

ALASKA STATE LEGISLATURE
SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

March 23, 2015

1:31 p.m.

MEMBERS PRESENT

Senator Bert Stedman, Chair
Senator Cathy Giessel, Vice Chair
Senator Pete Kelly
Senator Bill Stoltze
Senator Johnny Ellis

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 74

"An Act relating to permanent fund dividends; relating to a medical assistance reform program; establishing a personal health savings account program for medical assistance recipients; relating to the duties of the Department of Health and Social Services; establishing medical assistance demonstration projects; and relating to a study by the Department of Health and Social Services."

- HEARD & HELD

SENATE BILL NO. 23

"An Act relating to immunity for prescribing, providing, or administering opioid overdose drugs."

- MOVED SB 23 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 74

SHORT TITLE: MEDICAID REFORM/PFD/HSAS/ER USE/STUDIES

SPONSOR(s): SENATOR(s) KELLY

03/13/15	(S)	READ THE FIRST TIME - REFERRALS
03/13/15	(S)	HSS, STA, FIN
03/13/15	(S)	HSS AT 1:30 PM BUTROVICH 205

03/13/15 (S) -- MEETING CANCELED --
03/23/15 (S) HSS AT 1:30 PM BUTROVICH 205

BILL: SB 23

SHORT TITLE: IMMUNITY FOR PROVIDING OPIOID OD DRUG

SPONSOR(s): SENATOR(s) ELLIS

01/21/15 (S) READ THE FIRST TIME - REFERRALS
01/21/15 (S) HSS, JUD
03/18/15 (S) HSS AT 1:30 PM BUTROVICH 205
03/18/15 (S) Heard & Held
03/18/15 (S) MINUTE(HSS)
03/23/15 (S) HSS AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

HEATHER SHADDUCK, Staff
Senator Pete Kelly
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented information on SB 74 on behalf of the sponsor.

AMANDA RYDER, Fiscal Analyst
Legislative Finance Division
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Answered questions related to SB 74.

VALERIE DAVIDSON, Commissioner
Department of Education and Early Development (DEED)
Anchorage, Alaska

POSITION STATEMENT: Provided information regarding SB 74.

JOHN SHERWOOD, Deputy Commission
Department of Health and Social Service
Anchorage, Alaska

POSITION STATEMENT: Provided information regarding SB 74.

RICK SVOBODNY, Deputy Attorney General
Criminal Division
Department of Law
Juneau, Alaska

POSITION STATEMENT: Answered questions related to SB 23.

ACTION NARRATIVE

[1:31:12 PM](#)

CHAIR BERT STEDMAN called the Senate Health and Social Services Standing Committee meeting to order at 1:31 p.m. Present at the call to order were Senators Giessel, Ellis, Kelly and Chair Stedman. He noted there were two bills for consideration today, SB 74 and SB 23. It is the first hearing of SB 74.

SB 74-MEDICAID REFORM/PFD/HSAS/ER USE/STUDIES

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CHAIR STEDMAN announced the consideration of SB 74.

SENATOR PETE KELLY, sponsor of SB 74, stated that the increases in Medicaid are eventually going to "eat our budget alive." He drew attention to a graph that shows the anticipated growth of Medicaid.

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SENATOR KELLY said the graph shows the need for Medicaid reform. He highlighted another graph that shows the cost of Medicaid and education, which take up half of the state's budget. He noted that Medicaid is the fastest growing cost driver in the state. Attempts to reform Medicaid have fallen somewhat flat in the past. SB 74 is about reforming Medicaid, not expansion.

Senator Kelly stated the highlights of the bill. It instills a medical health care plan which pays like insurance. Recipients receive a policy and the state pays for it. There are case managers that walk clients through optimal use of the system. Clients are given a primary care physician. It is a comprehensive and integrated health care plan.

