

**ALASKA STATE LEGISLATURE  
HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES  
STANDING COMMITTEE**

March 22, 2001

3:05 p.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 115

"An Act allowing a physician assistant or advanced nurse practitioner to certify the need for emergency treatment as a result of intoxication."

- MOVED CSHB 115(HES) OUT OF COMMITTEE

HOUSE BILL NO. 124

"An Act prohibiting nursing facilities and assisted living homes from employing or allowing access by persons with certain criminal backgrounds, with exceptions."

- HEARD AND HELD

HOUSE BILL NO. 142

"An Act relating to the Alaska temporary assistance program; and providing for an effective date."

- HEARD AND HELD

CS FOR SENATE BILL NO. 19(HES)

"An Act relating to federal child support enforcement requirements regarding social security number information, employer reports about employees, and certain kinds of automated data matching with financial institutions; repealing the

termination date of changes made by ch. 87, SLA 1997, and ch. 132, SLA 1998, regarding child support enforcement and related programs; repealing the nonseverability provision of ch. 132, SLA 1998; repealing uncodified laws relating to ch. 87, SLA 1997, and ch. 132, SLA 1998; and providing for an effective date."

- MOVED HCS CSSB 19(HES) OUT OF COMMITTEE

HOUSE BILL NO. 98

"An Act relating to the award of a high school diploma to certain World War II veterans."

- SCHEDULED BUT NOT HEARD

#### PREVIOUS ACTION

BILL: HB 115

SHORT TITLE:EMERGENCY COMMITMENT ORDERS

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
02/07/01	0263	(H)	REFERRED TO HES
03/07/01	0501	(H)	COSPONSOR(S): DYSON
03/20/01		(H)	HES AT 3:00 PM CAPITOL 106
03/20/01		(H)	Heard & Held MINUTE(HES)
03/22/01		(H)	HES AT 3:00 PM CAPITOL 106

BILL: HB 124

SHORT TITLE:NURS.HOME/ASSISTED LIV.

SPONSOR(S): REPRESENTATIVE(S)HALCRO

Jrn-Date	Jrn-Page		Action
02/09/01	0282	(H)	READ THE FIRST TIME - REFERRALS
02/09/01	0282	(H)	HES, JUD
02/09/01	0282	(H)	REFERRED TO HES
03/07/01	0501	(H)	COSPONSOR(S): DYSON
03/15/01		(H)	HES AT 3:00 PM CAPITOL 106
03/15/01		(H)	Heard & Held MINUTE(HES)
03/19/01	0656	(H)	COSPONSOR(S): STEVENS
03/20/01		(H)	HES AT 3:00 PM CAPITOL 106

03/20/01 (H) <Bill Canceled>  
 03/22/01 (H) HES AT 3:00 PM CAPITOL 106

BILL: HB 142

SHORT TITLE:AK TEMP. ASSISTANCE PROGRAM

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
02/23/01	0414	(H)	READ THE FIRST TIME - REFERRALS
02/23/01	0414	(H)	HES, FIN
02/23/01	0414	(H)	FN1: ZERO(HSS)
02/23/01	0414	(H)	GOVERNOR'S TRANSMITTAL LETTER
02/23/01	0414	(H)	REFERRED TO HES
03/22/01		(H)	HES AT 3:00 PM CAPITOL 106

BILL: SB 19

SHORT TITLE:CHILD SUPPORT ENFORCEMENT/SOC SEC. #

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
01/09/01	0028	(S)	READ THE FIRST TIME - REFERRALS
01/09/01	0028	(S)	RES, HES, FIN
01/09/01	0028	(S)	FN1: ZERO(REV)
01/09/01	0028	(S)	GOVERNOR'S TRANSMITTAL LETTER
01/24/01		(S)	RES AT 3:30 PM BUTROVICH 205
01/24/01		(S)	Moved CSSB 19(RES) Out of Committee
01/24/01		(S)	MINUTE(RES)
01/25/01	0168	(S)	RES RPT CS 5DP 1NR NEW TITLE
01/25/01	0169	(S)	DP: TORGERSON, PEARCE, LINCOLN, TAYLOR, KELLY; NR: ELTON
01/25/01	0169	(S)	FN1: ZERO(REV)
01/29/01		(S)	HES AT 1:30 PM BUTROVICH 205
01/29/01		(S)	Heard & Held
01/29/01		(S)	MINUTE(HES)
02/05/01		(S)	HES AT 1:30 PM BUTROVICH 205
02/05/01		(S)	Moved CS(HES) Out of Committee
02/05/01		(S)	MINUTE(HES)
02/06/01	0287	(S)	HES RPT CS 3DP 2NR NEW TITLE
02/06/01	0288	(S)	DP: GREEN, LEMAN, DAVIS;
02/06/01	0288	(S)	NR: WARD, WILKEN
02/06/01	0288	(S)	FN1: ZERO(REV)
02/14/01		(S)	FIN AT 9:00 AM SENATE FINANCE

