become involved in protective cases. If a police officer believes that an older person is in immediate danger, he or she may arrange for that person to be taken to a medical facility for emergency treatment. If the police officer is barred from entering by someone in the home, the officer may apply for a court warrant to enter and remove the elderly person to the medical facility.

## When medical treatment is necessary

Sometimes when an elderly person has been admitted to the hospital as a result of abuse, the relative or guardian refuses to give consent for medical treatment and the elderly person himself is unable to give consent. In these cases the head of the medical facility may file a court petition for authorization of treatment, and the court may appoint a temporary guardian to oversee the treatment. In life-threatening situations in which immediate medical treatment is needed, such treatment may be given by the facility before a court hearing is held.

Once again, it should be emphasized that the rights of the competent elderly person shall be maintained—and these rights include the right to refuse medical care on the basis of religious faith or conviction.

## Characteristics of abusers and abused

To prevent incidents of abuse it is necessary to understand the common characteristics of abusers, the abused, and situations in which abuse is most likely to occur.

## The abused and their situations

The older the individual the more likely he or she is to be abused; reported cases of abuse are most common among people over 75 years of age. Persons become not only physically weaker with age but also more psychologically dependent due to such aging-related changes as loss of usefulness, loss of social standing, and loss of contact with friends. Since some older persons are not only weak but also physically or mentally impaired, they are sometimes treated as children or, even worse, as less than human. It is in such situations that abuse is most likely to occur.

Abused elderly usually are living with relatives and the most frequent abusers are the offspring. A situation in which the elderly person lives with his or her child can bring out deep-seated emotional responses in the offspring who may find it difficult to accept the parent's dependency. The parent may in turn sense this stress on the offspring's part and try to demonstrate his strength and independence by taking on tasks beyond his ability. The result is often failure, tension, and frustration. Additionally, if grandchildren are in the family, the elder may attempt to parent them, causing conflicts over discipline, household procedures, and lifestyles.

In our society, for complex and diverse reasons, abuse of the elderly is most common in white families, and females tend to be abused more than males.

While abused older persons are found among all income levels, middle-class elderly experience more abuse than upper or lower-class elderly. This can be attributed to the emphasis which the middle-class puts on the work ethic and the resultant tendency of retired persons to view themselves as useless and unproductive—a view which may be subconsciously or consciously shared by other family members. Moreover, middle-class family members are more likely to separate and live long distances from each other as the children marry and move away, often to other cities.

If elderly parents eventually come to live with their children it is often a shock for the children to observe the changes that have occurred since they last visited. To observe these changes all at once and to have to cope with them daily puts stress on both parents and children. By contrast, if a parent is living with or near the child as old age approaches, as is not uncommon in lower-class families, there can be gradual adjustments made as changes occur in the parent.

## The abusers

Abusers tend to be middle-aged offspring who are looking forward to freedom and relax-

ation in the form of retirement and the departure of their own children from the home. An elderly parent moving into the household represents an intrusion into their plan, and the economic drain can be extremely stressful if there are still dependent children living at home.

Abusers tend to be female, since the responsibility of caring for an elderly parent typically falls upon a daughter. Because middle-aged women are likely to be working, many find it difficult to fit caregiving into their schedules, thus adding to the personal as well as financial pressures.

Many abusers were abused as children. On the other hand, abused elderly tend to deny that they are abused because they are ashamed to admit that their own children are abusers. They also may fear that they will be compelled to move to another setting if they report abuse, or that any complaint will lead to further abuse.

### Guidelines for action

Being alert to potential abuse situations, and being willing to report abuse incidents, are two good ways to help curtail abuse in Missouri. However, further preventive measures can be taken on a community basis which would go far in this regard. The following measures are both possible and essential for the well-being of many older persons and their families.

1. Education projects should be established for the families of elderly persons, particularly middle-aged offspring who either now take care of their parents or are likely to in the future. Middle-aged children must be edu-

cated on the physical and psychological changes that come about with the aging process and the best ways of dealing with them.

2. Training projects for social service personnel should be initiated to increase their effectiveness in dealing with abuse and neglect. The training should instruct them in recognizing the signs of a potential abuse situation, and train them in early intervention and in helping both the elderly and families. Such sensitivity and alertness is especially needed in cases of frail elderly persons living alone. Service personnel in a position to observe the condition of such frail elderly include visiting nurses, county health nurses, homemaker aides, physicians, clergymen, meals-on-wheels drivers, friendly visitors, outreach workers from community agencies and county councils on aging, and so forth.
3. Networks of supportive services should be established for families and elderly who live in situations where abuse or neglect has already occurred. Such services would strive to prevent further abuse by alleviating the problems which led to the abuse.

A detailed copy of the legislation itself may be obtained by writing to the Division of Aging, P.O. Box 1337, Jefferson City, MO 65102.

Through adult education and the strengthening of community voluntary support systems, we may minimize the occasions when the law must be used. Always, but particularly in this area, an ounce of prevention is worth a pound of legal care.

SECTION ANALYSIS OF HOUSE CS FOR CS FOR SB 122 (HESS)

Section 1 Purpose.

Section 2 (a) Lists professional people who are required to report suspected cases of harm of an elderly person to the Department of Health and Social Services.

(b) Lists information to be provided to the Department when a report of harm is made.

(c) "violation" is a noncriminal offense punishable by a fine, but not by imprisonment or other penalty; conviction of a violation does not give rise to any disability or legal disadvantage based on conviction of a crime; a person charged with a violation is not entitled:

(A) To a trial by jury; or

(B) To have a public defender or other counsel appointed at public expense to represent him;

(d) The bill does not preclude a person not listed, or a person listed when in a non-professional capacity, from reporting.

(e) Reports can be made to a peace officer or VPSO if immediate action is necessary. The officer will take immediate protective actions and report to the Department as soon as possible.

(f) Provides immunity from liability to a person making a good faith report.

(g) Provides that there is no civil liability for those failing to report other than provided by law.

ACTIONS ON REPORTS

(a) Requires prompt action by the Department to investigate the need for action and services. The Department shall personally interview the elderly person unless the person is unconscious or incompetent.

(b) Requires the Department to prepare a written report on findings, recommendations and the determination of action. The reporter may receive information on the investigation on request. Confirmed reports shall be forwarded to the Department of Law.

(c) Investigation shall terminate upon the request of the elderly person unless determined incapacitated, whereby the Department may petition the court to have a guardian appointed.

PROTECTIVE SERVICES

(a) The Department shall provide available protective services if the person consents, or if that person is incapacitated, may petition the court to appoint a guardian.

(b) If a caretaker is preventing the elderly person from receiving services, the Department may assist the person in petitioning the court for an injunction..

REVIEW AND REFERRAL. Provides that the Department shall review the case every 90 days until closed.

CONFIDENTIALITY OF REPORTS.

(a) Provides that reports are confidential although reports may be used by governmental agencies for investigations and judicial proceedings.

(b) A report shall be disclosed if the elderly person consents in writing. The number of verified reports occurring in an institution for the elderly may be disclosed upon request.

AUTHORITY OF THE DEPARTMENT. Provides that the Department, subject to the person's consent, initiate protective actions.

REGULATIONS. Gives the Department the authority to promulgate regulations upon approval of the Older Alaskans Commission.

QUARTERLY REPORT. The Department shall provide a quarterly statistical report on protection of the elderly to the Older Alaskans Commission.

DEFINITIONS.

ANALYSIS OF SB 122 - RELATING TO PROTECTION OF THE ELDERLY

SECTION 1 PURPOSE

- SECTION 2
- a) LISTS PROFESSIONAL PEOPLE REQUIRED TO REPORT CASES OF SUSPECTED ABUSE, NEGLECT OR ABANDONMENT OF AN ELDERLY PERSON
  - b) LISTS INFORMATION TO BE PROVIDED TO THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES WHEN REPORTING.
  - c) "VIOLATION" IS A NONCRIMINAL OFFENSE PUNISHABLE BY A FINE, BUT NOT BY IMPRISONMENT OR OTHER PENALTY; CONVICTION OF A VIOLATION DOES NOT GIVE RISE TO ANY DISABILITY OR LEGAL DISADVANTAGE BASED ON CONVICTION OF A CRIME; A PERSON CHARGED WITH A VIOLATION IS NOT ENTITLED:
    - (A) TO A TRIAL BY JURY; OR
    - (B) TO HAVE A PUBLIC DEFENDER OR OTHER COUNSEL APPOINTED AT PUBLIC EXPENSE TO REPRESENT HIM;
  - d) THE BILL DOES NOT PRECLUDE A PERSON NOT LISTED, OR A PERSON LISTED WHEN IN A NON-PROFESSIONAL CAPACITY, FROM REPORTING.
  - e) REPORTS CAN BE MADE TO A PEACE OFFICER IF IMMEDIATE ACTION IS NECESSARY.
  - f) IMMUNITY FROM LIABILITY TO THE REPORTING PERSON IS GRANTED.