He said Denali Kid Care would be carved out as a pilot program because it is easily identifiable and a high priority. The bill will mitigate inappropriate ER visits, excessive travel, self-referring to expensive providers, and expensive drugs. In addition to the health care plan, waivers will direct patients to travel facilities. The bill contains emergency room reform, the use of telemedicine, and payment reform of negotiated charges. The bill addresses abuses of the current Medicaid system.

CHAIR STEDMAN noted the arrival of Senator Stoltze.

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SENATOR KELLY pointed out that the sponsor statement clearly explains the bill.

HEATHER SHADDUCK, Staff, Senator Pete Kelly, Alaska State Legislature, Juneau, Alaska, presented information on SB 74 on behalf of the sponsor. She read from the sponsor statement:

Senate Bill 74 starts the process of cost containment and reform needed to slow the growth of the Alaska Medicaid program. Medicaid has grown to \$1.8 Billion of the annual operating budget, and has accounted for 22% of the total UGF increases over the last ten years. The current and former administrations have testified the Medicaid program, as it stands, is not sustainable. Low oil prices and billions of dollars in revenue shortfalls have forced us to change how we do business.

In July 2013, the Medicaid Budget Group of the Department of Health and Social Services reported the total spending on Medicaid services will reach \$6.3 billion in 2032, including \$2.8 billion in state matching funds. If we don't act now to bend the growth curve of Medicaid, many of our most venerable Alaskans will be without critical health care services they need.

MS. SHADDUCK stated that the bill is about reform. Reform is about pushing the right care and the right place at the right time at the right price.

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MS. SHADDUCK addressed the sections of SB 74.

She explained that Section 1 allows recipients of medical assistance to have 10 percent of their annual permanent fund dividends deposited into a personal health savings account (HSA). She said the section was modeled after the college savings plan. The HSA could cover co-pays, the difference between brand name and generic drugs, replacement eye glasses, and others.

CHAIR STEDMAN asked why 10 percent was selected and who would administer the HSA.

MS. SHADDUCK said 10 percent was chosen as a starting place, but it is optional and could be changed. This is an area that still needs work. Section 3 addresses setting up the HSA's. Other states have used health savings accounts. It is a way to have Medicaid recipients thinking about how much their health care costs and ways they can help pay for it. She said all ideas are not flushed out yet.

SENATOR GIESSEL asked if the health savings account is pre-tax money, but is deductible from federal tax.

MS. SHADDUCK thought so. She said a HSA that she had was pre-tax deductible.

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CHAIR STEDMAN asked if recipients can add other funds to it.

MS. SHADDUCK said yes. In Alaska there is a unique opportunity with PFD's.

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MS. SHADDUCK continued with Section 2 that deals with Medicaid reform programs. She related that Section 2 requires DHSS to design and implement a medical assistance (Medicaid) reform program. There are eleven items the program must include. She read the subsections one and two in Section 2.

CHAIR STEDMAN asked about rural communities that do not have community and social support services, such as jobs programs.

SENATOR KELLY said that would be answered at a later date.

SENATOR STOLTZE asked if the assumption is that all 40,000 recipients will remain eligible for the PFD and will fall under a hold harmless provision.

CHAIR STEDMAN said that is another issue.

SENATOR KELLY clarified that since there is no expansion, there are not 40,000 recipients.

CHAIR STEDMAN summarized that SB 74 attempts to do cost containment on Medicaid itself and the Medicaid expansion bill will be heard next week.

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MS. SHADDUCK turned to subsections three through five. She noted that much has already been done in the area of fraud control.

CHAIR STEDMAN expected the department to pursue subsections four and five regardless of the bill.

SENATOR KELLY agreed that there are provisions in the bill that already are in the works.

MS. SHADDUCK highlighted subsections six through eight. She spoke of innovative programs in home and community-based services.

She addressed subsection nine and listed examples of redesigning the payment process. She explained subsections ten and eleven. She noted the sponsor expects a choice waiver.

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CHAIR STEDMAN asked if a federal waiver is needed for subsection eight.

MS. SHADDUCK said yes; that request is in Section 7.

CHAIR STEDMAN asked if the request for the department to design and implement the reform program will show savings and not departmental expansion with increased funding needs.

