ALASKA STATE LEGISLATURE
HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES
STANDING COMMITTEE
March 1, 2001
3:03 p.m.

MEMBERS PRESENT

Representative Fred Dyson, Chair
Representative Peggy Wilson, Vice Chair
Representative John Coghill
Representative Vic Kohring
Representative Sharon Cissna
Representative Reggie Joule

MEMBERS ABSENT

Representative Gary Stevens

COMMITTEE CALENDAR

HOUSE BILL NO. 91
"An Act relating to the membership and quorum requirements of the State Medical Board."

- MOVED HB 91 OUT OF COMMITTEE

HOUSE BILL NO. 114
"An Act relating to abuse of inhalants."

- HEARD AND HELD

PREVIOUS ACTION

BILL: HB 91
SHORT TITLE:ADD PHYSICIAN ASST TO STATE MEDICAL BOARD
SPONSOR(S): REPRESENTATIVE(S)FATE

Jrn-Date	Jrn-Page		Action
01/24/01	0158	(H)	READ THE FIRST TIME - REFERRALS
01/24/01	0158	(H)	L&C, HES, FIN
02/12/01		(H)	L&C AT 3:15 PM CAPITOL 17
02/12/01		(H)	Moved Out of Committee MINUTE(L&C)
02/14/01	0313	(H)	L&C RPT 6DP 1NR
02/14/01	0313	(H)	DP: KOTT, CRAWFORD, HAYES,

			MEYER,
02/14/01	0313	(H)	ROKEBERG, MURKOWSKI; NR: HALCRO
02/14/01	0313	(H)	FN1: (CED)
03/01/01		(H)	HES AT 3:00 PM CAPITOL 106

BILL: HB 114
SHORT TITLE:INHALANT ABUSE
SPONSOR(S): REPRESENTATIVE(S)KAPSNER

Jrn-Date	Jrn-Page		Action
02/07/01	0263	(H)	READ THE FIRST TIME - REFERRALS
02/07/01	0263	(H)	HES, JUD, FIN
02/21/01	0392	(H)	COSPONSOR(S): STEVENS
02/27/01		(H)	HES AT 3:00 PM CAPITOL 106
02/27/01		(H)	Heard & Held
02/27/01		(H)	MINUTE(HES)
02/28/01	0473	(H)	COSPONSOR(S): MURKOWSKI
03/01/01		(H)	HES AT 3:00 PM CAPITOL 106

WITNESS REGISTER

REPRESENTATIVE HUGH FATE
Alaska State Legislature
Capitol Building, Room 416
Juneau, Alaska 99801
POSITION STATEMENT: Sponsor for HB 91.

TOM WILSON, Physician Assistant
Alaska Academy of Physician Assistants
PO Box 74187
Fairbanks, Alaska 99707
POSITION STATEMENT: Testified in support of HB 91.

ED HALL, Physician Assistant
Alaska Academy of Physician Assistants
PO Box 74187
Fairbanks, Alaska 99707
POSITION STATEMENT: Testified in support of HB 91.

REPRESENTATIVE MARY KAPSNER
Alaska State Legislature
Capitol Building, Room 424
Juneau, Alaska 99801
POSITION STATEMENT: Sponsor for HB 114.

JIM HENKELMAN, Statewide Outreach Coordinator
Inhalant Intervention Project
Yukon-Kuskokwim Health Corporation
2957 Yale Drive
Anchorage, Alaska 99608
POSITION STATEMENT: Testified in support of HB 114.

ROBERT BUTTCANE, Legislative & Administrative Liaison
Division of Juvenile Justice
Department of Health & Social Services
PO Box 110635
Juneau, Alaska 99811
POSITION STATEMENT: Testified on HB 114.

VALERIE THERRIEN
Governor's Advisory Board on Alcoholism & Drug Abuse
779 8th Avenue
Fairbanks, Alaska 99710
POSITION STATEMENT: Testified on HB 114.

JERRY LUCKHAUPT, Legislative Legal Council
Legislative Legal and Research Services
Legislative Affairs Agency
State Capital
Juneau, Alaska 99801-1182
POSITION STATEMENT: Answered questions on HB 114.

ALVIA "STEVE" DUNNAGAN, Lieutenant
Division of Alaska State Troopers
Department of Public Safety
5700 East Tudor Road
Anchorage, Alaska 99507
POSITION STATEMENT: Testified on HB 114.

BARBARA BRINK, Director
Public Defender Agency
Department of Administration
900 West 5th Avenue
Anchorage, Alaska 99501
POSITION STATEMENT: Testified on HB 114.

