

HOUSE FINANCE COMMITTEE
February 21, 2002
1:52 PM

TAPE HFC 02 - 30, Side A

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 1:52 PM.

MEMBERS PRESENT

Representative Eldon Mulder, Co-Chair
Representative Bill Williams, Co-Chair
Representative Con Bunde, Vice-Chair
Representative Eric Croft
Representative John Davies
Representative Richard Foster
Representative John Harris
Representative Bill Hudson
Representative Ken Lancaster
Representative Carl Moses
Representative Jim Whitaker

MEMBERS ABSENT

None

ALSO PRESENT

Representative Fred Dyson; Representative Kevin Myers, Sponsor; Joann Gibbens, Program Administrator, Division of Division of Family and Youth Services, Department of Health and Social Services; Remond Henderson, Director, Division of Administrative Services, Department of Labor and Workforce Development; Rebecca Nance Gamez, Deputy Director, Department of Labor and Workforce Development; Rich Mastriano, Division of Labor and Standards, Department of Labor and Workforce Development; Laura Hugonin, Executive Director, Alaska Network on Domestic Violence and Sexual Assault.

PRESENT VIA TELECONFERENCE

Roselynn Cacy, Adult Learning Center, Anchorage.

SUMMARY

HB 56 "An Act relating to minimum wages."

HB 56 was rescheduled and not heard.

HB 209 "An Act directing the Department of Health and Social Services to establish a foster care transition program; relating to that program; and providing for an effective date."

CSHB 209 (HSS) was REPORTED out of Committee with a "do pass" recommendation and with a previously published zero fiscal note: #1 (LAW).

HB 262 "An Act relating to accounting for and appropriations of receipts from fees collected by the Department of Labor and Workforce Development for certain inspections and for certain plumbing and electrical worker certificates of fitness; establishing a building safety account; and providing for an effective date."

HB 262 was heard and HELD in Committee for further consideration.

HB 297 "An Act related to aggravating factors at sentencing."

CSHB 297 (JUD) was REPORTED out of Committee with a "do pass" recommendation and with three previously published fiscal notes: #1 (LAW), #2 (ADM), and #3 (COR).

#hb209

HOUSE BILL NO. 209

"An Act directing the Department of Health and Social Services to establish a foster care transition program; relating to that program; and providing for an effective date."

(Tape Failure occurred at the beginning of the meeting).

REPRESENTATIVE DYSON, spoke on behalf of the House Health, Education and Social Services Standing Committee, sponsor of HB 209 in support of the legislation. He observed that the questioned is whether or not help should be provided to children that are "aging out" of the state foster care system. Currently, foster care children turning 18 years of age receive what is left of their accumulated permanent fund dividends and are sent on their way. The federal government has passed the Foster Care Independence Act in recognition that kids who have spent their lives in state custody may be ill equipped to take up independent living when they turn 18. The legislation would use federal funds to implement services for children ages 18 - 21, [who are no longer in foster care]. The University of Alaska has agreed to take some of the children on scholarships and labor unions have agreed to apprenticeship programs to assist in providing job skills. He pointed out that these children were not

successfully adopted and many of them have had less than ideal living situations. Many of these children have issues regarding behavior problems. He emphasized that the program could make a significant difference in the lives of many of these kids.

Representative Harris questioned if federal funds would be on going or if the state would be asked to take over the cost of the program.

JOANN GIBBENS, PROGRAM ADMINISTRATOR, DIVISION OF DIVISION OF FAMILY AND YOUTH SERVICES, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, explained that it is a 5-year federal program. At the end of five years the program would be subject to renewal.

Representative John Davies spoke to the fiscal note. He observed that the Division expects to receive a minimum of \$500 thousand federal dollars and questioned if the Division's current statutory authority would be sufficient without the need for additional authority through the Legislative Budget and Audit Committee.

Ms. Gibbens observed that the Division of Family and Youth Services has the authority to expend funds. She explained that the funds would be available to all children in their custody that are aging out or expected to age out without a permanent home.

Representative Hudson questioned how many youths would be served and what services would be provided. Representative Dyson explained that there are approximately 200 receiving services: approximately 40 - 60 would age out each year. The most immediate need is for housing. He noted that services would also be directed toward making a living, through help from the university and trade schools. Life skills, such as keeping a checkbook, would also be taught. Programs would be individualized.

In response to a question by Representative Whitaker, Ms. Gibbens noted that the first federal appropriation was \$500 thousand dollars, which began in 2000. Representative Whitaker observed that the state has been able to receive the funds since 2000 and questioned the need for legislation. Ms. Gibbens explained that current Alaska statutes do not allow services for children over the age of 18, who are no longer in custody. Federal law requires that a portion of these funds be used for older children, when they leave state care. The funds are currently being used for older children that are moving out of custody. The legislation would give authority to use the funds on children that have moved out of custody. The legislation applies to those over 18.

Representative John Davies referred to page 2, line 12. He noted that the program development is subject to appropriation. He questioned if there would be a new line in the operating budget to appropriate the federal funds. Ms. Gibbens clarified that the funds have already been received. What is missing is the statutory authority to spend the funds on those over 18 years of age. The funds have not all been expended. The intent is to add to the priorities by providing services for those over 18 years of age.