			532
02/14/01		(S)	Heard & Held
02/14/01		(S)	MINUTE(FIN)
02/15/01		(S)	FIN AT 9:00 AM SENATE FINANCE 532
02/15/01		(S)	Moved Out of Committee
02/15/01	0385	(S)	FIN RPT CS(HES) 8DP
02/15/01	0385	(S)	DP: KELLY, DONLEY, AUSTERMAN, HOFFMAN,
02/15/01	0385	(S)	OLSON, WILKEN, WARD, LEMAN
02/15/01	0385	(S)	FN2: ZERO(REV)
02/15/01		(S)	MINUTE(FIN)
02/20/01		(S)	RLS AT 10:45 AM FAHRENKAMP 203
02/20/01		(S)	-- Meeting Canceled --
02/22/01		(S)	RLS AT 10:45 AM FAHRENKAMP 203
02/22/01	0470	(S)	RULES TO CALENDAR 2/22/01
02/22/01	0478	(S)	READ THE SECOND TIME
02/22/01	0478	(S)	HES CS ADOPTED UNAN CONSENT
02/22/01	0479	(S)	ADVANCED TO THIRD READING UNAN CONSENT
02/22/01	0479	(S)	READ THE THIRD TIME CSSB 19(HES)
02/22/01	0479	(S)	PASSED Y14 N4 E2
02/22/01	0479	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
02/22/01	0479	(S)	TAYLOR NOTICE OF RECONSIDERATION
02/22/01		(S)	MINUTE(RLS)
02/26/01	0508	(S)	RECONSIDERATION NOT TAKEN UP
02/26/01	0508	(S)	TRANSMITTED TO (H)
02/28/01	0451	(H)	READ THE FIRST TIME - REFERRALS
02/28/01	0451	(H)	HES, JUD, FIN
02/28/01	0451	(H)	REFERRED TO HES
03/22/01		(H)	HES AT 3:00 PM CAPITOL 106

**WITNESS REGISTER**

REPRESENTATIVE MARY KAPSNER  
Alaska State Legislature  
Capitol Building, Room 424  
Juneau, Alaska 99801

POSITION STATEMENT: Testified as sponsor of HB 115.

ANNE HENRY, Special Projects Coordinator

Division of Mental Health & Developmental Disabilities  
Department of Health & Social Services  
PO Box 110620  
Juneau, Alaska 99811

POSITION STATEMENT: During hearing on HB 115, defined a licensed clinical social worker.

DIANA WEBBER, Director  
Yukon Koyukuk Mental Health & Alcohol Program  
PO Box 17  
Galena, Alaska 99741

POSITION STATEMENT: Indicated support of HB 115.

MIKE FORD, Attorney  
Legislative Counsel  
Legal and Research Services Division  
Legislative Affairs Agency  
State Capitol  
Juneau, Alaska 99801

POSITION STATEMENT: Answered questions regarding Amendment F.2 to HB 115.

KEVIN HAND, Staff  
to Representative Andrew Halcro  
Alaska State Legislature  
Capitol Building, Room 414  
Juneau, Alaska 99801

POSITION STATEMENT: Testified on behalf of the sponsor of HB 124.

MELVIN RICHARDSON, Community Care Licensing Specialist  
Mental Health & Developmental Disabilities  
Department of Health & Social Services  
701 East Tudor Road  
Anchorage, Alaska 99503

POSITION STATEMENT: Testified on HB 124.

MONTA FAYE LANE, President  
Alaska Caregivers Associations  
109 East 5th Avenue  
North Pole, Alaska 99705

POSITION STATEMENT: Testified on HB 124.

LARAINÉ DERR, President  
Alaska State Hospital and Nursing Home Association  
426 Main Street  
Juneau, Alaska 99801

POSITION STATEMENT: Testified on HB 124.

JIM NORDLUND, Director  
Division of Public Assistance  
Department of Health & Social Services  
PO BOX 110640  
Juneau, Alaska 99811

POSITION STATEMENT: Testified on HB 142.

KRISTEN BOMENGEN, Assistant Attorney General  
Human Services Section  
Civil Division (Juneau)  
Department of Law  
PO Box 110300  
Juneau, Alaska 99811

POSITION STATEMENT: Testified on HB 142.

JERRY JACKSON  
(No address provided)  
POSITION STATEMENT: Testified on HB 142.

NICOLE NELSON, Staff Attorney  
Alaska Legal Services Corporation  
1016 West 6th Street  
Anchorage, Alaska 99501  
POSITION STATEMENT: Testified on HB 142.

BARBARA MIKLOS, Director  
Central Office  
Child Support Enforcement Division  
Department of Revenue  
550 West 7th Avenue  
Anchorage, Alaska 99501  
POSITION STATEMENT: Testified on SB 19.

DENNY WEATHERS  
(No address provided)  
Cordova, Alaska 99574  
POSITION STATEMENT: Testified in opposition to SB 19.

ERIC WEATHERS  
(No address provided)  
Cordova, Alaska 99574  
POSITION STATEMENT: Testified in opposition to SB 19.

**ACTION NARRATIVE**

TAPE 01-33, SIDE A

Number 0001

CHAIR FRED DYSON called the House Health, Education and Social Services Standing Committee meeting to order at 3:05 p.m. Representatives Dyson, Wilson, Coghill, Stevens, and Cissna were present at the call to order. Representatives Kohring and Joule arrived as the meeting was in progress.

HB 115-EMERGENCY COMMITMENT ORDERS

CHAIR DYSON announced that the first order of business would be HOUSE BILL NO. 115, "An Act allowing a physician assistant or advanced nurse practitioner to certify the need for emergency treatment as a result of intoxication."

Number 0128

REPRESENTATIVE WILSON moved to adopt CSHB 115, version 22-LS0059\F, Ford, 2/15/01, as the working document before the committee. There being no objection, Version F was before the committee.

REPRESENTATIVE MARY KAPSNER, Alaska State Legislature, testified as sponsor of HB 115. She informed the committee that she had three amendments to offer the committee. Amendment 1, 22-LS0059\F.3, Ford, 3/22/01, read as follows:

Page 2, line 3:

Delete "master"

Insert "clinical"

REPRESENTATIVE COGHILL asked Representative Kapsner to provide a comparison of what a master social worker is versus a clinical social worker.

REPRESENTATIVE KAPSNER answered that the two are the same. This [amendment] merely cleans up the language.

REPRESENTATIVE CISSNA related her understanding that there is different training, licensure, and coursework.