ERIC TOMASINO
Governor's Advisory Board on Alcoholism & Drug Abuse
PO Box 4281
Palmer, Alaska 99645
POSITION STATEMENT: Testified on HB 114.

ACTION NARRATIVE

TAPE 01-22, SIDE A
Number 0001

CHAIR FRED DYSON called the House Health, Education and Social Services Standing Committee meeting to order at 3:03 p.m. Members present at call to order were Representatives Dyson, Wilson, Coghill, and Cissna. Representatives Kohring, and Joule joined the meeting as it was in progress.

HB 91-ADD PHYSICIAN ASST TO STATE MEDICAL BOARD

CHAIR DYSON announced that first order of business would be HOUSE BILL NO. 91, "An Act relating to the membership and quorum requirements of the State Medical Board."

Number 0090

REPRESENTATIVE HUGH FATE came forth as sponsor of HB 91. He stated to the committee:

> House Bill 91 is based on a request brought forward by the Alaska Academy of Physician Assistants. The Alaska State Medical Board supports House Bill 91. House Bill 91 adds one licensed physician assistant to the State Medical Board and changes the quorum for meetings, from four to five [members].
>
> Currently, there is no representation of physical assistant licensees to the board, even though consideration of physician assistant licensure, regulations, and discipline are frequent topics. Physician assistants are also an increasingly significant factor in providing medical care. Participation of a physician assistant would strengthen and support the State Medical Board and contribute to its decision-making process by providing valuable opinions representing a wider spectrum of medical practitioners in Alaska.

REPRESENTATIVE COGHILL asked what the fiscal note amount would be.

REPRESENTATIVE FATE answered that the fiscal note would be $3,000, which entails per diem and travel for members of that board.

Number 0282

CHAIR DYSON asked if anyone has opposed, or will oppose, the bill.

REPRESENTATIVE FATE responded that there is no opposition. He stated that the medical board licensure is for the bill and the medical association is neutral.

CHAIR DYSON asked if it is reasonable to say that the folks in the medical community have had a fair opportunity to comment on the bill.

REPRESENTATIVE FATE said that they have. He said that the State Medical Board, and the Physician Assistant Association have gone on record that they are in favor of the bill. He added that the physician assistants have been participating in an ad-hoc position on the medical board for the last four years for two reasons: to get themselves up to speed in order to familiarize themselves with the medical board, and to prove to the medical board that they can be part of that board in good conscious.

Number 0409

REPRESENTATIVE CISSNA asked why it hasn't happened before, since it seems like such a good idea.

REPRESENTATIVE FATE said that there has been friction between the medical board and an auxiliary of the healing profession. He said that he served on the Board of Dental Examiners when hygienists first appeared. He remarked that there was natural friction [at first], but then there was a real benefit.

Number 0515

TOM WILSON, Physician Assistant, Alaska Academy of Physician Assistants, testified via teleconference in support of HB 91. He stated that there have been approximately 250 PAs (physical assistants) licensed in the state for more than 20 years, and they currently have no representation as licensees on the State Medical Board. He said that [PAs] see approximately 50,000 Alaskans every month for medical care. He added that the State Medical Board voted in Juneau on February 19, 2001, in favor of the addition of a physician assistant to the medical board.

MR. WILSON expressed that this has been a very long process of over four years of having a PA attend every medical board meeting for the full two-day sessions. He stated that this year [the Alaska Academy of Physician Assistants] has decided that it has served its apprenticeship and understands the commitment and responsibilities of being a member of the State Medical Board. He said [PAs] feel that since they have matured and developed an extremely good relationship with the medical board [it is reasonable] to ask the state to change the statute and add a PA to the medical board. He concluded that he thinks the medical board is eager to have their input because they represent a large number of licensees as well as patients.

Number 0663

CHAIR DYSON asked whether [PAs] practice under the supervision of a physician.

MR. WILSON answered yes, that's by state law. He said it's the philosophy of a PA to work in a PA/MD team. By law, PAs cannot practice medicine unless they have a collaborative relationship with a physician.

Number 0716

ED HALL, Physician Assistant, Alaska Academy of Physician Assistants, testified via teleconference in support of HB 91. Addressing the question of why it is happening now as opposed to 20 years ago, he remarked that this has been a growing process, and it has just been in the past year that [PAs] have felt they have done their apprenticeship and have the understanding as well as the full support of the medical board.

Number 0766

REPRESENTATIVE COGHILL made a motion to move HB 91 from the committee with individual recommendations and attached fiscal notes. There being no objection, HB 91 moved out of the House Health, Education and Social Services Standing Committee.