Representative Harris summarized that the Division is looking for statutory authority to comply with the federal requirements.

ROSELYNN CASCY, ADULT LEARNING CENTER, ANCHORAGE, testified via teleconference. She noted that they provide services to children that have been in foster care and expressed support for the legislation.

In response to a question by Vice-Chair Bunde, Representative Dyson stated that the federal enabling legislation is for 5 years and is subject to renewal. He expressed the hope that improved services by the Division of Family and Youth Services would aid children in their ability to take care of themselves after their release from state custody. The program will cease if state funds are not appropriated after federal funding has ended. He stressed that the benefit would be derived from the program over the next 5 years.

In response to a question by Vice-Chair Bunde, Representative Dyson observed that much of the work has dealt with finding safe housing and helping them to find a job path.

Representative Foster MOVED to report CSHB 209 (HSS) out of Committee with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 209 (HSS) was REPORTED out of Committee with a "do pass" recommendation and with a previously published zero fiscal note: #1 (LAW).

#hb262

HOUSE BILL NO. 262

"An Act relating to accounting for and appropriations of receipts from fees collected by the Department of Labor and Workforce Development for certain inspections and for certain plumbing and electrical worker certificates of fitness; establishing a building safety account; and providing for an effective date."

Representative Lisa Murkowski, Sponsor, spoke in support of the legislation. She noted that the legislation was at the

request of the department to eliminate the sizeable backlog of elevator and boiler inspections.

In the mid-1990s there were five electrical inspectors, two elevator inspectors, and five boiler/pressure vessel inspectors to inspect approximately 600 elevators statewide. Currently there are only two electrical inspectors, one elevator inspector, and three boiler pressure inspectors to inspect nearly 900 elevators, with nearly 6,000 boiler/pressure vessels overdue for inspection.

Representative Murkowski explained that revenue collected by the four additional inspectors would generate enough funds for the program to pay for itself. She noted that discussions have occurred regarding the ability of private industry to provide the services. She concluded that if the backlog is going to be reduced and the safety addressed additional inspectors are needed.

Vice-Chair Bunde referred to the fiscal note and questioned why it is not a net zero.

REMOND HENDERSON, DIRECTOR, DIVISION OF ADMINISTRATIVE SERVICES, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT explained that the cost of the two boiler inspectors and the elevator inspectors would be \$276 thousand dollars but that fees collected would only be \$235 thousand dollars. The fees do not cover 100 percent of the costs. The elevator inspectors would not cover their costs; the mechanical inspectors do cover their costs.

Vice-Chair Bunde questioned why the fees were not raised to cover the costs. Representative Murkowski observed that fees are uniformed, and pointed out that inspections occur in small remote communities, which cannot sustain the cost. Mr. Henderson noted that fees were revised to \$40 - \$75 dollars per boiler inspections, depending on size. He added that the entire component would be self-sustaining overtime, including elevator and boiler inspections.

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Mr. Henderson explained that the estimated increase is \$25 thousand dollars per year from fees for mechanical inspections.

Representative Hudson observed that the workforce is being increased to accomplish more of the inspections, which would raise revenues from fees.

Mr. Henderson clarified that the fees were increased, but the fees still do not cover costs. Vice-Chair Bunde questioned why fees are not sufficient to cover costs. Mr.

Henderson stressed that the intent is to cover costs in the future.

Representative Lancaster agreed that costs should be covered. Representative Murkowski acknowledged that there may need to be an amendment. Representative Harris suggested that fees would have to be raised.

Mr. Henderson stressed that the component is being reduced by \$363 thousand general fund dollars and \$695.5 thousand dollars in general fund program receipts. These funds are being replaced with income from the Building Safety Account. The bill addresses the whole program with the goal of making it self-sufficient.

Representative John Davies asked for further clarification of the fiscal note. Mr. Henderson noted that the Division takes in approximately \$1 million dollars a year in program receipts, but only has authorization to spend \$695.0 thousand dollars; the rest is lapsing. Representative Davies concluded that the Division receives excess receipts already and is asking for authority to expend them under the new category.

In response to a question by Representative Croft, Mr. Henderson clarified that the change in revenues from the increase in fees is \$235.0 thousand dollars.

Representative Lancaster questioned what would happen after the backlog is addressed.

REBECCA NANCE GAMEZ, DEPUTY DIRECTOR, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT explained that there is an aging workforce in the mechanical inspection portion of their operation and thought that attrition would take care of the issue once the backlog is handled. She noted that there are a couple of employees who are slated for retirement but agreed to stay on to assist in the backlog. She noted that the positions are difficult to fill.

Representative Whitaker asked how the legislation would affect the fees. Ms. Gamez observed that fees are established by regulation. She did not think that fees would be affected by the legislations.

RICH MASTRIANO, DIVISION OF LABOR AND STANDARDS, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT explained that the fees are an averaged based on the entire state. If fees were raised some outlying areas would be set at a higher rate.

HB 262 was heard and HELD in Committee for further consideration.

#hb297

HOUSE BILL NO. 297

"An Act related to aggravating factors at sentencing."