SENATOR KELLY replied that they are looking at programs in other states that have produced savings.

CHAIR STEDMAN requested detailed information about savings. He voiced concern about a larger GF draw for the department due to the design and implementation of the reforms.

MS. SHADDUCK said they received the fiscal notes late, but it looks like a net savings for the department. However, the department did request additional positions. She said the sponsor shares those concerns.

CHAIR STEDMAN noted that he requested his staff to list the 14 fiscal notes in order to see the total GF and federal funds, operating costs, and staff positions. He said the fiscal notes may change over time.

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MS. SHADDUCK continued with subsection (b) which requires DHSS to annually report to the legislature regarding realized cost savings and whether annual targets have been met.

CHAIR STEDMAN asked how the targets for quality and cost-effectiveness are set.

MS. SHADDUCK said the stakeholders are involved in setting the targets.

She highlighted Section 3 which provides that the department must develop a personal health savings account that would require consumer education strategies, recipient cost-sharing and copayment structures, a procedure for deposits and payments, and education on the application process through the Department of Revenue.

CHAIR STEDMAN asked whether the structure is within a state department.

MS. SHADDUCK said yes; it's within Department of Health and Social Services.

CHAIR STEDMAN asked who would administer the program and track the funds.

SENATOR KELLY said it would be the Department of Revenue.

CHAIR STEDMAN inquired how loss in the account is handled and what kind of investment options would be available. He asked if that is that state's role and if it should take on the exposure.

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MS. SHADDUCK clarified that the account stays with the individual, similar to other health savings accounts. If the individual leaves Medicaid, the money in the account stays with them.

CHAIR STEDMAN did not want to add more layers on the state.

MS. SHADDUCK said the department said it could require a lot more work up front.

She continued to say that Section 4 sunsets the personal health savings accounts in Sections 1 and 3 and the Medicaid reform program in Section 2 on October 1, 2022. This will bring the program back in front of the legislature to evaluate.

CHAIR STEDMAN asked why 2022 was chosen.

MS. SHADDUCK said it was just a starting point.

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MS. SHADDUCK turned to Section 5, the Medicaid managed care demonstration program for Denali Kid Care and an option for other Medicaid recipients. She shared some of the project components that may be included in the program. She said subsection (d) must include cost-savings measures to reduce travel and simplify administrative procedures. This program also sunsets on October 1, 2022.

CHAIR STEDMAN asked if the program could be set up by the initiation date of October 1, 2015.

MS. SHADDUCK deferred to the department to answer. She said the sponsor's goal was to include hard deadlines in order to see savings.

CHAIR STEDMAN inquired if the managed care program was modeled after a particular state's plan.

SENATOR KELLY said it is a pre-packaged service provided by companies such as AETNA and Moda.

CHAIR STEDMAN requested a comparative analysis of states that have done this.

SENATOR KELLY offered to provide that information.

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MS. SHADDUCK described Section 6 which would require DEED to design and implement a demonstration project that would reduce non-urgent use of the emergency room by Medicaid recipients. It would built on what the department has already done with the super-utilizer program. She described what the program would contain.

CHAIR STEDMAN asked what it means on line 15, "to the extent of federal law" and the system of electronic exchange of patient information.

MS. SHADDUCK explained it refers to the federal Health Insurance Portability and Accountability Act (HIPPA).

CHAIR STEDMAN asked about line 17 - the process for defining and identifying frequent users of emergency departments.

MS. SHADDUCK thought the department already had a way of identifying those patients.

SENATOR GIESSEL related that a hospital in Anchorage is proposing to offer a regional emergency room, and other states also use this method. The result is a significant reduction in ER use.

CHAIR STEDMAN requested that the department describe what they already are doing and what the bill asks them to do that is new.

MS. SHADDUCK commented on the need to expand the program that is in Anchorage.

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CHAIR STEDMAN inquired if there is any data on frequent users, such as "20 percent of the people use 80 percent of the assets."

SENATOR KELLY said he has heard the number but does not recall it.