SEC. 47.24.020

- a) REQUIRES PROMPT INVESTIGATION BY THE DEPARTMENT TO ASSESS THE NEED FOR ACTION AND SERVICES.
- b) REQUIRES TO DEPARTMENT TO PREPARE A WRITTEN REPORT ON FINDINGS, RECOMMENDATIONS AND DETERMINATION OF ACTION. REPORTER MAY RECEIVE A COPY ON REQUEST.
- c) INVESTIGATION WILL TERMINATE UPON REQUEST OF THE ELDER PERSON UNLESS THEY ARE INCAPACITATED, WHEREBY THE DEPARTMENT MAY PETITION THE COURT TO HAVE A GUARDIAN APPOINTED.

SEC. 47.24.030

- a) THE DEPARTMENT SHALL PROVIDE PROTECTIVE SERVICES AT THE CONSENT OF THE ELDER PERSON, OR IF THAT PERSON IS INCAPACITATED, THE DEPARTMENT MAY PETITION THE COURT TO APPOINT A GUARDIAN.
- b) THE DEPARTMENT MAY DISCLOSE THE REPORT AT THE REQUEST OF THE ELDER PERSON, AND , ON REQUEST, DISCLOSE REPORTS OF HARM AT AN INSTITUTION CERTIFIED BY THE STATE.

SEC. 47.24.060 - LISTS ACTIONS AVAILABLE TO THE DEPARTMENT TO SAFEGUARD AN ELDERLY PERSON.

- SEC. 47.24. 070 - GIVES THE DEPARTMENT AUTHORITY/TO PROMULGATE REGULATIONS, APPROVED BY THE OLDER ALASKANS COMMISSION.
- SEC. 47.24.075 - EXCLUDES THE PHYSICIAN-PATIENT AND HUSBAND-WIFE RELATIONSHIPS AS GROUNDS FOR EXCLUDING EVIDENCE.
- SEC. 47.24.080. - QUARTERLY REPORTS WILL BE MADE TO THE OLDER ALASKANS COMMISSION OF STATISTICS CONCERNING THIS BILL, NOT TO INCLUDE THE IDENTITY OF VICTIMS OR PERPETRATORS.
- SEC. 47.24.100 - DEFINITIONS

OLDER ALASKANS COMMISSION  
POSITION PAPER

Senate Bill 122 / House Bill 192  
"An Act relating to protection of the elderly"

The Older Alaskans Commission urges passage of this legislation in order to provide protection and assistance to older persons who are unable to care for themselves.

Twenty other states currently have mandatory reporting laws for elderly abuse. During the past year both Delaware and New Mexico have passed this type of legislation. The Commission feels that mandatory reporting is essential in order to reach vulnerable persons who may be physically, psychologically or financially unable to help themselves.

Historically elder abuse has been a hidden social problem but it is one that is encountered statewide by Commission funded senior projects. The Commission's senior ombudsman program received sixteen reports of abuse during FY 1982.

In 1981 the Administration on Aging funded a study of elder abuse in Anchorage through the Commission. Twenty agencies surveyed by the Anchorage Community Health Center for this study reported contacts with elder abuse cases. Seventy-five cases of elder abuse were reported in all. In 75% of these cases, the abuse had been going on for some time. In 53% of the cases the victims did seek help. The remaining victims who did not seek help are significant to the passage of this legislation.

The Commission recommends that "willful" be inserted before "deprivation" under Definitions, Sec. 47.24.100, (2) line 25. The purpose of this insertion is to ensure that poverty and other circumstances beyond a caretaker's control will not be considered as abuse. Staff also questions the intent of line 13 in Section 47.24.020 which states "The Department shall make every reasonable effort to personally interview the elderly person during the investigation". This could be construed to imply that the Department could make decisions about an abused person without contacting him.

The Commission is aware that a major criticism of elderly abuse mandatory reporting laws is that the necessary services may not be in place to meet the demand for them. The Commission does not concur. Elder abuse is not a problem that can be denied or ignored. We hope to work closely with DFYS to assist in putting those necessary services in place.

We ask your support of this bill and in making the health and dignity of our elderly a major state priority.

Prepared by: Jon Wolfe Date: \_\_\_\_\_

Commissioner's Office Review by: Lisa Rudd Date: 3/10/83  
Lisa Rudd, Commissioner

JOE P. JOSEPHSON  
DISTRICT G - ANCHORAGE  
1526 F STREET  
ANCHORAGE, ALASKA 99501  
(907) 277-4419

# ALASKA STATE SENATE

WHILE IN JUNEAU  
POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4907  
(907) 465-4525



COMMITTEES  
HEALTH, EDUCATION & SOCIAL SERVICES (CHAIR)  
JUDICIARY (VICE-CHAIR)  
FINANCE  
MAJORITY CAUCUS (CHAIR)

## M E M O R A N D U M

TO: Billy Barrier  
FROM: Joe P. Josephson *J.P.J.*  
RE: SB 122  
DATE: March 7, 1983

Concern was expressed that the section (47.24.075) which states that the physician-patient privilege is not ground for excluding evidence regarding an elderly person's harm is unwise or unnecessary. First, the privilege may exist as part of court rules, and the inclusion of this provision could require passage by a two thirds majority vote. Second, the privilege is in actuality the privilege of the patient. The statutory repeal of the privilege in these cases could mean that the medial history and records of the patient -- notwithstanding the patient's desire for confidentiality -- could be released at the instance of the physician.

I would appreciate your comments about the privilege and the background, as you understand it, for the section as proposed.

While the reference to the husband-wife privilege did not draw comment, any observations you may have about that reference would also be welcome.

I. REQUEST

Bill/Resolution No.: CSSB 122  
 Title: Protection of the Elderly  
 Sponsor: Josephson  
 Requestor: \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected: H&SS  
 Program Category Affected: Social Services  
 BRU, Program of Subprogram(s) Affected: Program Services BRU, Adult Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		7.5	8.0	8.4	8.9	9.5
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		10.0	10.6	11.2	11.9	12.6
TOTAL OPERATING		17.5	18.6	19.6	20.8	22.1

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		17.5	18.6	19.6	20.8	22.1
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The source of funds was not identified by the sponsors.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael L. Price, Director *Michael L. Price* Phone: 465-3170  
 Division: Family and Youth Services Date: 3/23/83

Approved by Commissioner: Robert Gordon Smith Date: 3/30/83  
 Department: H & S.S.

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

"An Act relating to protection of the elderly."

OVERVIEW

This Bill includes provisions for mandatory reporting of cases of physical harm to elderly persons, investigation of reports of harm by the Department of Health and Social Services, and the offering of appropriate protective services to elderly persons in an effort to prevent or alleviate physical harm.

STATEMENT OF THE PROBLEM

In the past few years there has been increasing awareness across the nation, including Alaska, of the problems of elder abuse and neglect, as well as those elderly persons who are unable to protect or care for themselves. In 1981 an Elder Abuse Task Force was created in Anchorage and a pilot project grant was awarded to the Anchorage Community Mental Health Clinic Geriatric Unit to address the issue of elder abuse. In 1982, Elder Abuse Task Forces were created in Fairbanks and Juneau.

Elderly Alaskans in need of protective services are served by the Division of Family and Youth Services under its Adult Protective Service program which serves adults age 18 and over. Adult Protective Services are provided on a voluntary basis by a mandate under Title XX of the Social Security Act. Division social workers respond to voluntary reports of harm, investigate the circumstances of abuse, neglect, and exploitation, and offer appropriate protective services. If an adult client does not consent to services and is not incapacitated as defined under AS 13.26.005, the guardianship statute, the Division has no legal authority to intervene. If, however, an investigation indicates that an adult is incapacitated, the Division may petition the court for a guardian.

