From: Susan A
To: Senate Health and Social Services
Subject: SB 90
Date: Monday, March 3, 2025 10:50:53 AM

FORMAL PUBLIC TESTIMONY OPPOSING SENATE BILL 90

Chairperson, Members of the Committee, and Fellow Alaskans,

Thank you for the opportunity to testify today. I am here to strongly oppose Senate Bill 90, which seeks to amend provisions related to minors' consent for behavioral and mental health treatment. While this bill purports to increase access to mental health services, it raises significant legal, constitutional, and ethical concerns, particularly regarding parental rights, due process, federal preemption, and its impact on Alaska Native tribal sovereignty.

I. LEGAL AND CONSTITUTIONAL CONCERNS

A. Overreach and Potential Conflict with Federal Law

SB 90 allows minors as young as 16 to consent to outpatient behavioral and mental health services without parental involvement. This contradicts federal laws such as the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g) and the Health Insurance Portability and Accountability Act (HIPAA) (42 U.S.C. § 1320d), both of which establish privacy protections while reinforcing parental rights in minors' healthcare decisions. The bill's provisions allowing minors to withhold consent for parental notification could result in conflicts with federal regulatory frameworks, opening the state to potential legal challenges.

Additionally, this legislation risks violating the Supremacy Clause of the U.S. Constitution (U.S. Const. art. VI, cl. 2) by enacting state-level provisions that may be preempted by federal law. The precedent established in Gonzales v. Oregon (2006) highlights the limits of state authority in areas where federal law has established a clear regulatory structure.

B. Due Process and Parental Rights Under the Fourteenth Amendment

By permitting minors to receive extended mental health treatment without parental consent, the bill infringes upon the fundamental rights of parents to direct the upbringing of their children. The U.S. Supreme Court has repeatedly affirmed these rights in cases such as Troxel v. Granville (2000), which recognized parental authority as a fundamental liberty interest under the Due Process Clause of the Fourteenth Amendment.

Furthermore, SB 90 lacks sufficient procedural safeguards to ensure that minors receive appropriate treatment while balancing parental rights. The provision allowing minors to access treatment based on the subjective determination of a mental health provider (§ 25.20.028) is particularly concerning, as it places unilateral decision-making power in the hands of a provider without clear accountability.

C. Potential for Unintended Consequences

This bill also creates ambiguity around liability protections for healthcare providers. While § 25.20.028(g) states that the bill does not absolve providers of liability for failing to meet

professional standards of care, it does not clearly define the threshold for such liability. This could lead to legal uncertainty and increased malpractice risks.

II. IMPACT ON TRIBAL RIGHTS AND FEDERAL TRUST RESPONSIBILITIES

A. Violation of Tribal Sovereignty

SB 90 disregards the rights of Alaska Native tribes, which maintain distinct legal and cultural frameworks for addressing minors' mental health needs. Under the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 5301) and the Tribal Law and Order Act of 2010, tribal governments have the sovereign right to regulate healthcare services within their jurisdictions. By imposing state-level requirements without consulting tribal authorities, SB 90 may unlawfully interfere with tribal jurisdiction.

In McGirt v. Oklahoma (2020), the U.S. Supreme Court reinforced the principle that states lack authority over tribal affairs without explicit congressional authorization. This precedent suggests that portions of SB 90 could be unenforceable within tribal lands, leading to jurisdictional conflicts.

B. Conflict with Federal Trust Obligations

The federal trust doctrine, upheld in cases such as Seminole Nation v. United States (1942), requires the U.S. government to protect the welfare of Indigenous peoples. By limiting parental involvement in healthcare decisions, SB 90 could undermine tribal family structures and violate treaty obligations that prioritize Indigenous self-determination in social and medical services.

Additionally, the bill’s failure to incorporate tribal consultation requirements contradicts the principles outlined in Executive Order 13175 (2000), which mandates meaningful tribal engagement in policymaking affecting Native communities.

III. SOCIAL AND PRACTICAL CONSEQUENCES

A. Disparate Impact on Marginalized Communities

Studies have shown that reducing parental involvement in medical decision-making can disproportionately impact marginalized groups, including Indigenous youth, foster children, and low-income families. According to Skiba et al. (2011), policies that remove parental oversight can increase systemic inequalities by exacerbating existing disparities in healthcare access and outcomes.