MS. SHADDUCK thought a lot of the users were behavioral health users. She offered to provide that information.

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MS. SHADDUCK highlighted Section 7 which requires the department to apply for a Medicaid Choice Waiver listed in Section 2.

She said Section 8 relates to the feasibility studies that are required before privatization of services can occur at the Alaska Pioneers' Homes, Alaska Psychiatric Institute, and select facilities in the Division of Juvenile Justice.

CHAIR STEDMAN inquired what the selected facilities of Juvenile Justice are.

SENATOR KELLY said the Nome and Ketchikan facilities could be turned over to regional health corporations.

CHAIR STEDMAN asked why they were not specified in the bill.

MS. SHADDUCK said the sponsor wanted the wording to be general at first. She noted the Nome facility could be turned into a

residential psychiatric treatment center and then be eligible for Medicaid billing.

CHAIR STEDMAN pointed out that it is the first hearing of the bill and the committee is hearing concepts today.

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SENATOR KELLY said the Ketchikan facility qualifies less and Nome meets more criteria.

CHAIR STEDMAN asked if there was any discussion of privatizing state prisons.

MS. SHADDUCK said it is not a part of SB 74, but the administration has discussed it. Governor Walker mentioned it in his state of the state address and the OMB director is exploring options. She pointed out that the feasibility studies are the first step toward privatization.

CHAIR STEDMAN noted the report is required ten days after next session starts. He suggested there is not enough time to go through it then and the report should be given to legislators before the session begins.

MS. SHADDUCK said the sponsor is not opposed to the suggestion. She thought the fiscal notes show that the department will contract out the reports.

She related that Section 9 requires DEED to amend the state Medicaid plan and apply for waivers. Section 10 sunsets Section 11 on October 1, 2022. Section 11 provides that Sections 1 - 3 take effect only if the department certifies to the revisor of statutes, on or before October 1, 2017, that all of the provisions enacted by Sections 2 and 3, 5 - 7, and 9 of the bill have been approved by the U.S. Department of Health and Human Services.

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CHAIR STEDMAN addressed the graph on Medicaid appropriations and noted that the red bars designate general funds. However, historically, the general funds were under reported and look backs comparing general funds makes this analysis meaningless. He said he is going to request Legislative Finance reconstitute the funds and add inflation and population percentages in order to see growth and to figure out costs in real dollars.

He addressed the historical and projected Medicaid growth line graph. He requested information from Legislative Finance to explain what happened in 2012 to cause a \$200,000 increase in GF.

MS. SHADDUCK said that in years previous to 2012 there was an enhanced FMAP as part of the stimulus program. She said she would forward the information the department provided to the committee.

CHAIR STEDMAN said he also wanted to check out the general funds in 2006 and 2007 so that the data is meaningful.

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AMANDA RYDER, Fiscal Analyst, Legislative Finance Division, Legislative Affairs Agency, answered questions related to SB 74. She said the GF data on the charts is apples to apples and the fund codes were reclassified. She explained that the dip is primarily to the American Recover and Reinvestment Act (ARRA). It was the enhanced FMAP when ARRA passed and, as a result, less GF was needed - federal funds filled that gap. That occurred in FY 2012.

CHAIR STEDMAN asked about the growth analysis beginning in FY 2012 and going forward. He questioned the dip in FY 2015 - FY 2016.

MS. RYDER explained that it is the \$20 million decrease in Medicaid services that the Governor included in his amended budget.

CHAIR STEDMAN summarized that the last hard numbers are the peak of the blue line.

MS. RYDER clarified that that is the FY 2015 management plan and the Governor's request is at the junction of the red and yellow lines.

CHAIR STEDMAN requested more data on real numbers and the rate of growth from FY 2012 to FY 2015. He emphasized that we have to figure out where we've been, where we're at, and where we want to go. He stated he does not want to accelerate growth rates.

MS. RYDER cautioned that the growth rates are historical. The FY 2012 to FY 2016 rates are strictly a numerical calculations. The department will have better data for projections and impacts from the bill.