<u>HB 114-INHALANT ABUSE</u>

CHAIR DYSON announced the next order of business as HOUSE BILL NO. 114, "An Act relating to abuse of inhalants."

Number 0803

REPRESENTATIVE MARY KAPSNER, Alaska State Legislature, came forth as sponsor of HB 114. She explained she was offering an amendment that would change [the charge of inhalant abuse] from a class B misdemeanor to a violation.

Number 0882

REPRESENTATIVE JOULE made a motion to adopt Amendment 1, 22-LS0130\C.1, Luckhaupt, 2/28/01, which read:

Page 1, line 5:
Delete "crime"
Insert "offense"

Page 2, lines 1 - 3:
Delete all material and insert:
"(d) Abuse of inhalants is a violation."

There being no objection, Amendment 1 was adopted.

Number 0924

JIM HENKELMAN, Statewide Outreach Coordinator, Inhalant Intervention Project, Yukon-Kuskokwim Health Corporation (YKHC), came forth to testify in support of HB 114. He clarified that the [Inhalant Intervention Project], in development, is a statewide project. He said that [the YKHC] has felt for a long time the need to get a handle on youth who are using and abusing inhalants, to get a comprehensive assessments completed, and to determine the level of treatment that [the youth] may require.

MR. HENKELMAN explained that [the Inhalant Intervention Project] is a three-pronged project, whereby [YKHC] will be providing information sessions, training conferences throughout Alaska for communities that request their services in identifying inhalant abusers, and providing brief assessments. He said that [YKHC] will also be providing short-term intervention within communities that request it, which will try and address the children's needs and do further assessment of the children who are identified as in need. Finally, he said, [YKHC] will have the residential program, which is currently scheduled to open August 31.

Number 1091

CHAIR DYSON recaptured a conversation he had earlier with Mr. Henkelman. He stated that Mr. Henkelman had said there are some people whose first exposure [to inhalants] causes organic brain damage, while others, who have been [inhaling] for 25 or 30 years, have some appearance of a normal behavior when they are not "huffing." Users will experience euphoria, the feeling of power and hallucinations, and have memory problems. He said he asked Mr. Henkelman if there were any patterns of adults or older kids getting [younger] kids [to use inhalants] in order to exploit them. He said that Mr. Henkelman said [he didn't know], but that it is logical for that to be one reason why people would [get kids to use inhalants]. Also, Mr. Henkelman told him that research may find that there's evidence now of permanent genetic damage that may be transferred to a subsequent child. Chair Dyson said that [he and Mr. Henkelman] also discussed how people damaged from "huffing" have problems similar to those of children with FAS (Fetal Alcohol Syndrome) and FAE (Fetal Alcohol Effects), and that many have significant behavior problems in school and for parents.

Number 1242

REPRESENTATIVE COGHILL asked when this project would be completed.

MR. HENKELMAN replied that ground was broken in August [2000] for the construction of the residential facility in Bethel, and completion is expected in August [2001]. He said that [YKHC] is in the process of hiring staff and will be spending most of the summer with staff training. He added that the funding [for the project] is through the Center for Substance Abuse Treatment in Washington, D.C., and is a three-year funding package.

REPRESENTATIVE COGHILL asked if [YKHC] anticipates an immediate filling of space available, and what they anticipate for the workload.

MR. HENKELMAN answered that the facility has 16 beds, but he is not sure if 16 people [will be admitted] in the first admission [group]. He said they might take a smaller number for the first group, in order to get [YKHC's] feet on the ground. He added that they are anticipating groups of 16 to go through every three to four months.

Number 1350

REPRESENTATIVE COGHILL asked what the treatment would be beyond the three months.

MR. HENKELMAN replied that part of the work he is doing with statewide communities is to improve their capacity to deal with this problem. Through training and support from the program, [YKHC] will require that, prior to a community referring a child to treatment, [the community tell YKHC] who the primary support person for the child during treatment will be. That person will join treatment for at least one week of the cycle and be there in the community for the child after treatment is completed.

MR. HENKELMAN added that [YKHC] will also be working with the community treatment providers, such as a school, church or mental health substance-abuse facility, based on the child's individual needs, to have services available as an after-care plan. He remarked that [YKHC] wants this plan tentatively in place prior to the child actually starting treatment, so as the child is going through treatment and specific needs are identified, [YKHC] will know who, in the community, to give that information to so that person can carry on the treatment after the child is out. He said that [YKHC] hopes to do some follow-up work from the residential program, but it won't it be so much working with the actual individual as it will be working with the treatment providers in the community that are providing the follow-up care.