Division of Family and Youth Services' staff have actively participated in the Elder Abuse Task Forces. As a part of the Division's Fiscal Year 1983 Adult Protective Services Training Program, the issues of elder abuse, guardianship and conservatorship have been addressed. Community agencies, including programs serving older Alaskans, were invited and participated in these sessions which were conducted in Anchorage, Bethel, Fairbanks, Juneau, Ketchikan, and Nome.

Since reporting of abuse or physical harm to elderly persons is not mandatory, not all known cases are reported to a single agency. As a result, the actual extent of the problem is not known. Should the

POSITION PAPER

CS FOR SENATE BILL NO. 122 (HESS)

PAGE 2

number of cases reported under the mandatory requirement significantly impact caseloads, the Division will include necessary documentation to support the need for additional staff and service dollars in the FY 85 budget. If Additional staff and service dollars become necessary but not available, the Division may not be able to meet the intent of the legislation.

RECOMMENDATION

The Department strongly endorses efforts to promote the independence and well-being of those elderly persons in need of protection. The procedures outlined in the Bill for action on reports, provision of protective services, review and referral, and confidentiality are in accordance with procedures established by the Department of Health and Social Services.

RECOMMENDED:

Michael L. Price  
Michael L. Price, Director  
Division of Family and  
Youth Services

DATE:

March 25, 1983

APPROVED BY:

Robert London Smith  
Robert London Smith, Ph.D.  
Commissioner

DATE:

3/30/83

CS FOR SENATE BILL NO. 122  
FISCAL NOTE

REVISED 3/23/83  
PAGE 2

IV. ANALYSIS

A. Assumptions

Passage of this Bill would necessitate educating the public through the news media and handouts. Regulations would need to be promulgated. These functions would be performed by existing staff. Without historical data for reporting abuse, neglect, or abandonment, the assumption is made that one-half again as many situations reported would result in placement, and counseling with both the individual and the family.

B. Program Summary

1. No new positions would be required.
2. Contractual Services includes costs for printing regulations and for news media public educational announcements. Benefits to individuals includes special needs items for adult clients such as fuel supply and transportation to and from necessary services.

C. Computations

Estimates for Contractual are based upon similar previous costs. The estimates for Benefits to Individuals does not reflect a formula as there is no previous history upon which to base costs.

D. Economic Impact

Enactment will help prevent or alleviate physical harm to the elderly, and will promote their ability to remain independent.

E. Impact on Local Governments

There will be no fiscal impact on local governments.

CS SB 122 (HESS) - PROTECTION OF THE ELDERLY

ABUSE OF THE ELDERLY IS RECOGNIZED AS A PROBLEM IN ALASKA AS ILLUSTRATED BY THE STUDY ON ELDER ABUSE COMPLETED BY THE ANCHORAGE COMMUNITY MENTAL HEALTH CENTER.

THE STUDY DOCUMENTED 75 CASES, FINDING 43.3% OF PHYSICAL ABUSE, 70% OF PSYCHOLOGICAL ABUSE, 57.3% OF MATERIAL ABUSE AND 24% VIOLATION OF RIGHTS IN THE CONTROL GROUP.

IN ATTEMPT TO DEAL WITH THIS PROBLEM, THIS BILL HAS BEEN DRAFTED MUCH AS THE CHILD PROTECTION STATUTES, WITH THE INTENT TO FIT INTO THE SYSTEM ALREADY ESTABLISHED FOR CHILDREN.

THIS BILL PROVIDES FOR MANDATORY REPORTING OF SUSPECTED ABUSE BY PROFESSIONALS, SETS OUT THE PROCEDURES FOR REPORTING FOR THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES WITH REPORTS FORWARDED FOR REVIEW TO THE DEPARTMENT OF LAW, PROTECTS THE RIGHTS OF THE ELDER PERSON, ALLOWS THE APPOINTMENT OF GUARDIANS, LISTS ACTIONS AVAILABLE TO THE STATE FOR PROTECTION, GIVES THE DEPARTMENT AUTHORITY TO PROMULGATE REGULATIONS, AND PROVIDES FOR REPORTS ON ELDER ABUSE TO BE CREATED TO DOCUMENT PROBLEMS.

SINCE THIS PROGRAM CAN FIT INTO THE EXISTING SYSTEM ALREADY ESTABLISHED FOR THE PROTECTION OF CHILDREN, THE FISCAL NOTE REFLECTS A COST OF ONLY \$17,500.

EIGHT PEOPLE FROM ORGANIZATIONS DEALING WITH SENIOR CITIZENS TESTIFIED BEFORE THE SENATE HESS COMMITTEE IN SUPPORT OF THIS BILL, AND IT IS A PRIORITY OF THE OLDER ALASKANS COMMISSION AND SUPPORTED BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES.

IT IS TIME THAT WE RECOGNIZE THE SERIOUSNESS OF THE PROBLEMS OF ABUSING THE ELDERLY, AND WE MUST REALIZE THAT IN MANY INSTANCES THEY ARE AS HELPLESS AS CHILDREN WHO ARE ALSO ABUSED

*Wayne Dick*

MEMORANDUM

TO: JOE  
FROM: NANCY  
RE: HCS FOR CS SB 122 (HESS)

THE FOLLOWING CHANGES WERE MADE IN THE HOUSE HESS COMMITTEE:

PAGE 1, LINES 13-14:

LANGUAGE WAS ADDED TO REQUIRE REPORTS REGARDLESS OF ANY EVIDENTIARY PRIVILEGES ESTABLISHED BY STATE LAW OR THE ALASKA RULES OF COURT.

PAGE 2, LINES 15-16:

ADDED A NEW SUBSECTION TO THE PROFESSIONALS REQUIRED TO REPORT ELDER ABUSE IN THEIR PROFESSIONAL CAPACITY:

(13) an emergency medical technician or paramedic in the mobile intensive care program.

PAGE 3, LINE 18:

Added to subsection (g) (failure to make a report is not the basis for civil liability) a reference to subsection (d) which provides that no person is prohibited from reporting abuse if not listed in the required reporting section, and that a professional person is not prohibited from reporting when abuse is observed while in a non-professional capacity.

PAGE 4, LINE 7:

ADDS LANGUAGE TO SUBSECTION (b) TO PROVIDE THAT ONLY CONFIRMED REPORTS WILL BE FORWARDED TO THE DEPARTMENT OF LAW FOR REVIEW.

PAGE 6, LINE 19:

CHANGED THE AGE OF AN ELDERLY PERSON FROM 60 TO 65.

PAGE 7, LINE 2:

IN THE DEFINITION OF "PHYSICAL HARM", REMOVED THE RESTRICTION THAT THE INJURY RESULT FROM ACTIONS OF A CARETAKER, SO THAT ANY PERSON WHO HARMED AN ELDERLY PERSON COULD BE REPORTED.

"An Act relating to protection of the elderly."

OVERVIEW

This Bill includes provisions for mandatory reporting of cases of physical harm to elderly persons, investigation of reports of harm by the Department of Health and Social Services, and the offering of appropriate protective services to elderly persons in an effort to prevent or alleviate physical harm.

STATEMENT OF THE PROBLEM

In the past few years there has been increasing awareness across the nation, including Alaska, of the problems of elder abuse and neglect, as well as those elderly persons who are unable to protect or care for themselves. In 1981 an Elder Abuse Task Force was created in Anchorage and a pilot project grant was awarded to the Anchorage Community Mental Health Clinic Geriatric Unit to address the issue of elder abuse. In 1982, Elder Abuse Task Forces were created in Fairbanks and Juneau.

Elderly Alaskans in need of protective services are served by the Division of Family and Youth Services under its Adult Protective Service program which serves adults age 18 and over. Adult Protective Services are provided on a voluntary basis by a mandate under Title XX of the Social Security Act. Division social workers respond to voluntary reports of harm, investigate the circumstances of abuse, neglect, and exploitation, and offer appropriate protective services. If an adult client does not consent to services and is not incapacitated as defined under AS 13.26.005, the guardianship statute, the Division has no legal authority to intervene. If, however, an investigation indicates that an adult is incapacitated, the Division may petition the court for a guardian.

Division of Family and Youth Services' staff have actively participated in the Elder Abuse Task Forces. As a part of the Division's Fiscal Year 1983 Adult Protective Services Training Program, the issues of elder abuse, guardianship and conservatorship have been addressed. Community agencies, including programs serving older Alaskans, were invited and participated in these sessions which were conducted in Anchorage, Bethel, Fairbanks, Juneau, Ketchikan, and Nome.