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CHAIR STEDMAN asked for definitions of growth rates shown in the chart.

SENATOR KELLY said something happened in 2012 to make the Medicaid growth line flatten out. The yellow line shows that curve continuing, and the red line shows historic growth.

MS. RYDER said that is correct. She noted she was uncomfortable providing the FY 2006 to FY 2016 growth rate considering that it would have distorted the growth due to the enhanced FMAP. However, using FY 2012 to FY 2016 is also problematic, so she included both.

CHAIR STEDMAN asked for help with population and inflation figures. He stated that the committee needs a benchmark with real growth rates.

MS. RYDER agreed to provide that.

CHAIR STEDMAN noted it is a huge component at 22 percent.

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MS. SHADDUCK commented that the 22 percent was specific to the total UGF increase from FY 2006 to FY 2015.

CHAIR STEDMAN requested the department's input regarding SB 74.

[2:28:00 PM](#)

VALERIE DAVIDSON, Commissioner, Department of Education and Early Development (DEED), provided information regarding SB 74. She listed the items of Medicaid reform in SB 74 that have also been recognized by the administration and are included in the Governor's bill, continuing efforts of DEED. The first item already in place or in progress in the department is reducing the cost for Alaskans with behavioral health needs and those in need of senior and disability service through the 1915(i) and (k) options that allow the state to be able to enhance the federal match. Another item in place is the enhancing of other federal match opportunities, such as the 100 percent federal match where possible, including enhancing the tribal providers ability to provide care. She said the department is also committed to actively pursue reform opportunities wherever they can be found.

COMMISSIONER DAVIDSON explained that there are several areas in the bill that need clarification and time for the department to realize savings. They included the health savings account program, which is not an area of departmental expertise and would require additional help at the start to implement. Also, two demonstration projects, the Medicaid managed care and the reduction of non-urgent emergency department use require more discussion. For the latter, the department estimated that there were over 5,000 super-utilizers of emergency departments and a number of them have already been matched with a care manager. She reported that the Medicaid beneficiaries love the extra supervision and care.

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SENATOR GIESSEL asked what number of the 5,000 super-utilizers have been targeted for implementation.

COMMISSIONER DAVIDSON said 2,000 have been targeted initially, but there is opportunity for more. This is reflected in SB 74, as well as in the department's on-going reform effort.

SENATOR GIESSEL asked when that effort began.

JOHN SHERWOOD, Deputy Commission, Department of Health and Social Service, provided information regarding SB 74. He said efforts began in December and January. Today the number of contacts are in the hundreds and it is a voluntary program.

SENATOR GIESSEL asked if a particular community is being targeted or if it is random.

MR. SHERWOOD thought most of the targeting was in Anchorage.

CHAIR STEDMAN requested that the department provide that information in more detail.

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COMMISSIONER DAVIDSON turned to the Medicaid managed care demonstration project. She explained the difference between managing the care of patients and a managed care organization, which is a separate legal structure. A legal managed care structure, such as several other states have, involves a labor-intensive process and getting permission from the Centers for Medicare and Medicaid Services. There are also federal requirements under the Affordable Care Act that ensure if individuals are enrolled in managed care organizations for certain kinds of eligibility, that they are allowed to opt out,

or there are requirements for them to access services. For example, there was a time when managed care organizations were paid to manage the care of beneficiaries, including IHS beneficiaries who are mandatorily enrolled in programs who weren't receiving their care from their preferred providers. Instead, the care was through the tribal health organization in that state. However, the managed care organizations were not paying for the care through the tribal organizations. A change in federal law resulted. This type of managed care requires a very structured format.

She said if the bill is addressing managing the care of beneficiaries, there is a lot more flexibility in terms of negotiating a waiver with the Centers for Medicare and Medicaid Services that will allow the state to achieve the same results. It is challenging, but not as cumbersome.

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SENATOR STOLTZE requested the department provide a comparative list for the committee.

CHAIR STEDMAN said the department would be working on that over the next week.