Number 1430

REPRESENTATIVE COGHILL asked what the different levels of care are.

MR. HENKELMAN replied, as with any treatment program, there needs to be an individualized treatment plan, based on the child's need. If the child has only used inhalants once or twice, the hope would be that [the child] could be dealt with in the community, instead of in a four-month residential program. He stated that someone who has been chronically inhaling will have any number of neurological, cognitive, and physical problems [and will have to go through "detox"]. The "detox" process for inhalants takes at least four to six weeks for the liver to process out the neurotoxins absorbed by the fatty tissues. He said the program would use steam baths, which have been effective in other programs, in combination with other treatments in order to "detox" as quickly as possible. Then, based on the neurological, psychological, and cognitive testing, an ongoing, year-round school program will evaluate how the

child is currently functioning. He added that records from the [child's] school could provide a good idea of what deficits have occurred as a result of the inhalants.

REPRESENTATIVE COGHILL asked how [YKHC] fits in on training other communities in Alaska.

MR. HENKELMAN answered that he is currently scheduled to do presentation in at least a half-dozen conferences over the next six months around the state. He said that he just did a presentation for the foster parent training in Bethel.

Number 1640

REPRESENTATIVE WILSON remarked that sometimes it takes several months for [a person] to "detox" before he or she is actually treated. She asked if there are going to be people moving in [while one group is still in "detox"].

MR. HENKELMAN replied that they would provide treatment in the program for the four to six weeks of the "detox" during the initial part; however, the ability to really start recompensating won't happen until they are "detoxed." He added that a focus of the program will be to teach skills to compensate for whatever deficits [the intakes have as a result of inhalant abuse].

REPRESENTATIVE WILSON asked what will happen after three years [after they have used the program money].

MR. HENKELMAN responded that [YKHC] is working with folks in Washington [D.C.] in order to establish ongoing funds. He said they suspect most of the kids coming into the program will be eligible for Medicaid.

Number 1716

REPRESENTATIVE CISSNA asked, since there are FAS- and FAE-type symptoms from "huffing," whether these children also have poor judgment skills. She also asked what happens to the kids [of people who are "huffing"].

MR. HENKELMAN answered that one of the highest risk-groups for using inhalants is the FAS and FAE kids because their judgment is impaired. For those who aren't [FAS or FAE kids], as soon as they start using inhalants it seems that the ability to use their judgment and their impulse control is destroyed early on.

He said he had heard that FAS and FAE kids have very little childhoods memory, but that kids who are "huffing" can remember their childhood up to the point that they started "huffing."

REPRESENTATIVE CISSNA asked if children [of "huffers"] are going to have more problems than an FAS or FAE child and whether there's a way to address that.

MR. HENKELMAN said absolutely, but there is very little research on the genetic effects of inhalants. He said that it would not surprise him if some of the problems that kids diagnosed as being FAS or FAE are having were results of their parents having "huffed." He added that a study, conducted a year or two ago, said if a 19-year-old had been "huffing" and had done significant damage to himself, the cost to the state would be in the area of $1.4 million for ongoing care.

Number 1894

ROBERT BUTTCANE, Legislative & Administrative Liaison, Division of Juvenile Justice, Department of Health & Social Services (DHSS), came forth and stated that he thinks [Amendment 1] still allows for the opportunity to identify these kids, impose some level of accountability, and then to intervene in a way to assess, educate, and refer them to appropriate treatment. He mentioned that [DHSS] is looking at this from a standpoint of: "Let's do what we can do today, and in that, let's take the small steps that we can to start dealing with this issue more effectively."

MR. BUTTCANE stated that in Alaska many of the treatment facilities are not fully equipped right now to deal the problems of inhalant abuse. Some substance-abuse treatment programs have taken in [inhalant users], but there needs to be assistance in building greater capacities to address the specific issues related to inhalant abuse. He said he was pleased to hear Mr. Henkelman talk about [YKHC's] plans and thinks they are exactly what is needed - training and educating people, including villages, parents, and care providers.

Number 1978

MR. BUTTCANE referred to the phraseology, on page 2, lines 1-3 of the bill, that a person found guilty of a violation of this offense would be subject to a fine, which could then be suspended on the condition that the afflicted person be required to successfully complete an inhalant abuse treatment program.

He said the difficulty that [DHSS] has with this is that the treatment resources are still limited and not available everywhere around the state. He added that [DHSS] has submitted a fiscal note based on what might be done in terms of an intensive outpatient treatment.