REPRESENTATIVE KEVIN MYERS, SPONSOR, spoke in support of the legislation. He noted that HB 297 adds an aggravating factor that says when drugs or alcohol are used to lower the inhibitions of a person to a point where they become the victim of a sexual assault; the seriousness of the crime should and could be elevated in the eye of the court. By adding this to the list of aggravating factors (there are already 28 or 29) defendants in felony sexual assault crimes may be held to a higher degree of punishment. HB 297 will allow a judge to increase a presumptive sentence up to the maximum term of imprisonment for that offense. Sexual assault continues to be a crime that devastates our communities: both urban and rural.

Representative Myer noted that he is on the Board of Directors of STAR (Stand Together Against Rape). He explained that there are new drugs, Rohypnol and GHB, which are commonly known as "date rape" drugs. Sex offenders use these drugs to prevent victims from being able to resist, and defend themselves. He noted that he has two daughters and expressed his concern, as a father, that they could experience such drugs. He maintained that society wants sex offenders who use these drugs to receive stiffer penalties. The bill does not require the Court to impose stricter penalties in sexual assault cases [involving drugs or alcohol]; it simply provides the court with the ability to do so.

Representative Myer observed that there are two indeterminate fiscal notes and one zero fiscal note and acknowledged that there could be additional fiscal costs if a judge used the aggravator to increase sentencing, but felt that the impact would be relatively small.

Representative Foster observed that a first time offender could receive from 8 to 30 years. He questioned why the fiscal note is zero. Representative Myer explained that the maximum that could be given is 30 years. Eight years is the presumptive sentence for sexual assault. He acknowledged that a judge could go up to 30 years, but he felt it would be unlikely.

Vice-Chair Bunde pointed out that males are not the only ones responsible for sexual assault. He recalled that legislation was previously passed regarding the use of "date rape" drugs and questioned how HB 297 would fit. He noted that it was already illegal to use a date rape drug.

Representative Croft explained that the previous legislation criminalized possession and distribution of "date rape" drugs. The current legislation would address the use of date

rape drugs or anything that would incapacitate someone in an attempt to further the crime of rape.

Representative Whitaker expressed concern that the provisions of the legislation could be abused. He questioned if there were discussions in previous committees regarding possible abuse of the provision. He gave the example of two persons, sharing a bottle of wine, where one decides afterwards that there was a circumstance that occurred that would not have occurred without the bottle of wine.

Representative Myer recalled discussions, which occurred in the House Judiciary Committee regarding the scenario, put forth by Representative Whitaker. He noted that the key word is "incapacitated." He observed that "incapacitated" means: "temporarily incapable of appraising the nature of one's own conduct or physically unable to express unwillingness to act." He pointed out that sexual assault is difficult to prove. He concluded that a couple sharing a bottle of wine would not be a factor.

Representative Myer recalled that Representative Berkowitz argued that the aggravator was unneeded since an aggravator exists under AS 12.55.155(c)(5) that: the defendant knew or reasonably should have known that the victim of the offense was particularly vulnerable or incapable of resistance. However, the director of STAR provided examples of related cases in which the court didn't use AS 12.55.155(c)(5) in sentencing. Representative Meyer stressed the need to clarify that [date rape] drugs and excessive alcohol would not be tolerated in cases of sexual assault.

Representative John Davies pointed out that they would have to demonstrate that the wine was shared with the intent of incapacitating the victim for the purpose of sexual assault.

Representative Hudson questioned if the legislation was on behalf of the judicial system. Representative Myer clarified that the Board of Directors for STAR discussed the need for the legislation. Representative Hudson observed that the legislation is permissive.

LAURA HUGONIN, EXECUTIVE DIRECTOR, ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT testified in support of the legislation. She explained that Rohypnol and GHB were added to the felony drug list in 1997. There has been more use of GHB in connection with sexual assault in Alaska, especially in the Kenai among younger offenders. She stressed the need for a strong message. She acknowledged the extension of jail time but emphasized that concurrent sentences, probation and other factors mitigate jail time.

In response to a question by Representative John Davies, Ms. Hugonin recalled that some cases were brought forward in Anchorage.

Representative John Davies thought that the presumptive range was currently 8 to 25 years. The legislation would only extend the maximum range by 5 years.

Vice-Chair Bunde noted that some drugs are illegal to possess but not illegal to use. He questioned if that were the case with Rohypnol and GHB.

Ms. Hugonin pointed out that in situations where there is sexual assault the drugs are surreptitiously given to the victim. The drug can take away the victim's ability to move.

Representative Hudson questioned if the value is in the form of prevention. Ms. Hugonin observed that media campaigns would educate persons regarding the penalty, but that there would be additional value in the prevention of additional assaults during their time of incarceration. She observed that sexual offenders generally commit multiple offenses.

Representative Foster MOVED to report HB 297 (JUD) out of Committee with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 297 (JUD) was REPORTED out of Committee with a "do pass" recommendation and with three previously published fiscal notes: #1 (LAW), #2 (ADM), and #3 (COR).

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ADJOURNMENT

The meeting was adjourned at 3:03 PM