

ALASKA STATE LEGISLATURE
SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

January 25, 2016

1:30 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. 98

"An Act relating to diagnosis, treatment, and prescription of drugs without a physical examination."

- SCHEDULED BUT NOT HEARD

SENATE BILL NO. 112

"An Act establishing procedures related to a petition for adoption of a child in state custody; adding a definition of 'proxy for a formal petition'; amending Rule 6(a), Alaska Adoption Rules; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 76

"An Act relating to the Governor's Council on Disabilities and Special Education."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 112

SHORT TITLE: ADOPTION OF CHILD IN STATE CUSTODY

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

04/16/15 (S) READ THE FIRST TIME - REFERRALS

04/16/15 (S) HSS, JUD
01/25/16 (S) HSS AT 1:30 PM BUTROVICH 205

BILL: HB 76

SHORT TITLE: GOV COUNCIL ON DISABILITIES/SPECIAL ED

SPONSOR(s): MILLETT

01/23/15 (H) READ THE FIRST TIME - REFERRALS
01/23/15 (H) HSS
03/03/15 (H) HSS AT 3:00 PM CAPITOL 106
03/03/15 (H) Heard & Held
03/03/15 (H) MINUTE (HSS)
03/05/15 (H) HSS AT 3:00 PM CAPITOL 106
03/05/15 (H) Moved HB 76 Out of Committee
03/05/15 (H) MINUTE(HSS)
03/06/15 (H) HSS RPT 5DP
03/06/15 (H) DP: TARR, VAZQUEZ, TALERICO, WOOL,
SEATON
04/10/15 (H) TRANSMITTED TO (S)
04/10/15 (H) VERSION: HB 76
04/11/15 (S) READ THE FIRST TIME - REFERRALS
04/11/15 (S) HSS, EDC
01/25/16 (S) HSS AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

CHRISTY LAWTON, Director
Office of Children's Services
Department of Health and Social Services (DHSS)
Juneau, Alaska

POSITION STATEMENT: Presented information on SB 112.

KATIE LYBRAND, Assistant Attorney General
Civil Division
Department of Law
Juneau, Alaska

POSITION STATEMENT: Answered questions related to SB 112.

REPRESENTATIVE CHARISSE MILLETT
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 76.

GRACE ABBOTT, Staff
Representative Charisse Millet
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the sectional analysis of HB 76 on behalf of the sponsor.

ACTION NARRATIVE

1:30:55 PM

CHAIR BERT STEDMAN called the Senate Health and Social Services Standing Committee meeting to order at 1:30 p.m. Present at the call to order were Senators Ellis, Stoltz, Giessel, and Chair Stedman. Senator Kelly joined momentarily.

CHAIR STEDMAN stated that SB 98 would be postponed until Wednesday's hearing. He noted it was the first hearings on SB 112 and HB 76.

SB 112-ADOPTION OF CHILD IN STATE CUSTODY

1:32:17 PM

SENATOR STEDMAN announced the consideration of SB 112.

1:32:49 PM

CHRISTY LAWTON, Director, Office of Children's Services (OCS), Department of Health and Social Services (DHSS), presented information on SB 112. She called SB 112 "simple and straightforward" and said it would have meaningful positive impacts for Alaska Native children and families.

She related that at the end of the last legislative session, Governor Walker introduced SB 112 and subsequently approved emergency regulations that mirror it. She said that SB 112 seeks to remove barriers to adoption of Alaska Native children by Alaska Native families by ensuring that those families have a less cumbersome way of adoption and the highest preference placement, when available. She reported that Congress enacted the Indian Child Welfare Act (ICWA) in 1978 due to the alarming numbers of Indian children being removed from their homes by state and private child welfare agencies and being placed in non-Indian foster and adoptive homes.

MS. LAWTON explained that SB 112 and its companion bill, HB 200, were introduced by the Governor's office in April 2015 in response to several legal decisions related to the ICWA. Two competing cases were working their way through the courts. One was the U.S. Supreme Court case filed out of South Carolina - "Baby Veronica." This case related to the adoption of American Indian children by a non-Indian family. The second case, Tununak, was working its way through the Alaska courts, in which

challenges were raised related to OCS's compliance with ICWA's adoption placement preferences, which give higher preferences to relatives, other tribal members, and other Indian family members. These two cases were decided separately in their respective courts; however, the U.S. Supreme Court's decision significantly influenced the Alaska Supreme Court decision. As a result, the Alaska Supreme Court decision created procedural processes that created significant legal barriers for Alaska Native families to exercise their rights to be considered as a preferred adoptive placement for their Alaska Native children.

MS. LAWTON continued to say that the primary impediment created by the U.S. Supreme Court was a requirement that perspective adoptive families had to file a formal petition for adoption to even be considered as a possible adoptive placement. For many Alaska Native families who live in rural Alaska, for whom English may be their second language, and who may not have access to legal counsel and to the court system, this requirement may eliminate them from consideration. This bill, in response to those decisions, will make the process easier and less burdensome.

[1:35:44 PM](#)

MS. LAWTON said that SB 112 seeks to eliminate complicated procedural barriers so that adoption can be considered through the Child in Need of Aid (CINA) proceedings, instead of entirely different proceedings in Probate Court. Families will be able to assert their desire to adopt a child through CINA and would be considered for adoption after the permanency goal changes to adoption. These changes would benefit the most vulnerable children by assuring that adoption proceedings for children in need of aid are conducted in the most beneficial manner.