Since reporting of abuse or physical harm to elderly persons is not mandatory, not all known cases are reported to a single agency. As a result, the actual extent of the problem is not known. Should the

number of cases reported under the mandatory requirement significantly impact caseloads, the Division will include necessary documentation to support the need for additional staff and service dollars in the FY 85 budget. If Additional staff and service dollars become necessary but not available, the Division may not be able to meet the intent of the legislation.

RECOMMENDATION

The Department strongly endorses efforts to promote the independence and well-being of those elderly persons in need of protection. The procedures outlined in the Bill for action on reports, provision of protective services, review and referral, and confidentiality are in accordance with procedures established by the Department of Health and Social Services.

RECOMMENDED:

Michael L. Price  
Michael L. Price, Director  
Division of Family and  
Youth Services

DATE:

March 25, 1983

APPROVED BY:

Robert London Smith  
Robert London Smith, Ph.D.  
Commissioner

DATE:

3/30/83

I. REQUEST  
 Bill/Resolution No.: CSSB 122  
 Title: Protection of the Elderly  
 Sponsor: Josephson  
 Requestor: \_\_\_\_\_

II. FISCAL DETAIL  
 Agency Affected: H&SS  
 Program Category Affected: Social Service  
 BRU, Program of Subprogram(s) Affected: Program Services BRU, Adult Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		7.5	8.0	8.4	8.9	9.5
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		10.0	10.6	11.2	11.9	12.6
TOTAL OPERATING		17.5	18.6	19.6	20.8	22.1

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		17.5	18.6	19.6	20.8	22.1
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The source of funds was not identified by the sponsors.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael L. Price, Director *Michael L. Price* Phone: 465-3170  
 Division: Family and Youth Services Date: 3/23/83  
 Approved by Commissioner: Robert Gordon Smith Date: 3/30/83  
 Department: H&SS

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CS FOR SENATE BILL NO. 122  
FISCAL NOTE

REVISED 3/23/83  
PAGE 2

IV. ANALYSIS

A. Assumptions

Passage of this Bill would necessitate educating the public through the news media and handouts. Regulations would need to be promulgated. These functions would be performed by existing staff. Without historical data for reporting abuse, neglect, or abandonment, the assumption is made that one-half again as many situations reported would result in placement, and counseling with both the individual and the family.

B. Program Summary

1. No new positions would be required.
2. Contractual Services includes costs for printing regulations and for news media public educational announcements. Benefits to individuals includes special needs items for adult clients such as fuel supply and transportation to and from necessary services.

C. Computations

Estimates for Contractual are based upon similar previous costs. The estimates for Benefits to Individuals does not reflect a formula as there is no previous history upon which to base costs.

D. Economic Impact

Enactment will help prevent or alleviate physical harm to the elderly, and will promote their ability to remain independent.

E. Impact on Local Governments

There will be no fiscal impact on local governments.

STATE OF ALASKA  
DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

POUCH H 01  
JUNEAU, ALASKA 99811  
PHONE:

DOCUMENT NO. \_\_\_\_\_

Honorable Don Bennett  
Co-Chairman of Senate  
Finance Committee  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Senator Bennett:

The following information is being provided in response to questions raised at the Senate Finance Hearing on April 7, 1983, on CS for Senate Bill No. 122 (HESS).

The Division of Family and Youth Services' Adult Protective Service program consists of the provision of supportive and/or protective services for adults age 18 and over who are not able to function independently, or who may be subject to abuse, neglect or exploitation. The Department does not have specific statutory authority to intervene in situations in which an adult may be at risk of harm. Adult Protective Service is provided with client consent under the adult protective service goal of Title XX of the Social Security Act and the general powers and duties of the Department to promote the health and well-being of Alaskans.

Social workers respond to referrals and reports of harm by contacting the adult, conducting an assessment/investigation to determine the validity of the report or the nature of the client's needs, providing social work services, making referrals and arranging for appropriate and available services. Services are provided with the consent of the client. Services are purchased by the Division on an individual client basis and include homemaker support, residential care and foster care. Services to which clients are referred include transportation, congregate meals, home delivered meals, home health aide services, medical services, legal services, and mental health services.

As of April 7, 1983, the Division of Family and Youth Services Adult Protective Service caseload was 1,055 clients, of whom 698 are age 60 and over. Of those clients age 60 and over, services to 446 clients or 64% were directed to the goal of preventing or remedying neglect, abuse or exploitation. The Division of Family and Youth Services Case Management Information System does not currently separate out these categories.

Data are not available on the total dollars spent on elder abuse cases, including social work services. However, the following are the amounts spent on purchased services for clients age 60 and over with preventing or remedying abuse, neglect, or exploitation as the service goal for the period July 1, 1982, through April 8, 1983, for homemaker support, adult foster care and adult residential care.

Homemaker Support	\$634,056
Residential Care	\$ 20,321
Foster Care	\$ 1,048
Total	\$655,425

If CS for Senate Bill No. 122 (HESS) is passed, in addition to charging the Department with the duty to investigate elder abuse, the Department will have the following additional responsibilities:

1. Section 47.24.020(c) mandates the Department to provide to the Department of Law a copy of each report of an investigation of harm to an elderly person that resulted from abuse;
2. Section 47.24.070 authorizes implementation of regulations; and,
3. Section 47.24.075 mandates that the Department submit a quarterly statistical report of the Department's activities related to protection of the elderly to the Older Alaskans Commission.

As indicated in the Department's Position Paper on this Bill, since reporting of physical harm to elderly persons is not mandatory, not all known cases are necessarily reported to the Division of Family and Youth Services. As a result the actual extent of the problem is not known. In addition, individuals who are aware of situations in which an elderly person is being abused may be reluctant to report the harm because there is no statutory provision for immunity from civil or criminal liability.

Section 47.24.010(a) of the Bill mandates reporting cases involving elderly persons who have been or who are being physically harmed. If the Bill had mandated reporting of other forms of abuse as well as neglect and abandonment and had required the provision of specific supportive services, the Department would have determined that such requirements would have a substantial fiscal impact.

+  
MANDATE  
Reporting  
of  
physical  
harm.

3 additional  
responsibilities

*1984  
Legislature  
Bill was  
Enrolled*

During the Twelfth Legislature, Bills were introduced on elder abuse which would have given the Department of Health and Social Services a broad mandate regarding protection of the elderly and would have required the creation of additional services. The Department's Fiscal Note reflected the broad mandate and was \$1.3 million.

As noted in the Department's Position Paper on this Bill, should the number of cases reported under the mandatory requirement significantly impact caseloads, the Division will include necessary documentation to support the need for additional staff and service dollars in future operating budget requests. If additional staff and service dollars become necessary but not available, the Department may not be able to meet the intent of the legislation.

The inclusion of \$10,000 for benefits to individuals in the Department's Fiscal Note on this Bill is for services which may be needed for an elder abuse victim for which there is no other resource, e.g., for individuals who are not eligible for General Relief or for whom the \$80 per month available through General Relief is not adequate. In addition, the Department's Fiscal Year 1984 budget does not include funds for expansion of existing programs for Adult Protective Service clients. Currently there are waiting lists for homemaker support in some communities; and there are a limited number of residential care beds for the elderly located in Anchorage only.

I hope this information is of assistance to you. If you have any additional questions, please contact me.

Sincerely,

Robert London Smith, Ph.D.  
Commissioner

POSITION PAPER

CS FOR SENATE BILL NO. 122 (Judiciary)

PAGE 1

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MAY 4 1983

"An Act relating to protection of the elderly."

Josephson,

OVERVIEW

This Bill includes provisions for mandatory reporting of cases of physical and economic harm to elderly persons, investigation of reports of harm by the Department of Health and Social Services, and the offering of appropriate protective services to elderly persons in an effort to prevent or alleviate economic and physical harm. In addition to charging the Department with the duty to investigate reports of harm, the Department will have the following additional responsibilities if this Bill is passed.

1. Section 47.24.020(b) mandates the Department to provide to the Department of Law a copy of each report of an investigation of harm to an elderly person;
2. Section 47.24.070 authorizes the implementation of regulations to be approved by the Older Alaskans Commission before adoption by the Department; and
3. Section 47.24.075 mandates that the Department submit to the Older Alaskans Commission a quarterly statistical report of the department's activities related to protection of the elderly.