REPRESENTATIVE COGHILL informed Mr. Buttcane that that language was taken out with [Amendment 1.]

MR. BUTTCANE replied that that would then negate [DHSS's] need for a fiscal note. He clarified that a requirement for treatment by the court generated the fiscal note, so that if that were a discretionary move, then there wouldn't be a fiscal impact on the [DHSS].

Number 2051

MR. BUTTCANE stated that amending the current alcoholism [and drug] commitment statutes and adding inhalant abuse recognizes that some of these abusers will require significant environmental controls, such as locked doors and secured confinement. However, using the existing alcoholism and drug abuse statute could pose a risk to some inhalant-inflicted individuals. He stated that the question was posed of whether it would be good for [the village public safety officer (VPSO)] to be able to do a protective-custody hold in a jail cell if he or she found someone passed out from having used inhalants. The problem of putting somebody in jail, in order for that person to get sober, is that the afflicted person may be worse off in 11 hours than when he or she first was put in.

MR. BUTTCANE added that because of the complexities with this substance abuse issue, many people need medical supervision and not to be put in a small village jail or holding facility without medical care. He said the [DHSS] is concerned that using the provisions available for the alcohol and drug issues for inhalant abuse could be dangerous in some situations. He suggested perhaps developing involuntary commitment procedures that relate specifically to inhalant abuse, taking into account some of these instances that might require longer periods of emergency hold as well as longer periods of treatment in secure or "locked" programs.

Number 2144

REPRESENTATIVE JOULE asked if [an inhalant abuser] would have to be put into locked protective custody, according to the way the

bill is written. He suggested if this is only a violation and not a criminal offense, perhaps just a safe space should be provided.

MR. BUTTCANE replied that it wouldn't necessarily mean that [the custody] would have to be locked. He said the [DHSS] is concerned that by including this as a provision for protective custody, people may be inclined to treat it in the same manner as when someone is trying to sober up, and put the person in locked or unlocked facilities in the village that didn't have the medical supervision specific to the issues of inhalant abuse.

REPRESENTATIVE WILSON remarked that she is not familiar with people who have been "huffing," but she is familiar with people who come in the emergency room after breathing something that has damaged their lungs. She said that many times when that happens, at first it doesn't appear to be much of a problem, but as the lungs develop fluid in order to protect themselves from the irritants, it can take several hours before this condition gets worse. She asked if this is the type of situation [Mr. Buttcane] is referring to [with inhalant users].

MR. BUTTCANE responded that he does not know the full extent of the impact of inhalants. He said it is his understanding that complications could occur from inhalants that wouldn't necessarily be manifested with alcohol intoxication.

Number 2258

REPRESENTATIVE CISSNA asked whether a good reason to secure a person would be if there was possible danger in the immediate aftermath of "huffing."

MR. HENKELMAN replied that there may be some concern. He said that Representative Wilson was accurate in noting some of the problems it could create. He added that some of the problems are with the heart because inhalants create irregular heart rhythms.

Number 2317

CHAIR DYSON said that in his community the cops pick up somebody who has passed out, and the protocol requires them to take [the person] to where there is medical expertise to figure out whether or not the person is drunk, in a diabetic coma, or

suffering from trauma, and so on. He asked why it would be any different for someone who is passed out because of huffing.

MR. BUTTCANE replied that in actual practice it might not be [different], and [police officers] would follow a procedure in which they consult with the village health aide, who might make a determination that given the person's condition, he or she needed to be transported to a regional medical facility as opposed to simply being housed in the local lock-up facility. The concern is that if this is included in the protective custody section of the alcohol and drug commitment provisions, it may give people a false sense that medical concern is not present and that it is OK to have the person "sober up" in an adult jail in the village without really being aware of any medical consequences.

TAPE 01-22, SIDE B
Number 2356

MR. BUTTCANE remarked that the involuntary commitment scheme that is used in the drug and alcohol chapter requires a demonstration of extreme chronic behaviors. He added that it is a standard of proof that can't be afforded to apply to an inhalant abuser.

CHAIR DYSON asked if there is anything in the bill that deals with involuntary commitment.

MR. BUTTCANE answered that Sections 3-7 [deal with involuntary commitments]. He said that [Sections] 3 and 7 are most problematic and need to be looked at in order to decide if this is the way to do business. The position of [DHSS] is that it is not advised. The alcohol commitment statute and the mental health commitment statute don't fit with what's being dealt with in the inhalant issue. He suggested that it might be better to start from scratch and craft something that really is responsive to this particular need.