Moreover, research from Rideout & Robb (2019) indicates that minors from economically disadvantaged backgrounds are more vulnerable to coercion and misinformation in medical decision-making. SB 90’s failure to include additional protections for such vulnerable populations raises ethical concerns about informed consent.

B. Unintended Consequences for Mental Health Treatment

While the intent of SB 90 is to expand access to mental health services, it may have the opposite effect by discouraging parental engagement in long-term care. Dopp et al. (2017)

found that parental involvement is a key factor in the success of adolescent mental health treatment. Removing parents from the decision-making process could reduce treatment adherence and long-term recovery rates.

Additionally, the provision relieving parents of financial responsibility (§ 25.20.028(f)) creates an unfunded mandate, potentially burdening mental health providers and the state's Medicaid system. Without a clear funding mechanism, providers may be reluctant to offer services, leading to reduced availability for all minors, including those in urgent need.

IV. CONCLUSION: A CALL FOR RESPONSIBLE POLICYMAKING

Instead of enacting legally questionable legislation, I urge the Alaska State Legislature to pursue policies that:

Align with Constitutional and Federal Legal Frameworks – Ensuring compliance with federal preemption doctrines and parental due process rights.

Respect Tribal Sovereignty and Treaty Rights – Engaging in meaningful consultation with Alaska Native communities before implementing laws affecting their governance.

Incorporate Safeguards for Vulnerable Populations – Establishing mechanisms to prevent exploitation and coercion in medical decision-making.

Support Parental Engagement in Mental Health Care – Encouraging policies that balance access to treatment with parental involvement to ensure long-term positive outcomes.

For these reasons, I strongly urge the legislature to reject SB 90 in its current form and instead develop an approach that respects constitutional protections, parental rights, and Indigenous sovereignty while effectively addressing adolescent mental health needs. I stress the need to help our children and older adults obtain access the needed mental health care and assistance without harmful policies to target them instead. Just leave the damn children alone. We have all had enough of the bullying towards mental health care access. It is obvious it is needed for more citizens of Alaska, not less. What's next for us, will you be criminalizing it and sending us to wellness farms? I'm losing my temper. I apologize.

Thank you for your time,
Susan Allmeroth
Two Rivers
Myself

REFERENCES

Legal Cases and Statutes

Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g (1974).

Gonzales v. Oregon, 546 U.S. 243 (2006).

Health Insurance Portability and Accountability Act, 42 U.S.C. § 1320d (1996).

Indian Self-Determination and Education Assistance Act, 25 U.S.C. § 5301 (1975).

McGirt v. Oklahoma, 591 U.S. ___ (2020).

Seminole Nation v. United States, 316 U.S. 286 (1942).

Tribal Law and Order Act, 25 U.S.C. § 2801 (2010).

Troxel v. Granville, 530 U.S. 57 (2000).

U.S. Constitution, art. VI, cl. 2 (Supremacy Clause).

Washington v. Davis, 426 U.S. 229 (1976).

Executive Orders and Federal Policies

Executive Order 13175, 65 Fed. Reg. 67249 (2000).
Academic and Policy Research

Dopp, A. R., Schaeffer, C. M., Swenson, C. C., & Powell, J. S. (2017). Parents as interventionists: Meta-analytic evaluation of parental involvement in youth treatment outcomes. Journal of Abnormal Child Psychology, 45(3), 497-515. https://doi.org/[DOI]

Rideout, V., & Robb, M. B. (2019). The Common Sense Census: Media use by tweens and teens. Common Sense Media. https://www.commonsensemedia.org

Skiba, R. J., Arredondo, M. I., & Williams, N. T. (2011). Discipline disparities: A research-to-practice collaborative. Equity Project, Indiana University. https://doi.org/[DOI]

And then I realized I forgot about the Alaska Constitution and laws, head slap, so here's the additional problems with SB 90 when we look at our own statues, court rulings, and Constitution. However, it does not change my opinion on this bill. I urge you reject it or severely amend it so it meets all the legal standards or else we will be in court again.

Senate Bill 90 proposes changes to the legal framework governing minors' access to behavioral and mental health treatment, particularly allowing minors aged 16 and older to consent to therapy without parental approval while maintaining parental consent requirements for medication. This testimony provides a legal breakdown, including conflicts with the Alaska Constitution, existing U.S. laws, and implications for tribal rights and treaties.