ANNE HENRY, Special Projects Coordinator, Division of Mental Health & Developmental Disabilities, Department of Health & Social Services, explained that a licensed clinical social worker means that the individual has a master's degree plus two years of experience in order to receive the clinical license.

Number 0284

REPRESENTATIVE COGHILL moved that the committee adopt Amendment 1. There being no objection, Amendment 1 was adopted.

CHAIR DYSON referred to his amendment labeled 22-LS0059\F.2, Ford, 3/22/01. He explained that this amendment would allow a person to be considered for an involuntary commitment if the person is a danger to his or her own unborn child, specifically in cases of fetal alcohol syndrome (FAS). He noted the need to change the "on an" language throughout the amendment to "their own". The amendment with the aforementioned change read as follows:

Page 1, line 5, following "**intoxication;**":  
Insert "**relating to commitment based on  
intoxication or alcohol or drug abuse;**"

Page 2, following line 5:  
Insert a new bill section to read:  
"**Sec. 2.** AS 47.37.180(a) is amended to read:  
(a) An intoxicated person who (1) has threatened, attempted to inflict, or inflicted physical harm on another or their own unborn child, or is likely to inflict physical harm on another or their own unborn child, unless committed, or (2) is incapacitated by alcohol or drugs, may be committed to an approved public treatment facility for emergency treatment. A refusal to undergo treatment does not constitute evidence of lack of judgment as to the need for treatment."

Renumber the following bill sections accordingly.

Page 2, line 27, following "another":  
Insert "or their own unborn child"

Page 2, line 28, following "another":  
Insert "or their own unborn child"

The committee took a brief at-ease from 3:12 p.m. to 3:14 p.m.

Number 0540

DIANA WEBBER, Director, Yukon Koyukuk Mental Health Galena, said that HB 115 is an excellent bill. She then turned to the issue of delivering mental health services in rural Alaska. She

informed the committee that some of the highest levels of alcohol abuse and fetal alcohol syndrome exist in her area. She emphasized that community mental health centers in rural Alaska face great difficulty in obtaining licensed master's [level] clinical providers. Therefore, Ms. Webber suggested broadening the list of providers to include the same level of master's providers that Medicaid approves to bill for clinical work, which would include some unlicensed master's-level providers, such as master's in counseling psychology. She explained that it is very difficult for master's-level providers in rural Alaska to get licensed because they don't have the same face-to-face access to psychologists, psychiatrists, and social workers who could supervise them.

CHAIR DYSON suggested to Ms. Webber that she discuss that with Representative Kapsner after the meeting and perhaps an amendment could be made in the Senate. Chair Dyson said he felt it was too late in the process to do this now. Chair Dyson requested that Ms. Webber speak to why this legislation is valuable and how difficult it is to do involuntary commitments.

MS. WEBBER explained that currently, in her area, involuntary commitments can only be authorized by a psychologist or a psychiatrist, which her area does not have. Therefore, such folks have to be convinced to go to Fairbanks in order to be committed. Ms. Webber clarified that the current law does not serve areas that are underserved by medical professionals. Ms. Webber emphasized, "I wholeheartedly endorse adding master's-level clinicians, in some form or other, to be able to make those clinical decisions regarding commitment. It would be very helpful to us."

Number 0772

CHAIR DYSON requested that Mr. Ford, the drafter of the legislation, inform the committee of his reasoning for inserting **"relating to commitment based on intoxication or alcohol or drug abuse;"** on page 1, line 5.

MIKE FORD, Attorney, Legislative Counsel, Legal and Research Services Division, Legislative Affairs Agency, explained that the problem was that the title wasn't broad enough. He said, "We included a reference to allow including the language on lines 6 through 12 [of the amendment labeled F.2]."

CHAIR DYSON said the decision to broaden the title to include Section 2 [of the amendment labeled F.2] is Representative Kapsner's decision.

REPRESENTATIVE KAPSNER said that although this is a worthy idea, she felt her bill was becoming a "Christmas tree." Initially, the bill was introduced to allow mid-level practitioners to sign the commitment papers for involuntary commitment. Then [the title] was broaden to include mental health professionals, and now it is being linked with FAS. Therefore, Representative Kapsner expressed the need to maintain the original intent of the legislation. Perhaps [what is proposed in amendment F.2] can be done at a later time, in another bill. Representative Kapsner also expressed concern with the possibility of HB 115 dying with the inclusion of Chair Dyson's amendment [F.2].

CHAIR DYSON clarified that the committee has before it CSHB 115, Version F, as amended by Amendment 1.

REPRESENTATIVE KAPSNER informed the committee that she had one other minor amendment. At the prior hearing on HB 115, the committee had added the language "medical examiners" on page 3, line 4. She related her understanding that a medical examiner is a person who examines people after they have died. Therefore, she suggested changing "medical examiners" to "medical providers" on page 3, line 4.

REPRESENTATIVE WILSON moved that the committee adopt the following amendment:

Page 3, line 4:  
Delete "examiners"  
Insert "providers"

[No objection was stated.]

Number 1042

REPRESENTATIVE COGHILL moved to report CSHB 115, version 22-LS0059\F, Ford, 2/15/01, as amended out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHB 115(HES) was reported from the House Health, Education and Social Services Standing Committee.

HB 124-NURS.HOME/ASSISTED LIV. EMPLOYEES/VISITOR

CHAIR DYSON announced that the committee would hear HOUSE BILL NO. 124, "An Act prohibiting nursing facilities and assisted living homes from employing or allowing access by persons with certain criminal backgrounds, with exceptions."