Number 2287

CHAIR DYSON asked if Mr. Buttcane senses that people who have been "huffing" are represented in the corrections population or in the criminal element in [Alaskan].

MR. BUTTCANE responded that he believes there are people who have suffered the ill effects of inhalant abuse both in the adult and juvenile criminal systems, but he doesn't know the

numbers. He remarked that Representative Joule had asked [at the last meeting] if there have been situations in which the DHSS had funded any inhalant-abuse intervention or prevention efforts. He said what [DHSS] has been able to determine is that the Division of Alcohol & Drug Abuse did provide funding from the Alaska Mental Health Trust Authority for inhalant-abuse prevention. When those funds lapsed, requests for continued funding were not approved.

REPRESENTATIVE JOULE asked to whom the requests had been made.

MR. BUTTCANE answered that he believes they were to the legislature.

Number 2105

VALERIE THERRIEN, Governor's Advisory Board on Alcoholism & Drug Abuse (ABADA), came forth and commented on the issues that [ABADA] had reviewed. First of all, she said she is concerned about [inhalant abuse under the bill] being backed down to an offense [Amendment 1], because talking with people from the juvenile justice committee who are in corrections, she learned that if the purpose of this bill is to be able to put someone into custody, it has to be a misdemeanor. For example, if a VPSO is trying to get somebody into treatment so that the person is not out on the street "huffing," and if an offense does not permit the VPSO to take custody of that person, then this might not be the right approach. She stated that if an offense means that a person could be put into some type of protective custody, that would certainly ameliorate the concerns of a lot the members of [ABADA]. She added that [ABADA] had approved the bill as it stood, with [inhalant abuse] being a misdemeanor. Because of the concern of the criminalization of this, she had asked that the matter be split into two issues: the issue of criminalization and the issue of whether or not inhalants should result in an involuntary commitment. She said that "both portions passed."

MS. THERRIEN continued, stating that second if subsection (d) [of Section 1 of the bill] is eliminated, then she is not sure whether Section 2 would be consistent because it talks about violation of statutes. She said that [ABADA] was concerned with the ability of the facilities to have the capacity to treat. She suggested, if it is possible, that during the four to six weeks of detoxification, [patients] be put in a treatment facility for drugs and alcohol and then go into the treatment

facility for inhalant abuse, as a way of using extra beds, so as not to overcrowd the facility.

Number 1961

MS. THERRIEN stated that [ABADA] discussed whether or not a [five-year-old child] can be charged with an offense or misdemeanor. She remarked that [the ABADA] was very concerned about what liabilities the state would have if a VPSO picked somebody up and put him or her into a place that wasn't a jail without medical facilities or nurses.

Number 1865

MS. THERRIEN asked Jerry Luckhaupt, legislative counsel, whether somebody could take a person into protective custody if [inhalant abuse] were an offense opposed to a misdemeanor.

JERRY LUCKHAUPT Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency, came forth and replied that a violation doesn't indicate any criminality. This would be governed by a maximum-fine provision of $300. If [inhalant abuse] happens in an officer's presence, the officers can, theoretically, take somebody into custody, but it usually doesn't happen. People are usually taken into protective custody under Title 47, where it refers to alcohol and drug abuse. If a police officer finds someone out on the street who appears obviously intoxicated, in most cases that person is not being arrested for the intoxication, but for some other offense. If that person is intoxicated, that issue is usual dealt with first. The incentive is to protect the person when he or she can't protect himself or herself.

MS. THERRIEN remarked that [ABADA] is hearing that the VSPOs don't feel they have any authority to take people off the street and either put them in a place where they can be treated or put them into jail, because it's not against the law. She asked, in regard to the protective hold, how someone could be arrested, and if someone could be arrested under a violation.

Number 1686

MR. LUCKHAUPT responded that he can't speak for the VPSOs and how [an arrest could happen]. He said that VPSOs don't necessarily have a real power of arrest under Title 11; instead, they have public safety duties. A public safety professional

who comes across someone who is unconscious can't leave that person there but must intervene.

CHAIR DYSON asked if reducing this to a violation reduces the capacity to take [inhalant users] into protective custody.

MR. LUCKHAUPT answered that if a person is obviously intoxicated, [peace officers] still have an obligation to do something, but not under criminal law.

CHAIR DYSON stated that the second question Ms. Therrien raised was what the lower age limit was for this process not to proceed.

MR. LUCKHAUPT responded that there is not a true age of majority for that purpose. He said that someone under 18 is a minor, and if the person is 16 or even 15, there is potential criminal liability.