STATEMENT OF THE PROBLEM

In the past few years there has been increasing awareness across the nation, including Alaska, of the problems of elder abuse, neglect, and exploitation and elderly persons who are unable to protect or care for themselves. In 1981 an Elder Abuse Task Force was created in Anchorage and a pilot project grant was awarded to the Anchorage Community Mental Health Clinic Geriatric Unit to address the issue of elder abuse. In 1982, Elder Abuse Task Forces were created in Fairbanks and Juneau.

Elderly Alaskans in need of protective services are served by the Division of Family and Youth Services under its Adult Protective Service program which serves adults age 18 and over who are not able to function independently or who may be subject to abuse, neglect, or exploitation. Adult Protective Services are provided on a voluntary basis by a mandate under Title XX of the Social Security Act and the general powers and duties of the Department to promote the health and well-being of Alaskans. Division social workers respond to voluntary reports of harm, investigate the circumstances of abuse, neglect, and exploitation, and

[ RECEIVED ]

MAY 25 1983

Josephson,

## POSITION PAPER

CS FOR SENATE BILL NO. 122 (Judiciary)

PAGE 2

offer appropriate protective services. If an adult client does not consent to services and is not incapacitated as defined under AS 13.26.005, the guardianship statute, the Division has no legal authority to intervene. If, however, an investigation indicates that an adult is incapacitated, the Division may petition the court for a guardian.

As of April 7, 1983, the Division of Family and Youth Services Adult Protective Service caseload was 1,055 clients, of whom 698 are age 60 and over. Of those clients age 60 and over, services to 446 clients or 64% were directed to the goal of preventing or remedying neglect, abuse or exploitation. The Division of Family and Youth Services Case Management Information System does not currently separate out these categories.

Division of Family and Youth Services' staff have actively participated in the Elder Abuse Task Forces. As a part of the Division's Fiscal Year 1983 Adult Protective Services Training Program, the issues of elder abuse, guardianship and conservatorship have been addressed. Community agencies, including programs serving older Alaskans, were invited and participated in these sessions which were conducted in Anchorage, Bethel, Fairbanks, Juneau, Ketchikan, and Nome.

Since reporting of harm to elderly persons is not mandatory, not all known cases are reported to a single agency. As a result, the actual extent of the problem is not known. However, we anticipate that mandatory reporting of physical and economic harm will result in increased caseloads. Social worker caseloads are such that additional staff will be necessary to meet the intent of this Bill. Furthermore, should the number of cases reported under the mandatory requirement significantly impact caseloads more than is anticipated, the Division will include necessary documentation to support the need for additional staff and service dollars in the FY 85 budget. If additional staff and service dollars become necessary but not available, the Division may not be able to meet the intent of the legislation.

POSITION PAPER

CS FOR SENATE BILL NO. 122 (Judiciary)

PAGE 2.1

RECOMMENDATION

The Department strongly endorses efforts to promote the independence and well-being of those elderly persons in need of protection. The procedures outlined in the Bill for action on reports, provision of protective services, review and referral, and confidentiality are in accordance with procedures established by the Department of Health and Social Services.

RECOMMENDED:

*for* *Guarante Ellen Welch*  
Michael L. Price, Director  
Division of Family and  
Youth Services

DATE:

May 18, 1983

APPROVED BY:

*Robert London Smith*  
Robert London Smith, Ph.D.  
Commissioner

DATE:

5/24/83

I. REQUEST

Bill/Resolution No.: CSSB 122  
 Title: "...protection of the elderly."  
 Sponsor: Josephson and V. Fischer  
 Requestor: Judiciary

II. FISCAL DETAIL

Agency Affected: Health & Social Services  
 Program Category Affected: \_\_\_\_\_  
 BRU, Program of Subprogram(s) Affected: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		210.0	222.5	236.0	250.2	265.2
200 TRAVEL		8.4	8.9	9.4	10.0	10.6
300 CONTRACTUAL		10.4	11.0	11.7	12.4	13.1
400 COMMODITIES		1.8	1.9	2.0	2.1	2.3
500 EQUIPMENT		6.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		10.0	10.6	11.2	11.9	12.6
TOTAL OPERATING		246.6	255.0	270.3	286.6	303.8

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS		246.6	255.0	270.3	286.6	303.8
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		2	2	2	2	2
PART-TIME		5	5	5	5	5
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael L. Price

Division: Family & Youth Services

Phone: 465-3170

Date: 5/17/83

Approved by Commissioner: Ruth Gordon Smith, M.D.

Department: H & S

Date: 5/24/83

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CS FOR SENATE BILL NO. 122  
FISCAL NOTE

REVISED 5/17/83  
PAGE 2

IV. ANALYSIS

A. Assumptions

The establishment of mandatory reporting of cases of physical and economic harm to elderly persons would necessitate educating the public through the news media and handouts. Regulations would need to be promulgated. Without historical data for reporting abuse, neglect, or abandonment, the assumption is made that one-half again as many situations reported would result in placement and counseling with both the individual and family, which would require the establishment of permanent full-time positions in Anchorage and Fairbanks and permanent part-time positions in Juneau, Ketchikan, Nome, Bethel and Palmer.

B. Program Summary

1. Positions: The increase in caseloads would require establishing the following positions:

Social Worker III	PFT	Anchorage
Social Worker III	PFT	Fairbanks
Social Worker III	PPT	Juneau
Social Worker III	PPT	Ketchikan
Social Worker III	PPT	Nome
Social Worker III	PPT	Bethel
Social Worker III	PPT	Palmer

2. Other Expenditures:

It will be necessary to secure additional office space, copier, telephones, postage, commodities and minimal equipment for each new position. Detail of these costs are reflected on the attached Forms 13. Funds will also be necessary to provide special needs for adult clients.

C. Computations

Computations are those used in the FY 84 budget with a 6% inflation factor for future years.

D. Economic Impact

Enactment will help prevent or alleviate physical harm to the elderly, and will promote their ability to remain independent.

E. Impact on Local Governments

There will be no fiscal impact on local governments.

TITLE OF INCREMENT	4. CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.	
Protection of the elderly	100	Personal Services	210.0		
	200	Travel	8.4		
	300	Contractual Services	10.4		
	400	Commodities	1.8		
	500	Equipment	6.0		
	600	Land, Buildings, Etc.			
	700	Grants, Claims, Etc.	10.0		
	800	Miscellaneous			
			TOTAL	246.6	
			I-A Transfer (NON-ADD)		
		Federal Receipts - Code:			
		General Fund	246.6		
		Other			
		5. POSITION INFORMATION			
		PFT	2		
		Staff Months	54		
		FTE	5		
EXPLAIN WHICH BRU OBJECTIVE IS AFFECTED, AND HOW.	6. INCREMENT PRIORITY				
Objective Provide social services in the least restrictive setting to adults who are victims of abuse, neglect, or exploitation.	BRU Level: _____ of _____			ERU	
	Agency Level: _____ of _____			Agency	
Effect Reports of abuse, neglect, or abandonment of an elderly person will be investigated and appropriate services provided. Service may include information and referral, case assessment, case planning, authorizing and arranging for appropriate services and placement	7. CHECK ONE OR BOTH				
	<input type="checkbox"/> Currently Existing Service <input checked="" type="checkbox"/> New Service				
BRIEFLY DESCRIBE WHAT THIS INCREMENT PURCHASES.	8. IMPACT FROM CAPITAL PROJECT (NAME)				
Costs for printing of regulations and for news media public educational announcements, costs for special needs for adult clients, and positions necessary to provide protective services to adults.	_____				
	Chapter _____ SLA _____ Page/Line _____				

6 INCREMENT REQUEST
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AGENCY Health and Social Services  
Social and Economic Assistance  
PROGRAM for the General Population

BRU Program Services

COMPONENT Adult Services

Page	1 of	1
Revised Date		

FY 84
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1.	POSITION TITLE Social Worker III				RANGE/STEP 16 A	BARG. UNIT G.G.U.	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				AMOUNT					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		30,876							
6.	Benefits		1,896							
7.	Supplemental Benefits		5,280							
8.	Fired Benefits		2,880							
9.	TOTAL PERSONAL SERVICES		01	40,932						
10.	Travel		02	2,000						
11.	Contractual		03	1,482						
12.	Commodities		04	400						
13.	Equipment		05	860						
14.	Other									
15.	TOTAL COST			45,674						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		45,674						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR BSM USE ONLY										
4A KEY NUMBER										

This position will be necessary to provide information and referral, case assessment, case planning, authorizing and arranging for the placement of elderly in a residential care facility or adult foster home. It will also be responsible for assuming a portion of the current adult protective services caseloads which are in excess of the 50 cases per worker recommended on the national level.