Number 1092

KEVIN HAND, Staff to Representative Andrew Halcro, Alaska State Legislature, came forth on behalf of the sponsor. He described the changes made in the proposed committee substitute (CS) for HB 124 [Version 0, 22-LS0087\0, Lauterbach, 3/21/01]. He stated that there is additional language for criminal background checks for nursing homes in Sections 1, 2, and 3 that mirrors the language already present in Sections 4 and 5 for assisted living facilities. The second major point of contention was that there were some class A misdemeanors that had no relevance to a person's ability to serve as an aide in nursing homes. He explained that [Version 0] has removed the inclusion of all class A misdemeanors, in Section 1, paragraph (5), page 3, line 7, and in Section 4, [paragraph (5)] page 5, line 28. Two specific class A misdemeanors were included - the improper use of a corpse and failure to register as a sex offender.

MR. HAND explained that the third change involves the emergency involuntary termination of a contract. He indicated that the new language is on page 9, line 20, and lengthens the minimum time before revocation of a contract to 72 hours. Specific language that the long-term ombudsman must receive notice of the termination contract has also been included. He added that if [a resident] requests a conference within 72 hours of receiving notice of the termination, he or she must be granted one. The language has been changed, on page 11, line 9, to strengthen this by stating, "appropriate care providers who shall discuss the justification for, and the appropriateness of, the proposed contract termination."

Number 1537

MR. HAND noted that there is still one point of contention in the bill that is being worked on, which refers to any offense when the victim was a resident of a nursing home or receiving long-term care. He stated that this is hard to implement because of the difficulty in finding information regarding past cases, and because of the burden of investigating those cases.

CHAIR DYSON asked if Mr. Hand is asking the committee to pass this bill out without that being fixed.

MR. HAND responded that in the mind of the sponsor, that is an integral part of the bill. For example, there is a nursing home employee who was recently charged with heavy theft of a resident of a nursing home. He explained that there is nothing banning that person from working in a nursing facility.

CHAIR DYSON remarked that it is current practice for people to have their state crime records checked, which is available immediately, and then go to work. He asked whether [an applicant] who "just got off the boat" and has an extensive criminal record, but not in Alaska, could be hired by a nursing home.

MR. HAND answered that it was the consensus of everyone [who is involved in this legislation] that that was an acceptable circumstance because of the current labor pool problems in the state.

Number 1706

CHAIR DYSON suggested that language be added whereby somebody new to the state could not be put to work or could not work alone, pending the background check.

MR. HAND replied that it was irrelevant whether the person was new to the state or not. The time it would take to get the background check done would be the same.

Number 1779

REPRESENTATIVE JOULE asked if it would legally be possible to refuse someone work who had just come to the state.

CHAIR DYSON responded that it is his sense that a person can be refused hire pending a background check, or there can be special qualifications whereby the person must be supervised.

REPRESENTATIVE WILSON asked how long the background check takes.

MR. HAND answered that it generally takes about 90 days.

REPRESENTATIVE WILSON remarked that when someone starts a new job, he or she is usually placed with someone else until he or she is familiar with the job.

Number 1918

MELVIN RICHARDSON, Community Care Licensing Specialist, Mental Health & Developmental Disabilities, Department of Health & Social Services, testified via teleconference. He stated that he found some inconsistencies in the latest draft on page 10, lines 10-17 and lines 28-31, and page 11, lines 1-10. He clarified that he doesn't have a problem with what is being attempted; however, long-term care ombudsmen are not responsible for all the residents of the home. He suggested that the bill be modified to say, "the long-term care ombudsman will be notified if the resident is 60 years of age or older." He added that in [subsection] (c) specific people are identified who should be given written notice, who are different from those who attend the conference in [subsection] (d). He said he thinks there should be mirror language [in those two sections].

CHAIR DYSON asked Mr. Richardson if he thinks the language on page 10, lines 10-17, should be the same as the language on page 10, line 28 through page 11, line 10.

MR. RICHARDSON responded yes, that the people at the conference who are notified should be the ones who are identified and receiving the written notice. He continued, stating that he believes the issue on page 5, lines 8-18, which addresses an individual who has committed a crime against a member of a nursing home or assisted-living home, can be addressed successfully in regulation if the language is adopted as-is by putting the burden of proof on the applicant.

Number 2197

CHAIR DYSON asked Mr. Richardson whether or not a person who has just arrived in the state for whom there is no in-state records should be put to work pending the [background check].

MR. RICHARDSON responded that he understands the concern; however, there could be a resident who has been in Alaska for ten years or less who has a clean Alaska record but has committed many crimes prior to coming to Alaska.

CHAIR DYSON asked how practical it is to have a person work under supervision pending the [background check].

MR. RICHARDSON answered that with large agencies it would probably be possible. However, in the smaller communities, where the labor pool is a great deal less, [the nursing

facilities] probably would not be able to recruit a sufficient amount of employees to perform the mission.

Number 2188

MONTA FAYE LANE, President, Alaska Caregivers Associations, testified via teleconference. Referring to Sections 6 through 9, regarding termination of a residential contract, she stated that it is necessary for homes to be safe in order to operate, not only for the staff but for the other residents. She stated:

If this is taken away from the homes, they become liable for the safety of others and cannot make pertinent business decisions for themselves. No home is going to arbitrarily remove a resident from their home without seeking all remedies available. And those who think otherwise are people who do not know the home business and do not have the responsibility, both physically and fiscally, for other people. This amendment must not be changed.

MS. LANE stated that she sees a burden with some of the barrier crimes because they are not clearly defined. She said she thinks [all the crimes] should be looked at individually. She remarked that if she were interviewing someone who "just got off of the plane" and there was not a name check or a [background check], she would [hire] the person on a temporary work basis under supervision. She stated that Section 14 [in the older version of the bill] is unacceptable since the majority of homes in Alaska are small and private, and it would be unthinkable that the state would come into a private home and take over while an owner and administrator lives there. The state needs to strengthen the statute and regulation, she said, rather than impose receiverships on private homes. She remarked that this bill addresses the possibility of administrators, staff, and volunteers who bring harm to vulnerable adults; however, this does not address the vulnerable adults who move into the home and bring danger and harm to others.