Number 1553

CHAIR DYSON clarified that the question was: what is the lowest age limit to [charge] a child for a crime?

MR. LUCKHAUPT answered that traditionally, it depends upon when the child is able to develop the requisite mens rea to actually understand that what he or she is doing is a crime. Many times that has been defined, by some states, as low as age 12.

CHAIR DYSON asked whether a child under 12 could be charged for shoplifting.

MR. LUKHAUPT replied that a child probably is not going to have the requisite mens rea to be convicted of that crime.

Number 1481

REPRESENTATIVE WILSON said that she is concerned with Section 2, page 2, line 7, which says:

> ... this chapter and the Alaska Delinquency Rules do not apply and the minor accused of the offense shall be charged, prosecuted, and sentenced in the district court in the same manner as an adult;

REPRESENTATIVE WILSON asked, since there are five and eight-year-olds involved with inhalants, how the foregoing language plays in with this.

MR. LUCKHAUPT replied that it "trumps" all this. In order to [be convicted of a crime], the person has to be competent. Usually before the age of 12, a child does not have the requisite competence to be able to commit a crime. Society assumes that children cannot reach that requisite mental state.

REPRESENTATIVE WILSON asked whether this language is fine because it will not apply to a person that young.

MR. LUKHAUPT answered that it is going to depend on the particular child involved. He stressed that he is "99.9 percent" sure that a five-year-old can't be charged and convicted with these offenses.

Number 1315

REPRESENTATIVE JOULE stated that in many communities in rural areas, there is usually a VPSO, some sort of a village person who works with a regional health program, or a health aide. He noted that in Section 4 it states that a person should be treated at a private treatment facility or [another] appropriate health facility or service for emergency medical. He asked whether a village clinic would be an appropriate health facility if that area were in contact with medical teams.

MR. LUCKHAUPT responded that he isn't sure; however, if there is a health clinic in the village, he thinks that is where a person would be taken for the initial protection.

MS. THERRIEN concluded that questions need to be answered as far as how to physically make sure people are taken care of. She remarked that maybe there needs to be a waiver of liability, or a respirator in every village. She stated that there is a difference between the civil aspect and the criminal aspect.

Number 0999

CHAIR DYSON asked Lieutenant Dunnagan, if moving this down to a violation limits the ability to take someone into custody.

ALVIA "STEVE" DUNNAGAN, Lieutenant, Division of Alaska State Troopers, Department of Public Safety, testified via teleconference. He answered that someone would not be arrest

under a violation unless he or she refused to sign a ticket or refused to appear [in court].

CHAIR DYSON asked what would happen if someone is incapacitate, and can't rationally decide whether to sign the violation.

LIEUTENANT DUNNAGAN replied that the person could be taken in [to custody] under Title 47, but the incapacitation has to be so extreme that if nothing is done, that person will possibly die or be seriously injured. If that were the case, the person would initially go to some kind of medical facility, whether it is a clinic or a health aide. All the clinics and health aides in rural Alaska are tied to major medical facilities. Usually, the health aide will call the physician in charge of that village and discuss the situation. If the doctor deems it necessary, the person is transferred from the village to the medical facility in a major area.

Number 0884

CHAIR DYSON asked Lieutenant Dunnagan at what age he won't arrest a young child involved in criminal activity.

LIEUTENANT DUNNAGAN answered that it is not a general practice to arrest minor children for anything; instead, they could be arrested and then released to their parents. If a 14- or 15-year-old committed a serious crime, he or she could be taken into custody and to a youth facility.

CHAIR DYSON clarified that this bill is trying to provide [public safety officers] and VPSOs a basis under the law in which to deal with a child who is seven or eight years old and [using inhalants]. He asked Lieutenant Dunnagan what he could do [for a young child] with out criminalization.

LIEUTENANT DUNNAGAN replied that a seven- or eight-year-old who was [using inhalants] would be taken to his or her parents, and possibly paperwork would be processed to the juvenile authorities.

CHAIR DYSON asked if Lieutenant Dunnagan really has any more authority than he himself does to intervene, unless it becomes a matter of law.

LIEUTENANT DUNNAGAN replied that from a legal standpoint, no.

Number 0734

CHAIR DYSON asked if it is Lieutenant Dunnagan's experience that older children or young adults recruit [young] children to get involved in "huffing" in order to exploit them.

LIEUTENANT DUNNAGAN answered that he didn't know of any cases with inhalants.

CHAIR DYSON asked Lieutenant Dunnagan if he sees anything that the legislature needs to know in order to proceed.