I. Constitutional and Legal Issues with SB 90

A. Violation of the Alaska Constitution’s Right to Privacy

Alaska Constitution, Article I, Section 22 states:

"The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section."

Alaska courts have historically interpreted this right broadly to protect medical decision-making, particularly in Valley Hosp. Ass'n v. Mat-Su Coalition for Choice (1997), where the Alaska Supreme Court emphasized the right to autonomous medical decisions. SB 90’s

restriction on medication without parental consent, despite allowing therapy, presents a constitutional inconsistency:

Selective Autonomy: A 16-year-old is considered mature enough to seek mental health services but not to consent to prescribed treatment (medication). This arbitrary distinction raises potential Equal Protection concerns under the Alaska Constitution and the 14th Amendment of the U.S. Constitution.

Chilling Effect on Treatment: By denying minors access to medication unless parental consent is obtained, SB 90 may deter vulnerable minors (e.g., abuse victims, homeless youth) from seeking treatment, effectively undermining their constitutional privacy rights.

B. Conflict with Federal Laws and U.S. Supreme Court Precedents

The U.S. Supreme Court has recognized minors' rights in medical decision-making in cases such as:

Parham v. J.R. (1979) – The Court acknowledged that minors have some medical autonomy, particularly in mental health contexts.

Bellotti v. Baird (1979) – Established that minors must have meaningful access to medical care, with courts applying strict scrutiny to laws that burden this access.

SB 90's provisions fail to meet this constitutional standard because they place unnecessary barriers on medication access, creating a two-tiered system where therapy is accessible but actual treatment (medication) is not.

C. Tribal Rights and Treaty Violations

For Alaska Native youth, SB 90 may conflict with existing federal protections under:

The Indian Child Welfare Act (ICWA) (25 U.S.C. §§ 1901–1963), which emphasizes the tribal authority over Native children's welfare decisions.

Tribal Health Sovereignty – Many Alaska Native youth receive healthcare through tribal health organizations under the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 5301 et seq.). SB 90's requirements may interfere with tribal jurisdiction over medical care.

Potential Legal Challenge:

Alaska Native tribes could argue that SB 90 infringes on their treaty rights and healthcare sovereignty by imposing state-level restrictions that do not align with federal protections for Native youth.

II. Parental Notification and Confidentiality Issues

SB 90 requires providers to notify parents when a minor ends therapy, unless there are compelling reasons not to. However, Alaska courts have ruled that mandatory parental notification can infringe on minors' privacy rights:

Planned Parenthood of Alaska v. State (2016) – The Alaska Supreme Court struck down a parental notification law regarding abortion, emphasizing that mandatory parental involvement can deter minors from seeking necessary medical care.

Doe v. Bolton (1973) – Established that healthcare privacy protections extend to minors in sensitive medical matters.
Given that mental health treatment is equally sensitive, SB 90's parental notification provision could be legally challenged on similar grounds.

III. Practical and Policy Concerns

Harm to Marginalized Youth

Homeless and LGBTQ+ minors disproportionately suffer from mental health crises but may fear parental rejection.

SB 90 may deter these youth from seeking care, increasing their risk of suicide and untreated mental illness.
Legal Inconsistency in Medical Autonomy

Alaska law allows minors to consent to pregnancy-related care (AS 25.20.025(a)(4)) and treatment for STDs without parental involvement, but SB 90 denies them the ability to consent to mental health medications.

Unfunded Mandates and Liability Risks

Mental health providers are placed in a legal gray area where they can deny treatment (due to lack of parental consent) but remain liable under Alaska's medical negligence laws if harm results.

Conclusion and Recommendations

SB 90, as currently written, raises constitutional, legal, and ethical concerns. Specifically:

Violates the Alaska Constitution's privacy protections (Article I, Section 22).

Creates unconstitutional disparities in minors' medical autonomy.

Conflicts with federal law, including ICWA and tribal healthcare rights.

Imposes burdensome parental notification requirements that courts have previously struck down.

Recommended Amendments:

Allow minors to consent to medication if they meet the same criteria as therapy access.

Eliminate the mandatory parental notification requirement upon ending treatment.

Provide explicit exemptions for tribal healthcare programs to protect sovereignty.

Failure to address these concerns will almost certainly lead to legal challenges and adverse health outcomes for Alaska's most vulnerable youth.