TAPE 01-33, SIDE B

MS. LANE continued, stating:

Many of us have experienced residents who have had unknown histories of violence and have committed assault to a staff member and/or resident. This is totally unacceptable, and our association would like

to see language included in this bill that would also protect those serving and living in the home.

Number 2328

MS. LANE, in conclusion, stated:

Please be gentle with the requirements for employment in assisted living [homes]. Excluding the Pioneers' Home, we have limited resources and a limited work pool (indisc.). Also consider that when we say "we," this is inclusive to the Bush. You must not lose sight of the fact that the work pool is even more limited outside of Anchorage, Fairbanks, and Juneau. These homes must also operate on their community resources, which are far more limited than ours. The felonies and misdemeanors must be very directly related to our industry and must give people opportunities to be gainfully employed, even when they have made a mistake. We're supposed to be Christian, forgiving people, and there are people who make mistakes. And if they have had treatment and they are trying to do the right thing, we should give them a chance.

Number 2220

LARAINÉ DERR, President, Alaska State Hospital and Nursing Home Association, came forth and stated that there are some concerns on the part of their members. She said one [of the members of the long-term care committee] is concerned about the inclusion of contractors and volunteers in the language. She added that in the smaller places there is a lack of supervisory staff. If volunteers are going to have to be fingerprinted, the pool of volunteers will start to disappear.

CHAIR DYSON asked where the balance is between what can be done in statute to protect [vulnerable adults] and making the law too cumbersome to employ people.

MS. DERR responded that the balance is excluding contractors and volunteers and to not make it so cumbersome in the rural areas that [the homes] can't operate. Plus, she said, this continues to add cost.

REPRESENTATIVE CISSNA stated that she has read stories on abuses and sometimes it has been volunteers. She said there might be a way to fix that.

Number 2026

MR. HAND pointed out that [the bill] specifically prohibits a contractor, employee, or regular volunteer. In Section 2 it provides specific exemptions such as the following:

- (3) an individual who occasionally volunteers in a nursing facility and who is supervised by and performs these volunteer services in close physical proximity to the staff of the nursing facility;
- (4) a contractor who does not
  - (A) provide services directly to one or more residents; and
  - (B) have unsupervised access to a part of the facility where services are directly provided to residents.

REPRESENTATIVE COGHILL remarked that it has been his experience that the paid staff usually has direct say over who does and does not volunteer. He said many times in [his] church, people working with children, as volunteers, have to get background checks because they work in unsupervised places. If someone was volunteering occasionally, he said, [background checks] were not done. He asked Ms. Derr if she finds her volunteers are under this kind of scrutiny.

MS. DERR responded that [the volunteers] are under this kind of scrutiny at a nursing home where there are 90 beds; however, in a nursing home where there are ten people, with one or two people on staff, [duties] are turned over to volunteers. She noted that [the issue] comes down to what "occasional" means.

CHAIR DYSON remarked that although there is a smaller labor pool in the smaller communities, everyone knows everybody. He said it seems to him that local references could be very valuable there; however, someone who "just gets off the boat" won't have [local references]. He suggested that there be no unsupervised contact with the residents until the long-term background checks are done. [HB 124 was held over.]

HB 142-AK TEMP. ASSISTANCE PROGRAM AMENDMENTS

CHAIR DYSON announced that the committee would hear HOUSE BILL NO. 142, "An Act relating to the Alaska temporary assistance program; and providing for an effective date."

Number 1760

JIM NORDLUND, Director, Division of Public Assistance, Department of Health & Social Services (DHSS), came forth and stated that HB 142 makes amendments to the Alaska temporary assistance program (ATAP), which was created under the welfare reform law in 1996. He said the bill addresses four separate issues related to the law. One of the provisions in the bill is in response to a lawsuit that the state lost. The main provision of the bill deals with the 60-month limit. He explained that [ATAP] provides cash benefits to low-income parents on behalf of their children. Under one of the provisions of the welfare reform law those cash benefits are limited for families to only 60 months, which is the lifetime limit. Both the Congress and the legislature recognized that not everybody who is on temporary assistance is going to be able to get off.

MR. NORDLUND stated that Congress said 20 percent of the caseload could be exempt from the five-year limit. It is up to the states to decide who is eligible for the exemptions. When [Alaska] passed ATAP in 1996, the 20 percent requirement was replicated in the state law. He remarked that the real problem is a math problem. The 20 percent applies to the caseload at the time it is looked at. Neither Congress nor the legislature anticipated how much the caseload was going to come down over the course of the last five years. Alaska's caseload in 1994 was about 12,000, and it is anticipated to be around 5,000 for fiscal year 2003. He explained that 20 percent of the 12,000 is approximately 2,400, which is a good amount of people who should get extended. Now the 20 percent has to be applied to the 5,000 figure, which is a 53 percent reduction in the number of people who can be eligible for an exemption.

Number 1886

MR. NORDLUND stated that the original bill the governor introduced asked the legislature to get rid of the 20 percent arbitrary cap. [The Division of Public Assistance] thought the best approach for the [Department of Health & Social Services] would be, in regulation, to be able to define very strict, objective criteria as to who could get an extension beyond the 60 months. If [a family] meets the hardship criteria to prevent

them from being able to go to work, then that family would get an extension.

MR. NORDLUND explained that the bill was open-ended; therefore, in the proposed committee substitute (CS) [Version C, 22-GH1023\C, Lauterbach, 3/20/01] there is a different approach that keeps the 20 percent, but it will be applied to the caseload as it was in 1994, versus the caseload that it is today. He stated that the 1994 figure is the figure that the federal government uses to determine the block grant that [Alaska] receives to run this program.