This legislation establishes procedural requirements for the department and the courts to ensure that extended family members, other tribal members, or other Indian families are provided the opportunity to be considered as a permanent adoptive placement for a relative child and that their request is preserved throughout the life of a case, even when workers, judges, or attorney's change, or when the case takes several years.

This bill will allow for the use of a "proxy" in lieu of a formal petition to adopt; the proxy could be filed by a child's relative, tribal member or other Indian family. A tribal member or relative also could make the request to the department by telephone, mail, fax, electronic mail, or in person. Lastly, a

proxy for a formal petition could be made by the child's tribe or by a tribe in which the child would be eligible to be enrolled.

This legislation ensures that the placement preferences are accurately applied in adoption proceedings where Alaska Native families seek to adopt. The adoptive preferences are: a member of the child's extended family, with other members of Indian child's tribe, or with other Indian families.

MS. LAWTON emphasized a key aspect of the bill: It would bring the adoption proceedings into CINA proceedings, versus as a separate legal proceeding in probate court, ensure placement preferences are adhered to, preserve proxy requests, and ensure that all of the essential adoption information is in one forum, in order to make decisions that will impact a child for life.

She concluded that SB 112 is important for so many reasons. It will help ensure Alaska Native children who aren't able to safely return to their parents will grow up in the care of their extended family and culture.

[1:38:25 PM](#)

SENATOR STOLTZE noted that "extended family" does not necessarily mean an Alaska Native. He requested a definition of "extended family."

MS. LAWTON replied that "extended family" has a broad definition. She requested that the Department of Law representative clarify that definition.

[1:39:10 PM](#)

KATIE LYBRAND, Assistant Attorney General, Civil Division, Department of Law, answered questions related to SB 112. She addressed the broad definition of "extended family" which includes uncles, brothers, grandparents, etc., and does not differentiate based on tribal affiliation.

SENATOR STOLTZE asked what the Governor's intent regarding that definition is. He said OCS should have the best interest of the child in mind, not political and cultural biases.

MS. LAWTON replied that the intention of the bill is to place children with relatives as often as possible first, and includes relatives on both sides of the family.

[1:41:35 PM](#)

SENATOR GIESSEL voiced concern that putting the adoption process into (CINA) would not expedite the removal of the child from its natural parents and suggested that the bill might imply that it would.

MS. LAWTON stressed that is not the intent of the bill. The action in SB 112 comes into play after all efforts for reunification have been exhausted or the child has been in foster care too long, and the goal for adoption has been already set.

[1:42:45 PM](#)

SENATOR STEDMAN opened public testimony and, seeing no testifiers, closed public testimony.

SENATOR STOLTZE suggested that there should be support documents to support the bill. He said he has not heard compelling public policy yet.

[1:44:56 PM](#)

SENATOR STEDMAN asked Ms. Lawton to meet individually with committee members. He noted it was the first hearing of the bill and he expected more public interest in the future.

SENATOR STEDMAN held SB 112 in committee.

HB 76-GOV COUNCIL ON DISABILITIES/SPECIAL ED

[1:45:32 PM](#)

SENATOR STEDMAN announced the consideration of HB 76.

[1:45:58 PM](#)

REPRESENTATIVE CHARISSE MILLETT, Alaska State Legislature, sponsor of HB 76, noted that she is a member the Governor's Council on Disabilities and Special Education and is representing them today. She related that HB 76 removes the word "gifted" from the Council's enabling statutes. Since 1978, the Council has advocated for housing, employment, independent living, health, transportation, and community inclusion for Alaskans with disabilities.

She explained that, previously, "gifted" were included in the statues. Since then, legislation has been enacted that will allow gifted students to be empowered and supported within their school districts. None of the new legislation included the Council's participation or oversight. Also, the Council receives no funding and has no resources to address gifted education;

they are strictly federally funded for the purpose of assisting disabled Alaskans. HB 76 aims to reconcile the Council-enabling statutes with the mission to best reflect the valuable service the Council provides, and clean up confusing language. This bill will support the current Council and also provide a clear road map for future councils and their memberships.

REPRESENTATIVE MILLETT noted the only additional changes to the Alaska statutes included in this bill are updates to citations to the U.S. Code to reflect a rewrite law relating to the State Council on Developmental Disabilities. She noted that several committee members have advocated for disability legislation.

[1:48:06 PM](#)

GRACE ABBOTT, Staff, Representative Charisse Millet, Alaska State Legislature, presented the sectional analysis of HB 76 on behalf of the sponsor. She explained that Section 1 removes "gifted" from the Governor's Council on Disabilities and Special Education's enabling statute. Section 2 further clarifies that process and updates references to reflect current U.S. Code. She shared that the U.S. Code citations are: 42 U.S.C 15025 - referring to state councils on developmental disabilities and designated state agencies, 42 U.S.C 15024 - referring to state plan prescribing programs, 20 U.S.C 1471-1428 - referring to national activities to improve education of children with disabilities, and 42 U.S.C. 15001 - 15083 - referring to programs for individuals with developmental disabilities.

[1:49:44 PM](#)

SENATOR STOLTZE commented favorably on the Council. He asked what process was used to make the change and what priority it was given.

MS. ABBOTT said the process was that the Council's legislative committee took the task on, as an important priority, to clean up their mission statement and provide guidance for future councils. The Council voted to maintain this issue as a priority for the last, and current, legislative sessions.

[1:51:07 PM](#)

SENATOR STEDMAN opened public testimony and, seeing no testifiers, closed it again.

SENATOR STEDMAN held HB 76 in committee.

[1:52:42 PM](#)

There being no further business to come before the committee, Senator Stedman adjourned the Senate Health and Social Services Standing Committee at 1:53 p.m.