**13** REQUEST FOR  
NEW POSITION

AGENCY Health and Social Services  
Social and Economic Assistance  
PROGRAM for the General Population  
BRU Program Services  
COMPONENT Adult Services

FY 84

Page 1 of 7  
Revised Date

1.	POSITION TITLE Social Worker III				RANGE/STEP 16 A	BARG. UNIT G.G.U.	FORM 12 PAGE/LINE	GOV.	APERD.	DISAPP
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT	LEO.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	ADDITION 1									
4.	TYPE OF EXPENDITURE			AMOUNT						
	1			2			3			
	PERSONAL SERVICES									
5.	Salary		35,580							
6.	Benefits		2,184							
7.	Supplemental Benefits		6,084							
8.	Fixed Benefits		2,880							
9.	TOTAL PERSONAL SERVICES		01		46,728					
10.	Travel		02		2,000					
11.	Contractual		03		1,482					
12.	Commodities		04		400					
13.	Equipment		05		860					
14.	Other									
15.	TOTAL COST				51,470					
	RECEIPT CODE      FUNDING SOURCE									
16.			Federal Receipts	1002						
17.			G.F. Match	1003						
18.			General Funds	1004		51,470				
19.			I-A Receipts	1005						
20.			Program Receipts	1023						
21.			Other							
FOR BAA USE ONLY										
AA KEY NUMBER _____										

This position will be necessary to provide information and referral, case assessment, case planning, authorizing and arranging for the placement of elderly in a residential care facility or adult foster home. It will also be responsible for assuming a portion of the current adult protective services caseloads which are in excess of the 50 cases per worker recommended on the national level.

**13** REQUEST FOR  
NEW POSITION

AGENCY Health and Social Services  
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PROGRAM for the General Population  
BRU Program Services  
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FY 84

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Revised Date \_\_\_\_\_

1.	POSITION TITLE Social Worker III			RANGE/STEP 16 A	BARG. UNIT G.G.U.	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION DDT	STAFF MONTHS 6	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Palmer	ELECTION DISTRICT	LEC.	
3.	CONTINUATION LEVEL	ADDITION		JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT					
	1	2		3					
	PERSONAL SERVICES								
5.	Salary	16,020							
6.	Benefits	984							
7.	Supplemental Benefits	2,756							
8.	Fixed Benefits	2,820							
9.	TOTAL PERSONAL SERVICES	01		22,620					
10.	Travel	02		800					
11.	Contractual	03		1,482					
12.	Commodities	04		200					
13.	Equipment	05		860					
14.	Other								
15.	TOTAL COST			25,962					
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts 1002							
17.		G.F. Match 1003							
18.		General Funds 1004		25,962					
19.		I-A Receipts 1005							
20.		Program Receipts 1028							
21.		Other							
FOR BSM USE ONLY									
4A KEY NUMBER									

This position will be necessary to provide information and referral, case assessment, case planning, authorizing and arranging for the placement of elderly in a residential care facility or adult foster home. It will also be responsible for assuming a portion of the current adult protective services caseloads which are in excess of the 50 cases per worker recommended on the national level.

AGENCY Health and Social Services  
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13 REQUEST FOR  
NEW POSITION

FY 84

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Revised Date

1.	POSITION TITLE Social Worker III				RANGE/STEP 16 A	BARG. UNIT G.G.U.	FORM-12 PAGE/LINE	GOV.	APPROV.	DISAP.
2.	TYPE OF POSITION PPT	STAFF MONTHS 6	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Junoau	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE									
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		15,444							
6.	Benefits		948							
7.	Supplemental Benefits		2,640							
8.	Fixed Benefits		2,880							
9.	TOTAL PERSONAL SERVICES	01		21,912						
10.	Travel	02		800						
11.	Contractual	03		1,482						
12.	Commodities	04		200						
13.	Equipment	05		860						
14.	Other									
15.	TOTAL COST			25,254						
	RECEIPT CODE				FUNDING SOURCE					
16.					Federal Receipts 1002					
17.					G.F. Match 1003					
18.				25,254	General Funds 1004					
19.					I-A Receipts 1005					
20.					Program Receipts 1028					
21.					Other					
FOR BSN USE ONLY										
4A KEY NUMBER _____										

This position will be necessary to provide information and referral, case assessment, case planning, authorizing and arranging for the placement of elderly in a residential care facility or adult foster home. It will also be responsible for assuming a portion of the current adult protective services caseloads which are in excess of the 50 cases per worker recommended on the national level.

**13** REQUEST FOR  
NEW POSITION

AGENCY Health and Social Services  
Social and Economic Assistance  
PROGRAM for the General Population  
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Revised Date \_\_\_\_\_

1.	POSITION TITLE Social Worker III				RANGE/STEP 16 A	BARG. UNIT G.G.U.	FORM 12 PAGE/LINE	GOV.	APPROV.	DIS/PT.
2.	TYPE OF POSITION PPT	STAFF MONTHS 6	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Ketchikan	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				AMOUNT					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		15,444							
6.	Benefits		948							
7.	Supplemental Benefits		2,640							
8.	Fixed Benefits		2,880							
9.	TOTAL PERSONAL SERVICES		01		21,912					
10.	Travel		02		800					
11.	Contractual		03		1,482					
12.	Commodities		04		200					
13.	Equipment		05		860					
14.	Other									
15.	TOTAL COST				25,254					
	RECEIPT CODE				FUNDING SOURCE					
16.					Federal Receipts 1002					
17.					G.F. Match 1003					
18.					General Funds 1004					
19.					1-A Receipts 1005					
20.					Program Receipts 1026					
21.					Other					
FOR BAW USE ONLY										
4A KEY NUMBER										

This position will be necessary to provide information and referral, case assessment, case planning, authorizing and arranging for the placement of elderly in a residential care facility or adult foster home. It will also be responsible for assuming a portion of the current adult protective services caseloads which are in excess of the 50 cases per worker recommended on the national level.

**13** REQUEST FOR  
NEW POSITION

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1.	POSITION TITLE Social Worker III			RANGE/STEP 16 A	BARG. UNIT G.G.U.	FORM 12 PAGE/LINE	GOV.	APPROV.	DYS. APP.
2.	TYPE OF POSITION PPT	STAFF MONTHS 6	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION None	ELECTION DISTRICT	LCG.	
3.	CONTINUATION LEVEL	ADDITION	JUSTIFICATION						
4.	TYPE OF EXPENDITURE		AMOUNT						
	PERSONAL SERVICES								
5.	Salary	20,364							
6.	Benefits	1,248							
7.	Supplemental Benefits	5,110							
8.	Fixed Benefits	2,980							
9.	TOTAL PERSONAL SERVICES	01	27,972						
10.	Travel	02	1,000						
11.	Contractual	03	1,487						
12.	Commodities	04	200						
13.	Equipment	05	860						
14.	Other								
15.	TOTAL COST		31,514						
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts 1002							
17.		G.F. Muech 1003							
18.		General Funds 1004		31,514					
19.		I-A Receipts 1005							
20.		Program Receipts 1029							
21.		Other							
FOR BEN USE ONLY									
4A KEY NUMBER									

This position will be necessary to provide information and referral, case assessment, case planning, authorizing and arranging for the placement of elderly in a residential care facility or adult foster home. It will also be responsible for assuming a portion of the current adult protective services caseloads which are in excess of the 50 cases per worker recommended on the national level.