Number 1456

CHAIR DYSON summarized what Mr. Nordlund had explained of the bill. He asked if [DHSS] is committed to putting into regulation information about who can receive a waiver.

MR. NORDLUND stated that there is a provision in the bill that allows the department to draft those regulations. He explained that what would be put into regulation would address the families that have barriers such as physical health problems, disabled children or relatives in the home, victims of domestic violence, people who have mental health or substance abuse issues, people with learning disabilities or literacy issues, and those with multiple challenges.

MR. NORDLUND continued, stating that under federal law, which is addressed in Section 1, [Version C], people who live in Alaskan Native villages with an unemployment rate of over 50 percent are exempt from the five-year limit. He explained that this was an amendment to the federal law, which Alaska law doesn't reflect; therefore, this would allow Alaska law to come into conformance with federal law. He stated that Section 4 [Version C] is a small change to a section of the law that deals with the requirements of a family's self-sufficiency plan. Every family who receives temporary assistance has to have a family self-sufficiency plan developed for them that charts their course for eventually getting off of welfare. In the original law, people with disabilities were exempt from this, but the [Division of Public Assistance] thinks it is still a good idea to have a plan that would address some of the issues associated with that disability. [The Division of Public Assistance] would work with other agencies that are working with that family to combine that plan.

REPRESENTATIVE WILSON asked what Section 4 would eliminate.

MR. NORDLUND explained that currently in the law there is an exemption for people who are on the caseload but have a disability from having to have a family self-sufficiency plan. [The Division of Public Assistance] no longer wants them to be exempt.

Number 1125

KRISTEN BOMENGEN, Assistant Attorney General, Human Services Section, Civil Division (Juneau), Department of Law, came forth to address Section 3 of the bill. She explained that this refers to a decision that was made by the superior court that invalidated a regulation of the department for administering this section of statute. She said the original intent of AS 47.27.015(f) was that when there was higher employment availability in the state for two-parent families, they should be treated differently by reducing their benefits at a time when they might be expected to find employment. The wording that was selected when this was made was the wording that was taken to qualify two-parent families under the AFDC (Aid to Families with Dependent Children) language, which was "eligibility based on the unemployment of the family's principal wage earner." She stated that with the change in welfare reform, that language disappeared from the federal statute.

MS. BOMENGEN stated that taking the discussions during the welfare reform, the department generated a regulation that provided for the exemption of families in which there was a second needy parent who was mentally or physically unable to perform gainful activity. The Jackson family appealed that determination, and the department's hearing officer said that because of the intent of the bill it wasn't necessary for the department to make an evaluation of the unemployment status of a wage earner. That was then appealed to the superior court, which interpreted the language that appeared in the statute and said the regulation that was in place was not adequate and that there needed to be an analysis truer to the language of the law. She stated that the proposal in Section 3 is an effort to rectify the miscasting of language that occurred in the original bill. This would refer to the qualifications for two-parent families and make a consideration for families in which the second needy parent is unable to work.

Number 0914

REPRESENTATIVE WILSON asked if, according to Section 3, both parents are unemployed and one is disable in some way.

MS. BOMENGEN responded that in the proposed language there will be no reference to unemployment status of either parent. She said there may be a parent who is employed and earning income but still is eligible to receive assistance.

REPRESENTATIVE WILSON asked whether a person who is physically or mentally unable to perform gainful activity receives some sort of check for assistance.

MR. NORDLUND answered that if a person was receiving SSI (Supplemental Security Income), then he or she would not be receiving temporary assistance and would not be covered by this program. He added that if there is a two-parent family and one of the parents is disabled, their benefits are not cut.

JERRY JACKSON testified via teleconference. He stated:

In 1997 we went down south knowing that we would have problems with our child at birth. ... She was born with a (indisc.), without a vagina, clubfoot, spina bifida, (indisc.) at the base of her spine, and associated medical conditions. My wife dealt with these issues for two years and 23 surgeries. We got popped with the cease order reduction in '98. We were left with no choices. We either had to sell our only means of making a living in rural Alaska, which was our fishing permit to pay rent. When it came back in '99 - I had two months before graduating college - we protested this. If I had been able to take a job, I would have. If I had [taken a job], we would have lost medical [coverage] and our Alaska residency.

We were between a rock and a hard place. ... These matters are gone for us now, but this piece of legislation will not address those people with special kids that have needs. ... It will put hardship and burden on these parents. This issue was addressed by the court system, and this is only a means of trying to circumvent fixing the situation. ... What I'm hearing is mostly in-state issues. We had to fight for our residency for three years. It's been an uphill battle. My wife was at the hospital more; she was at home. I attended school full-time - graduated with a 3.5 GPA (grade point average). I had no

choice. I wish I could have gone to work, I wish I could have made it easier. But to do so would have devastated my family, and we would have lost our residency.

CHAIR DYSON asked Mr. Jackson if this bill makes it any worse for people in his situation.

MR. JACKSON responded that he would think so, if it is the same as in the past, with individual cases not being addressed.

Number 0485

NICOLE NELSON, Staff Attorney, Alaska Legal Services Corporation, testified via teleconference. She stated that [Alaska Legal Services Corporation] sees two fundamental problems with HB 142 that will have detrimental impacts on disabled Alaskans. The first problem, she said, concerns Section 1, which proposes to amend seasonal benefit reductions. Alaska Legal Services Corporation represented the Jackson family in the lawsuit, she noted. She explained:

The Jacksons are a two-parent family with three children, the youngest of which was born with several birth defects and is severely disabled. Both of the Jackson parents are trying desperately to support their family and still provide proper care for their disabled child. Ms. Jackson was unable to work because her child's disabling condition demanded around-the-clock medical care and attention. These parents realized their family would never become self-sufficient unless Mr. Jackson was able to obtain a higher-paying job. So they followed the family self-sufficiency plan designed for them by the state. This plan required Mr. Jackson to attend a full-time, two-year welding program so that he could get a higher-paying job and support his family. However, when Mr. Jackson was within two months of completing this program, his family received notice that their ATAP benefits would be cut in half for the next three months.