LIEUTENANT DUNNAGAN replied that he thinks everybody needs to think about what the term "incapacitated" means. He added that he doesn't see any problems with the bill as it is written, or with the amendment, because at least now there will be a tool to issue a citation, thereby causing a child to go to court with his or her parents and talk about that problem.

Number 0606

REPRESENTATIVE JOULE asked whether, even with the bill amended, as a violation, there is anything keeping state troopers or VPSOs from dealing with the parents and the local health officials.

LIEUTENANT DUNNAGAN answered no, that there is nothing that could prohibit that.

REPRESENTATIVE JOULE asked if it would become a standard operating procedure that [the state troopers and VPSOs] would go directly to the parents and health aides to report this type of incident.

LIEUTENANT DUNNAGAN replied that he thinks that would happen whether a citation was issued or not.

Number 0468

BARBARA BRINK, Director, Public Defender Agency, Department of Administration, testified via teleconference. She stated that if this is a misdemeanor and a person is arrested, he or she would go to jail; within 24 hours, that person would be entitled to have bail set. Unless the person were a danger to society, he or she would be let out on his or her own recognizance. She said she doesn't think it is beneficial to use the criminal sanction as a way of holding somebody to provide treatment. She expressed that jail is a time to punish an offender, and she

thinks that having an amendment to move this down to a violation would still accomplish many things. For instance, a VPSO would be able to stop the activity, remove the materials or inhalants from the child, take that child to his or her parents' home, and issue a citation so that the parents and the child would have to go to court and meet the judge.

REPRESENTATIVE COGHILL asked how Ms. Brink would apply Title 47, as a defender, and how she thinks a judge would view these Title 47 measures in this bill.

MS. BRINK replied that the Public Defender Agency doesn't have a lot of experience in the civil commitment or protective custody hearings involving alcohol because [public defenders] don't get appointed in those situations. She said that she is learning along with everyone else how different the use of inhalants is from the use of alcohol, and it seems as if there should be a specific track for [inhalant users] in order to take care of the individuals' problems brought on by inhalant abuse.

Number 0262

REPRESENTATIVE COGHILL remarked that he agrees with Mr. Buttcane that it is necessary to look at a different category, because the only similarity [between inhalant users and alcoholics] is intoxication.

CHAIR DYSON asked Ms. Brink if she senses that there may be some civil rights issues when dealing with protective custody and involuntary commitment.

MS. BRINK replied that there are always those issues when restraining someone against his or her will. She said she thinks that was one of the appealing parts of tying this in to the civil commitment statute because those statutes have built-in due-process protections.

Number 0146

CHAIR DYSON called an at-ease at 4:37 p.m. The meeting was called back to order at 4:42 p.m.

Number 0075

ERIC TOMASINO, Governor's Advisory Board on Alcoholism & Drug Abuse, came forth to testify on HB 114. He stated that over the last several years [inhalant abuse] has been an issue the

[ABADA] has always talked about. He shared that during [the ABADA's] public testimony, people come and testify about inhalant abuse going on in their villages and local communities. He said that today a mother testified that last Saturday she took her son to a skateboarding park in Juneau.

TAPE 01-23, SIDE A

MR. TOMASINO continued, stating that as [this woman and her son] drove into the parking lot, they saw [a boy] "huffing' in the parking lot. He said that the mother called the police; however, the police responded by saying there was nothing they could do.

Number 0051

REPRESENTATIVE JOULE commented that he understands the frustration that law enforcement feels, but there used to be a time when law enforcement entailed a lot of public service. He said it seems to him that they have missed the opportunity to provide a public service.

CHAIR DYSON asked Mr. Tomasino if he had seen people recruiting younger kids with inhalants in order to exploit them.

MR. TOMASINO replied yes, that when he was a drug user as a young teenager and experimenting with inhalants, he would recruit his friends to "huff" gas with him.

CHAIR DYSON clarified that he was asking if people were recruiting kids in order to exploit them, not to get more kids to [inhale], in order to have sex with them or have them commit crimes.

MR. TOMASINO answered that he had never thought of it in that respect and was not aware of it.

Number 0206

CHAIR DYSON remarked that the committee was going to suspend the hearing on HB 114. [HB 114 was held over.]

CHAIR DYSON stated that during the last meeting he distributed a copy of a bill that eliminated ways that seniors are disqualified from the longevity bonus. It would allow [seniors] to be out of the state for 60 days instead of 30 days. He asked

the committee for permission to make it a committee bill. [No objection was stated.]

ADJOURNMENT

Number 0319

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at 4:47 p.m.