**13** REQUEST FOR  
NEW POSITION

AGENCY Health and Social Services  
Social and Economic Assistance  
PROGRAM for the General Population  
BRU Program Services  
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FY 84

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Revised Date \_\_\_\_\_

1.	POSITION TITLE Social Worker III				RANGE/STEP 16 A	BARG. UNIT G.G.U.	FORM 12	PAGE/LINE	GOV.	APPROV.	D. DATE
2.	TYPE OF POSITION PPT	STAFF MONTHS 6	RP NUMBER	PCN NUMBER	BRJ PRIORITY	LOCATION Bethel	ELECTION DISTRICT		LEG.		
3.	CONTINUATION LEVEL		ADDITION		JUSTIFICATION						
4.	TYPE OF EXPENDITURE			AMOUNT							
	1	2	3								
	PERSONAL SERVICES										
5.	Salary	20,364									
6.	Benefits	1,248									
7.	Supplemental Benefits	3,440									
8.	Fixed Benefits	2,880									
9.	TOTAL PERSONAL SERVICES	01	27,972								
10.	Travel	02	1,000								
11.	Contractual	03	1,482								
12.	Commodities	04	200								
13.	Equipment	05	860								
14.	Other										
15.	TOTAL COST		31,514								
	RECEIPT CODE	FUNDING SOURCE									
16.		Federal Receipts	1002								
17.		G.F. Match	1001								
18.		General Funds	1004	31,514							
19.		I-A Receipts	1005								
20.		Program Receipts	1028								
21.		Other									
FOR BUREAU USE ONLY											
AA KEY NUMBER _____											

This position will be necessary to provide information and referral, case assessment, case planning, authorizing and arranging for the placement of elderly in a residential care facility or adult foster home. It will also be responsible for assuming a portion of the current adult protective services caseloads which are in excess of the 50 cases per worker recommended on the national level.

**15** REQUEST FOR  
NEW POSITION

AGENCY Health and Social Services  
Social and Economic Assistance  
PROGRAM for the General Population  
BRJ Program Services  
COMPONENT Adult Services

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Revised Date \_\_\_\_\_

RECEIVED

JUN 27 1983

"An Act relating to protection of the elderly."

Josephson,

OVERVIEW

This Bill includes provisions for mandatory reporting of cases of physical and economic harm to elderly persons age 65 and over, investigation of reports of harm by the Department of Health and Social Services, and the offering of appropriate protective services to elderly persons in an effort to prevent or alleviate economic and physical harm. In addition to charging the Department with the duty to investigate reports of harm, the Department will have the following additional responsibilities if this Bill is passed.

1. Section 47.24.020(b) mandates the Department to provide to the Department of Law a copy of each report of an investigation of harm to an elderly person if the report of harm is confirmed to be true;
2. Section 47.24.070 authorizes the implementation of regulations to be approved by the Older Alaskans Commission before adoption by the Department; and
3. Section 47.24.075 mandates that the Department submit to the Older Alaskans Commission a quarterly statistical report of the Department's activities related to protection of the elderly.

STATEMENT OF THE PROBLEM

In the past few years there has been increasing awareness across the nation, including Alaska, of the problems of abuse, neglect, and exploitation of elderly persons who are unable to protect or care for themselves. In 1981 an Elder Abuse Task Force was created in Anchorage and a pilot project grant was awarded to the Anchorage Community Mental Health Clinic Geriatric Unit to address the issue of elder abuse. In 1982, Elder Abuse Task Forces were created in Fairbanks and Juneau.

Elderly Alaskans in need of protective services are served by the Division of Family and Youth Services under its Adult Protective Service program which serves adults age 18 and over who are not able to function independently or who may be subject to abuse, neglect, or exploitation. Adult Protective Services are provided on a voluntary basis by a mandate under Title XX of the Social Security Act and the general powers and duties of the Department to promote the health and well-being of Alaskans. Division social workers respond to voluntary reports of harm, investigate the circumstances of abuse, neglect, and exploitation, and

offer appropriate protective services. If an adult client does not consent to services and is not incapacitated as defined under AS 13.26.005, the guardianship statute, the Division has no legal authority to intervene. If, however, an investigation indicates that an adult is incapacitated, the Division may petition the court for a guardian.

As of June 15, 1983, the Division of Family and Youth Services Adult

POSITION PAPER

HOUSE CS FOR SENTATE BILL 122 (HESS)

PAGE 2

Protective Service caseload was 1,056 clients, of whom 598 were age 65 and over. Of those clients age 65 and over, services to 372 clients or 62% were directed to the goal of preventing or remedying neglect, abuse or exploitation. The Division of Family and Youth Services Case Management Information System does not currently separate out these categories.

Division of Family and Youth Services' staff have actively participated in the Elder Abuse Task Forces. As a part of the Division's Fiscal Year 1983 Adult Protective Services Training Program, the issues of elder abuse, guardianship and conservatorship have been addressed. Community agencies, including programs serving older Alaskans, were invited and participated in these sessions which were conducted in Anchorage, Bethel, Fairbanks, Juneau, Ketchikan, and Nome.

Since reporting of harm to elderly persons is not mandatory, not all known cases are reported to a single agency. As a result, the actual extent of the problem is not known. However, we anticipate that mandatory reporting of physical and economic harm will result in increased caseloads. Social worker caseloads are such that additional staff will be necessary to meet the intent of this Bill. Furthermore, should the number of cases reported under the mandatory requirement significantly impact caseloads more than is anticipated, the Division will include necessary documentation to support the need for additional and staff, and travel and service dollars in the FY 85 budget. If additional staff, travel and service dollars become necessary but not available, the Division may not be able to meet the intent of the legislation.

RECOMMENDATION

The Department strongly endorses efforts to promote the independence and well-being of those elderly persons in need of protection. The procedures outlined in the Bill for action on reports, provision of protective services, review and referral, and confidentiality are in accordance with procedures established by the Department of Health and Social Services.

RECOMMENDED:

Michael L. Price  
 Michael L. Price, Director  
 Division of Family and  
 Youth Services

DATE:

6/17/83

APPROVED BY:

Robert London Smith  
 Robert London Smith, Ph.D.  
 Commissioner

DATE:

6/24/83





MEMORANDUM

TO: Senator Vic Fischer  
 FROM: John Hartle and Nan Groszek  
 RE: FY 84 Operating Budget Requests  
 DATE: 9 April 1983 (revised)

*JH/G*

Program	needed	Gov	Gov AM	Page 4/8	Description
<u>Community and Regional Affairs</u>					
	<i>300</i>	<i>Hum Ser N.W.</i>			
1. Displaced Homemakers Program	--	635.2	635.2	DCRA pg 31	Fund 8 grant programs statewide
2. CETA Youth Programs	--	0.0	1500.0	DCRA pg 20	Jobs for 1050 additional youth statewide
3. Child Assistance Programs	1250.3	7725.0	7725.0	DCRA pg 12	
<i>open</i> Day Care assistance	901.5				Raise monthly grant from \$265 to \$300
<i>open</i> Day Care Grants	196.8				Raise monthly grant from \$21.25 to \$25.00
<i>open</i> Head Start Grants	152.0				Fully fund program
<i>open</i> 4. CETA	--	0.0	150.0	DCRA pg 17	State match for JTPA
5. Office of the Commissioner	495.0	362.6	662.6	DCRA pg 74	Fully fund ALSC (now have 300.0 in Gov AM)
<u>Department of Revenue</u>					
6. Child Support Enforcement	<i>Gen. funds 112.6</i>	219.0	1023.2	DRIV pg 42	Add 1 new team (7 pos.) <i>Forje recommend</i>
<u>Department of Administration</u>					
7. Aging Grants	1649.2	1976.5	1976.5	DAdmin pg 30	Fed funds Shortfall/Health services for senior centers

*225 Janana  
 698 aging grants  
 --1--*

1.1 million  
add in ???