COMMISSIONER DAVIDSON requested clarification from the sponsor on community and social support services. She said the department supports the concept, but the Centers for Medicare and Medicaid Services have, so far, not approved a waiver from any state requiring employment services. They have allowed states to do so on a voluntary basis. Those services can be made available, but not mandated.

COMMISSIONER DAVIDSON emphasized that the biggest gap in SB 74 is the omission of Medicaid expansion. The department believes expansion and reform go hand in hand.

[2:38:04 PM](#)

CHAIR STEDMAN said that position is included in a different bill the committee will hear next week.

COMMISSIONER DAVIDSON said the department has provided 13 fiscal notes because some provisions in the bill affect a variety of budget components; some provisions are aligned with current departmental reform efforts and others are speculative. She agreed to work through those and refine them. She noted the department currently anticipates undesignated GF savings of \$1.1

million in FY 2016, increasing to \$17.9 million by 2021, based on their best understanding of the bill.

She concluded that reform is a process and is not necessarily a point in time. She voiced excitement about the opportunity to reform Medicaid and looks forward to working with the sponsor and legislature to continue reform efforts. She requested that the efforts be done on a timeline and with a work schedule that is doable for Alaska and the department.

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CHAIR STEDMAN assumed the fiscal notes contained aggregate numbers and would be revised. He requested to know the total number of employees included in the fiscal notes.

MR. SHERWOOD related that there would be 9 employees in the initial year, 12 in the second and third years, and 11 thereon.

CHAIR STEDMAN said the committee would be working on that issue and the department would be working with the sponsor on alignment.

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SENATOR KELLY asked if managing care means taking current department resources and managing patient care or hiring a provider such as Aetna.

COMMISSIONER DAVIDSON clarified that setting up a managed care organization would be setting up a separate legal structure that would contract to provide that service. Or, it can be simply, as described in the bill, setting up a managed care demonstration project. One of the big differences is risk; a capitated payment pool system versus providing an administrative fee for the contractor or insurance company to provide an additional service and share savings opportunities. A demonstration project entails a number of possibilities and needs to be defined.

CHAIR STEDMAN thanked the department and the sponsor's staff.

CHAIR STEDMAN held SB 74 in committee.

SB 23-IMMUNITY FOR PROVIDING OPIOID OD DRUG

[2:44:41 PM](#)

CHAIR STEDMAN announced the consideration of SB 23. He said that SB 23 is an Act relating to immunity for proscribing, providing, and administering opioid overdose drugs.

SENATOR ELLIS related that the Department of Law will speak to concerns related to criminal liability. He noted the bill has a referral to the Senate Judiciary Committee.

Senator Ellis explained that SB 23 provides a relief for civil liability for those who would administer the overdose reversing drug, naloxone. Twenty-nine other states have similar laws. There is no known opposition to the bill. The bill deals with relief from civil liability in overdose life-saving situations for doctors, family members, and friends, rather than criminal liability relief.

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SENATOR STOLTZE asked for clarification about criminal liability and mitigating factors.

RICK SVOBODNY, Deputy Attorney General, Criminal Division, Department of Law, answered questions related to SB 23. He explained that SB 23 does not deal with sentencing in criminal cases related to mitigating factors and the bill has no effect on criminal liability. Police officers, EMT's, and family members who are given or who administer the drugs are protected.

SENATOR STOLTZE asked what happens to the person who might have caused the overdose.

MR. SVOBODNY said there was a bill last year about emergency responders. It was entirely different and does not relieve people of the consequences of dealing drugs.

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SENATOR STOLTZE asked if the administration supports the bill.

MR. SVOBODNY said yes. The Department of Corrections thinks it will be helpful to them, also.

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SENATOR ELLIS moved to report SB 23 from committee with individual recommendations and attached zero fiscal note. There being no objection, the motion carried.

[2:53:05 PM](#)

There being nothing further to come before the committee, Chair Stedman adjourned the Senate Health and Social Services Standing Committee at 2:53 p.m.