Since the family was barely making ends meet without the cut, this reduction meant not only that the family could not meet its most basic needs and face homelessness, but it also jeopardized Mr. Jackson's completion of the welding program and thus moved the

family further away from self-sufficiency. The Jacksons asked the state for an exemption from the seasonal benefit reduction, but were told that the state did not have the flexibility to grant such an exemption. Their tragic situation was the basis of the superior court's decision in Jackson v. the State of Alaska. In that case, the superior court held that the regulation which prevented the state from granting the Jacksons an exemption was inconsistent with the seasonal benefit reduction statute, and remanded that case back to the state.

With that regulation gone, the state was able to grant the Jacksons an exemption from the seasonal benefit reduction based on their compelling circumstances. Now that the proposed amendment was due, it changed the statute so that it mirrors the restrictive and faulty regulation. And this would take away the state's ability to exempt families with disabled children from the seasonal benefit reduction. Any legislation which would punish families like the Jacksons, who are doing the right thing by both working toward self-sufficiency and taking proper care of their disabled child, simply isn't just. We are asking that you oppose Section 1 of HB 142 [of the original bill] ... or that you carve out an exemption for parents that must provide home care for a disabled child.

The second problem with HB 142 is that it mandates that all disabled parents have a self-sufficiency plan in order to get benefits. Currently, disabled persons can and do participate in self-sufficiency planning; however, they are not required to do so in order to receive benefits. There's no evidence to suggest that there has been a problem with this system, and nothing indicates that disabled persons have been abusing it. Without such evidence, there simply is no justification for making it more difficult for people with disabilities to access public benefits. ... We are asking that AS 47.27.030(c)(2) cannot be repealed.

Number 0132

MR. NORDLUND explained that there had been a discussion relating to the legislation about benefit cuts, which was an across-the-board cut. Everybody's benefits were going to go down 15

percent from the benefit level established in the statute now. He stated that there were three benefit cuts. One took into consideration housing expenses; the second got rid of allowing the second parent in a two-parent family to receive money; and the third cut 50 percent of the benefits during the three months in the summer because there are more jobs in Alaska then. Also [there were cuts] for two-parent families because, presumably, there is one person who can take care of the children and another can work. He clarified if one of those parents is disabled, then the two-parent benefit cut does not apply.

TAPE 01-34, SIDE A  
Number 0054

MR. NORDLUND stated that from the standpoint of the administration, they didn't like doing benefit cuts, but it was part of the legislative process. The way that the law was drafted was a mistake. Language borrowed from the old AFDC law said [the Division of Public Assistance] had to determine whether the family was unemployed and who the principal wage earner was. That was never the intent; the intent of the legislature was to simply say, "If you are a two-parent family on the program, your benefits get cut in the summer." He said if there is any change, he suggests that [the legislature] go back and look at that policy.

CHAIR DYSON asked if [the Division of Public Assistance] is open to fixing the problem that the Jacksons found themselves in.

MR. NORDLUND responded that they would consider a situation like the Jackson case.

Number 0220

REPRESENTATIVE JOULE remarked that in rural Alaska there is no medical attention, not much childcare, and little employment. He stated that he is heartened to hear that people who find themselves in those situations will be benefited.

CHAIR DYSON asked if it is impractical for language to be drafted that includes, in the exemptions, a family that is taking care of a child who requires that kind of care.

MR. NORDLUND replied that this is a discussion that would have to involve the commissioner of [DHSS].

MS. BOMENGEN stated that this is simply proposed as a fix. The way the statute reads right now is not workable, because the department no longer makes the assessment of unemployment and principal wage earner. This has been framed as a method to restore a status quo.

CHAIR DYSON asked if adding a slight change to the law to take care of situations like the Jacksons found themselves in would be a policy shift.

MS. BOMENGEN answered yes, that it is a change in how the program has been operated.

CHAIR DYSON asked if the title [of the bill] would have to be expanded.

MS. BOMENGEN responded that it is a very broad title and she doubts that it would be [changed].

Number 0435

REPRESENTATIVE CISSNA stated that she doesn't understand why, if a self-sufficiency plan has already been approved, it would be necessary to go back on it. She asked, if there is a waiver to accept self-sufficiency plans that is fair, whether that is a possible fix.

MR. NORDLUND answered that [the Division of Public Assistance] probably made a mistake by not talking adequately with the disability community about that provision. He said the intent is to help [disabled families] move along toward a process of improving their lives.

CHAIR DYSON asked if he would be correct in stating that this bill helps get the department out of the 20 percent bind and brings Alaska law into conformity with the federal law. And he asked whether it doesn't do anything to help people who are in the Jacksons' situation, but also doesn't do anything to make it worse for them.

MR. NORDLUND stated that he was correct.

CHAIR DYSON announced that he was going to suspend the hearing on this bill. He asked whether there could be a change so that two-parent families - one parent of able body and one who has to take care of a profoundly handicapped child - also qualify and are considered as a one-parent family. [HB 142 was held over.]