300,000 Rural Areas

Program	needed	Gov	Gov AM	Page 4/8	Description
8. Public Defender Agency	139.4	2083.1	2083.1	DAdmin pg 38	1 Atty Palmer; 1 Legal sec'y Palmer; 1 Investigator Anch <i>Fergie recommends</i>
Department of Public Safety					
9. Council on Domestic Violence	947.0	4136.1	4136.1	DPS pg 83	Add to grants line; full funding 21 programs
Department of Health & Social Services					
10. Permanent Fund Hold Harmless	5000.0 (?)	--	--	DISS pg 18	Assumes no repeal & \$350 PFD.
11. Infant Learning Program	500.0	1249.0	1294.5	DISS pg 148	Add to grants line; Add 4 programs to serve 22 communities/additional disabled children
12. Hyg Svcs - Preventive Svcs - Child Abuse & Neglect Prevention	300.0	1439.1	1439.1	DISS pg 50	Add to grants line; <del>COLA</del> & 4 new programs statewide
13. Family Services Administration					
Southcentral Region	266.4	3219.1	3219.1	DISS pg 58	4 SW III ANCH; 1 SW III Dillingham; 1 SSA I to SW I Seward; 1 SW II PT-FT Kenai
Northern Region	154.3	1641.9	1641.9	DISS pg 60	2 SW III Fbks; 1 SW III Delta
Southeastern Region	47.1	561.7	561.7	DISS pg 62	1 SW III Sitka
14. Homemaker Program	106.8	230.3	230.3	DISS pg 46	Add to grants line; add <sup>7000</sup> 660 hours in-home prevention & intervention for child abuse & neglect
15. Youth Correctional Services					
2nd & 4th Judicial Districts	130.0	907.6	907.6	DISS pg 394	1 P.O. III Ketz; 1 P.O. III Bethel
3rd Judicial District	96.6	1164.2	1164.2	DISS pg 392	Reduce vacancy & turnover factor
1st Judicial District	64.1	527.1	527.1	DISS pg 390	Reduce vacancy & turnover factor

*to Permanent Fund app.*

*Jo  
to the table  
minus 4  
positions  
not signed  
off ok*

Program	needed	Cov	Cov AM	Page 4/8	Description
16. Public Health - Field Nursing	333.0	4919.5	4995.9	DHSS pg 112	Reduce vacancy & turnover factor
17. Community Developmental Disabilities	195.7	4636.3	4714.1	LISS pg 249	Add to grants line; <del>COA</del> develop 1 sheltered workshop/respite programs
18. Community Mental Health Grants	82.2	4196.5	5501.2	DHSS pg 238	Add to grants line; <del>COA</del>
19. Mental Health Admin. & Support	20.9	109.0	109.0	DHSS pg 260	Add to grants line; Continue AK Mental Health Assn. funding
20. Child & Family Health - Communicative Disorders	115.0	598.7	598.7	DHSS pg 140	1 Audiologist Nome/Kotz; 1 Sec'y Anch; 1 Program Service aide Mt Edgecomb
21. Youth Corrections - Fairbanks	<del>45.2</del>	<del>1379.8</del>	<del>1379.8</del>	<del>DHSS pg 398</del>	<del>Reduce vacancy &amp; turnover factor</del>
Anchorage	<del>100.0</del>	<del>6062.7</del>	<del>6168.6</del>	<del>DHSS pg 396</del>	<del>Reduce vacancy &amp; turnover factor</del>
22. GM Catastrophic Illness	<del>5540.0</del>	<del>2359.9</del>	<del>4659.8</del>	<del>DHSS pg 196</del>	<del>Fund pending claims</del>

Department of Education

24. Vocational Rehabilitation - Independent Living Rehab.	<del>148.0</del> 125.0	187.0	187.0	DOE pg <del>120</del> 121	Fund Independent Options Now
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# Americans keeping on the move

## Nearly half of citizens moved within five years

WASHINGTON (AP) — Living up to America's reputation as a mobile society, nearly half the U.S. population changed homes between 1975 and 1980, the Census Bureau reported Tuesday.

The moves accelerated the

population shift from the North to the Sunbelt, as more than 3 million people moved to the South and West in that period.

Of 210 million Americans aged 5 and older, 94 million or 44.5 percent moved to a new house or apartment during the

five years ended in 1980, the bureau said.

While many of those moved within the same state or county, there was a net shift of 3,164,620 Americans who left the Northeast or North Central states for new homes in the South and West.

"I would expect it (migration to the Sunbelt) to continue, I haven't seen any signs it would stop," said Kristin Hansen of

the bureau's migration statistics staff.

The movement between 1975 and 1980 follows North-to-Sunbelt migration of 2.5 million Americans between 1970 and 1975, and of 1.3 million in the five years before that.

Alaska had the largest share of residents — 64.5 percent — who had moved there between 1975 and 1980, the bureau said. Nevada and Wyoming also

reported large percentages of newcomers.

The state with the most arrivals was Florida, which gained 823,227 people during the five years. Texas added 574,007 and Washington gained 280,417.

New York was the largest loser of people among states, with a net migration decline of 1,097,197 for the five years. Illinois had the second highest

empire 13-83

CSSB 122 (HESS) "An Act relating to the Protection of the elderly."

2-11-83 1st reading

3-21-83 HESS - Passes with CS  
(Preliminary Fiscal Note attached)

The intent of this measure is to require persons in their professional duties, as well as any persons in a non-professional capacity, to report to the State Department of Health & Social Services any physical harm inflicted on an elderly person.

Testimony has been given in support of this bill in the HESS Committee by the following:

- 1) Older Alaskans Commission
- 2) Division of Family & Youth Services
- 3) Southeast Senior Services
- 4) Alaska State Hospital Association

3-30-83 Position Paper/Department of Health & Social Services is attached with a revised fiscal note dated 3-23-83.

STANDING COMMITTEE REPORTS

SB 85

The Health, Education and Social Services Committee considered SENATE BILL NO. 85 (repealing the certificate of need program) and a majority of the committee recommended it be replaced with CS FOR SENATE BILL NO. 85 (HESS), entitled:

"An Act suspending the certificate of need program; amending provisions related to assistance for health facility construction, Medicaid and general relief medical assistance; and providing for an effective date."

and do pass. The report was signed by Senator Josephson, Chairman and concurred in by Senators Halford, Paul Fischer and Moss.

SENATE BILL NO. 85 was referred to the Community and Regional Affairs Committee.

SB 122

The Health, Education and Social Services Committee considered SENATE BILL NO. 122 (protection of the elderly) and a majority of the committee recommended it be replaced with CS FOR SENATE BILL NO. 122 (HESS) and do pass. The report was signed by Senator Josephson, Chairman and concurred in by Senators Halford and Moss.

The committee further attached a preliminary statement of fiscal impact which appears in Senate Supplement No. 9 to today's journal.

SENATE BILL NO. 122 was referred to the Finance Committee.

SB 116

The Rules Committee considered SENATE BILL NO. 116 (placing emergency guards employed by the department of public safety in the exempt service) and a majority of the committee recommended it be placed on the March 21 calendar and adoption of the State Affairs Committee Substitute. The report was signed by Senator Falks, Chairman and concurred in by Senators Kelly and Ferguson. Senator Bennett signed "no recommendation".

SENATE BILL NO. 116 appears on today's calendar.

SENATE  
JOURNAL SUPPLEMENT

No. 9

3/21/83

SB  
122

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: Senate Bill No. 122 Date on Bill: February 11, 1983  
Title: "An Act relating to protection of the elderly."

Sponsor: Josephson and V. Fischer  
Requestor: \_\_\_\_\_

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86			
Capital							
Operating		17.5	19.3	21.2			
Total		17.5	19.3	21.2			

b. Revenues:

Revenue							
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2. Source of funds to offset fiscal impact of bill:

The funding source was not identified by the authors of the Bill.

3. Assumptions:

Passage of this Bill in its present form would necessitate educating the public through the news media and handouts. Regulations would need to be promulgated. These functions would be performed by existing staff. Without historical data for reporting abuse, neglect, or abandonment, the assumption is made that one-half again as many situations reported would result in placement, and counseling with both the individual and family.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared by: Michael Z Brice Phone: 465-3170  
Division: Family and Youth Services Date: \_\_\_\_\_

Approved by Commissioner: Robert Landon Bennett Date: 3/14/83  
Department: Health and Social Services

CS FOR SENATE BILL 122 (HESS)

CHANGES:

- Page 2, line 2        deleted "or employee"
- Page 2, line 6        added "a village public safety officer"  
(did not include language recommended by the  
SE Senior Citizen's Task Force because that  
definition did not address VPSO's but did  
address federal officers)
- Page 2, line 12      Added (12) a participant in the department's  
homemaker program or home health aide program.
- Page 3, lines 4-5    Added "or a village public safety officer"
- Page 3, lines 17-20 Deleted "make a reasonable effort" and added  
", unless the person is incompetent, unconscious  
or otherwise physically unable to respond to  
questions."
- Page 3, lines 26-28 Added "The department shall provide to the  
Department of Law a copy of each report of an  
investigation of harm to an elderly person that  
resulted from abuse."
- Page 5                Deleted Sec. 47.24.075. Evidence not privileged,  
relating to the physician/patient and husband/  
wife relationship.
- Page 5, line 28      the word "willful" was not inserted before the  
word deprivation because legal counsel advised  
that that would require the burden of proof  
on the person reporting the suspected abuse.