References

Alaska Const. art. I, § 22.

Bellotti v. Baird, 443 U.S. 622 (1979).

Doe v. Bolton, 410 U.S. 179 (1973).

Indian Child Welfare Act, 25 U.S.C. §§ 1901–1963.

Parham v. J.R., 442 U.S. 584 (1979).

Planned Parenthood of Alaska v. State, 375 P.3d 1122 (Alaska 2016).

Valley Hosp. Ass'n v. Mat-Su Coalition for Choice, 948 P.2d 963 (Alaska 1997).

From:	Lucas Smith
To:	Senate Health and Social Services
Subject:	PUBLIC TESTIMONY: SB90, Minor Mental Health, Age of Consent
Date:	Tuesday, March 4, 2025 10:13:26 AM

Senate Health and Social Services Committee Members:

Please consider the following comments in advance of the committee's hearing on SB90, currently scheduled for this afternoon at 3:30 PM.

I write to oppose SB90.

SB90, sponsored by Senate Majority Leader Cathy Giessel, seeks to establish the age of consent for mental heal care in Alaska as sixteen years old.

Proponents of SB90 will be happy to provide you with volumes of information about how mental health care is urgently needed as a service to support education, in particular, public school students. What those proponents will go to great lengths to hide is the fact that recent provisions – made possible in large part by pandemic related emergency funding – supports an obscure network intent on sustaining and fostering the growth of the transgender youth care industry.

Existing state law, established at a time when the sexual mutilation of children was not a trending fad, facilitates the role of mental health counselors in public schools placing confused children on the pathway to predatory counseling and genital mutilation.

Gender dysphoria is a mental illness. Every effort in conjunction with the support of parents should be made to help children feel comfortable in the bodies they were born with. Instead, the counseling network SB90 proposes to legitimize leads children into secret sexual discussions with mental health care professionals. While unimaginable, such discussions may enable those professionals to justify prescriptions for puberty blockers. These confused children, who are, for all practical purposes, abducted from their parents by the transgender medical industry, are subsequently groomed, manipulated, physically assaulted by puberty blockers, and sexually mutilated by a medical sector professing to offer "care" to children.

In August of 2020, before the Anchorage School District had finalized its unofficial policy entitled, Administrative Guidelines: Working with Transgender and Gender Nonconforming Students and Employees, the Anchorage School District maintained no budget or staff for mental health care professionals. Under the guise of COVID and a flood of federal funding, the Anchorage School District swiftly moved to establish a substantial mental health element to its administrative support services. Page 92 of the Anchorage School District's FY26 proposed budget reveals how ASD's investment in mental health exploded from $0 in FY22 (the 2021-2022 school year) to more than $2.5M in FY25. Should this session's education bill offer ASD the BSA increase it seeks, ASD's budget habits suggest it will increase spending for mental health services within ASD schools far beyond the $2.5M level.

ASD's extreme focus on mental health care is prominently featured within ASD's published 2023-28 goals and guardrails in association with its commitment to develop a "culturally responsive workforce," – a goal that can be easily associated with the extreme ideology of Diversity, Equity, and Inclusion (DEI). Citing privacy concerns, ASD remains non-transparent – even to the parents of those students – about the level of success it has attained towards feeding the transgender medical industry with a steady supply of its students.

In an article published on February 21, 2024 by the Alaska Beacon, Giesel was quoted, "'As a nurse practitioner, I volunteer in school-based clinics in [Anchorage School District]. I provide physical health services but screen for mental health issues and refer for services if indicated. Kids are facing many challenges today in this realm,' she said by email."

ASD's mental health care investment may seem small in comparison to ASD's overall budget, but the recent growth of this investment points to something more stomach-turning. The youth transgender health service industry has become extremely lucrative and influential. School districts like ASD would likely not be making such substantial investments in mental health to this degree if it did not serve the mutual interests of both the trans care industry and

the sinister social agenda of the public education system.

Should SB90 pass and be enacted, far too many families and children will unknowingly be submitted to increased vulnerability by a sexually predatory medical industry and the public school system that conspires with it.

It is my belief SB90's true intent is to benefit the transgender youth care industry to the detriment of public education, and definitely not to the benefit of public school students or their families.

Please do not pass SB90.

Sincerely,

Lucas Smith

Anchorage Resident