SB 19-CHILD SUPPORT ENFORCEMENT/SOC SEC. #

CHAIR DYSON announced that the committee would hear CS FOR SENATE BILL NO. 19(HES), "An Act relating to federal child support enforcement requirements regarding social security number information, employer reports about employees, and certain kinds of automated data matching with financial institutions; repealing the termination date of changes made by ch. 87, SLA 1997, and ch. 132, SLA 1998, regarding child support enforcement and related programs; repealing the nonseverability provision of ch. 132, SLA 1998; repealing uncodified laws relating to ch. 87, SLA 1997, and ch. 132, SLA 1998; and providing for an effective date."

Number 0667

BARBARA MIKLOS, Director, Central Office, Child Support Enforcement Division, Department of Revenue, came forth in support of SB 19. She said that this is a very similar bill to HB 41, which was passed out of the House Health, Education and Social Services Standing Committee. There are two major differences. One is that SB 19 has a five-year sunset instead of a two-year sunset. The second difference is that it does not have the amendment allowing for a child support payment to be held over if there are too many payments in one month.

CHAIR DYSON asked if it would bother her if those two amendments were made.

MS. MIKLOS, referring to the two-year sunset, responded that in those two years there is going to be a new governor, and there is a chance that there won't be a child support director, or if there is a new child support director, that person may not understand these issues. She remarked that she would be happier if it were a three-year sunset.

REPRESENTATIVE COGHILL remarked that there will be a new governor, which is a good reason why this should be up for discussion.

Number 0829

REPRESENTATIVE COGHILL made a motion to adopt the proposed House committee substitute (HCS) for CSSB 19, Version P, 22-GS1002\P, Lauterbach, 3/7/01, as the working draft.

REPRESENTATIVE CISSNA objected. She said she believes the division has shown a great deal of effort and success in cleaning up a lot of problems that had been present early on. She said she has witnessed clients of hers get off of welfare and change their lives around because their partners in parenthood finally began to take personal responsibility. She said she thinks it is a good idea to review the divisions and departments to see if they are doing what they should be doing.

CHAIR DYSON asked Representative Cissna what she is objecting to with the [adoption of Version P].

REPRESENTATIVE CISSNA responded that her objection was to the effective date. She removed her objection.

Number 1224

CHAIR DYSON announced that there being no further objection, [Version P] was before the committee.

Number 1256

REPRESENTATIVE CISSNA made a motion to adopt conceptual Amendment 1, to change the effective date on page 6, line 16, to 2006.

REPRESENTATIVE COGHILL objected.

A roll call vote was taken. Representatives Cissna, Joule, Wilson, and Dyson voted for the amendment. Representatives Kohring, Coghill and Stevens voted against it. Therefore, Amendment 1 was adopted by a vote of 4-3.

Number 1353

DENNY WEATHERS testified via teleconference. She stated:

In 1998, Alaska State Legislature and Governor Knowles sold my rights, among other people's rights and freedom, to the federal government under duress. Those were the very words stated on HB 344, which passed in 1998. During the testimony this year, and the prior year it showed that the people of Alaska were opposed to HB 344. In fact, the only people for it [were] the government employers, two government employees, and the legislature. And they forced the

use of a federal social security number on Alaska documents.

Up until 1998 the social security number was not required. Now persons renewing licenses are being denied without the social security [number]. There were several bills in Juneau, as well as Washington, D.C. - HR 220, Identity Theft Protection Act, in Washington, D.C. - to halt the use of social security numbers on documents. House Bill 344 was set to sunset this summer, ending many of the problems for most of us refusing to use or divulge our social security [numbers]. On February 6, 2001, Governor Knowles passed that a requirement of social security numbers be continued so the state could collect the blackmail money. The Senate voted 14 to 4 to set out the federal government. The will of the people was ignored. Instead of America, Home of the Free, I now live in Communist Alaska, where we are required to (indisc.) paper to live or to believe. Oh, excuse me; I forgot - you need a federal number in Alaska to die now. It is stated in Section 4 of your bill there.

Maybe the people still have a chance, which I doubt now, listening to you. I thought the House of Representatives was willing to stand up to the federal government. But I see you are willing to take the blackmail money, too. ... I would ask that you vote no on ... SB 19. The social security number is a federal number and was not required to be used in Alaska until 1998. You could make that effective date on [SB] 19 and [HB] 41 immediate, because also if you say, "We're going to get rid of the child support for social security number, but not until we collected money and used you people." I and my husband paid and arranged for our own children, as all parents did and their parents. Our sons do not owe child support; in fact, I think the majority of Alaskans don't owe child support. So, I say please don't punish us for someone else's child support.

Number 1520

ERIC WEATHERS testified via teleconference. He stated that he is opposed to SB 19 because he believes it is only another way to require the use of social security numbers. He said:

I've been denied a driver's license for not providing a social security number. And I have been arrested for it and put in jail for eight hours - I just got out - all because the social scientists want money, supposedly for stopping dead-beat dads. I'm just wondering how long I'll be put in jail next time I'm stopped for driving, or hunting, or fishing. I think your time would be much better spent disarming the people. That way, you guys could all stay home and let the federal government and social services run the state.

Number 1580

CHAIR DYSON made a motion to rescind the committee's action in adopting Amendment 1.

REPRESENTATIVE CISSNA objected.

A roll call vote was taken [again for conceptual Amendment 1]. Representatives Cissna, Joule, and Wilson voted in favor of Amendment 1. Representatives Stevens, Kohring, Coghill, and Dyson voted against it. Therefore, Amendment 1 failed by a vote of 3-4.

Number 1710

REPRESENTATIVE JOULE made a motion to move HCS for CSSB 19, version 22-GS1002\P, Lauterbach, 3/7/01, from committee with individual recommendations and attached fiscal note. There being no objection, HCS CSSB 19(HES) moved from the House Health, Education and Social Services Standing Committee.

#### **ADJOURNMENT**

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at 5:15 p.m.