

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

April 17, 2001
3:02 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. 197

"An Act relating to directives for personal health care services and for medical treatment."

- HEARD AND HELD

CS FOR SENATE JOINT RESOLUTION NO. 21(HES)

Urging the United States Congress to extend the authorization date for supplemental block grants to the State of Alaska under the Federal Temporary Assistance to Needy Families Program.

- MOVED CSSJR 21(HES) OUT OF COMMITTEE

HOUSE BILL NO. 173

"An Act relating to establishing a screening, tracking, and intervention program related to the hearing ability of newborns and infants; providing an exemption to licensure as an audiologist for certain persons performing hearing screening tests; relating to insurance coverage for newborn and infant hearing screening; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 174

"An Act relating to mental health information and records; and providing for an effective date."

- MOVED HB 174 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."

- MOVED CSHB 124(HES) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 24

Urging the United States Congress to extend the authorization date for supplemental block grants to the State of Alaska under the Federal Temporary Assistance to Needy Families Program.

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 209

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

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 84

"An Act relating to civil liability for emergency aid."

- BILL HEARING POSTPONED TO 4/19/01

HOUSE BILL NO. 112

"An Act relating to information and services available to pregnant women and other persons; and ensuring informed consent before an abortion may be performed, except in cases of medical emergency."

- BILL HEARING POSTPONED TO 4/19/01

PREVIOUS ACTION

BILL: HB 197

SHORT TITLE:HEALTH CARE SERVICES DIRECTIVES

SPONSOR(S): REPRESENTATIVE(S)HUDSON

Jrn-Date	Jrn-Page		Action
03/19/01	0649	(H)	READ THE FIRST TIME -

			REFERRALS
03/19/01	0649	(H)	HES, JUD
03/28/01	0762	(H)	COSPONSOR(S): KERTTULA
04/10/01		(H)	HES AT 3:00 PM CAPITOL 106
04/10/01		(H)	<Bill Postponed to 4/17>
04/17/01		(H)	HES AT 3:00 PM CAPITOL 106

BILL: SJR 21

SHORT TITLE:EXTEND FEDERAL TANF GRANTS

SPONSOR(S): HEALTH, EDUCATION & SOCIAL SERVICES

Jrn-Date	Jrn-Page		Action
03/19/01	0717	(S)	READ THE FIRST TIME - REFERRALS
03/19/01	0717	(S)	HES
03/28/01		(S)	HES AT 1:30 PM BUTROVICH 205
03/28/01		(S)	Moved CS(HES) Out of Committee MINUTE(HES)
03/29/01	0857	(S)	HES RPT CS 4DP SAME TITLE
03/29/01	0857	(S)	DP: GREEN, LEMAN, WILKEN, DAVIS
03/29/01	0857	(S)	FN1: ZERO(HSS)
04/11/01	1068	(S)	RULES TO CALENDAR 4/11/01
04/11/01	1073	(S)	READ THE SECOND TIME
04/11/01	1073	(S)	HES CS ADOPTED UNAN CONSENT
04/11/01	1073	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/11/01	1073	(S)	READ THE THIRD TIME CSSJR 21(HES)
04/11/01	1073	(S)	PASSED Y18 N- E1 A1
04/11/01	1081	(S)	TRANSMITTED TO (H)
04/11/01	1081	(S)	VERSION: CSSJR 21(HES)
04/11/01		(S)	RLS AT 10:30 AM FAHRENKAMP 203
04/12/01	0977	(H)	READ THE FIRST TIME - REFERRALS
04/12/01	0977	(H)	HES, FIN
04/17/01		(H)	HES AT 3:00 PM CAPITOL 106

BILL: HB 173

SHORT TITLE:SCREENING NEWBORNS FOR HEARING ABILITY

SPONSOR(S): REPRESENTATIVE(S) JOULE

Jrn-Date	Jrn-Page		Action
03/12/01	0542	(H)	READ THE FIRST TIME - REFERRALS

03/12/01	0542	(H)	HES, FIN
03/13/01	0579	(H)	COSPONSOR(S): SCALZI
03/30/01	0794	(H)	COSPONSOR(S): KERTTULA
04/17/01	1021	(H)	COSPONSOR(S): MORGAN
04/17/01		(H)	HES AT 3:00 PM CAPITOL 106

BILL: HB 174

SHORT TITLE: MENTAL HEALTH INFORMATION AND RECORDS
 SPONSOR(S): RLS BY REQUEST OF LEG BUDGET & AUDIT

Jrn-Date	Jrn-Page		Action
03/12/01	0543	(H)	READ THE FIRST TIME - REFERRALS
03/12/01	0543	(H)	HES, JUD
04/17/01		(H)	HES AT 3:00 PM CAPITOL 106

BILL: HB 124

SHORT TITLE: NURS.HOME/ASSISTED LIV. EMPLOYEES/VISITOR
 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
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
03/15/01		(H)	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
03/22/01		(H)	Heard & Held
03/22/01		(H)	MINUTE(HES)
04/17/01		(H)	HES AT 3:00 PM CAPITOL 106

WITNESS REGISTER

MELANIE LESH, Staff
 to Representative Bill Hudson
 Alaska State Legislature
 Capitol Building, Room 502
 Juneau, Alaska 99801

POSITION STATEMENT: Testified on behalf of the sponsor of HB 197.

SIOUX PLUMMER

Juneau End of Life Task Force
2551 Vista Drive
Juneau, Alaska 99801

POSITION STATEMENT: Testified on behalf of the Juneau End of Life Task Force and herself in favor of HB 197.

JANE DEMMERT, Executive Director
Alaska Commission on Aging
Department of Administration
PO Box 110209
Juneau, Alaska 99811

POSITION STATEMENT: Testified in support of HB 197.

MOLLY EIDEM
Long Term Care Ombudsman
3601 C Street
Anchorage, Alaska 99503

POSITION STATEMENT: Testified on behalf of Suzan Armstrong in support of HB 197.

JOHN MANLY, Staff
to Representative John Harris
Alaska State Legislature
Capitol Building, Room 513
Juneau, Alaska 99801

POSITION STATEMENT: Testified on behalf of Representative Harris, sponsor of HJR 24 (the companion bill), presented SJR 21 and explained the differences between the House and Senate versions.

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

POSITION STATEMENT: Answered questions on SJR 21.

CHRISTINE HESS, Staff
to Representative Reggie Joule
Alaska State Legislature
Capitol Building, Room
Juneau, Alaska 99801

POSITION STATEMENT: Answered questions on HB 173.

KAREN PEARSON, Director
Division of Public Health
Department of Health & Social Services

PO Box 110610
Juneau, Alaska 99811
POSITION STATEMENT: Answered question on HB 173.

HEATHER ALLIO, Parent
3961 Portage Boulevard
Juneau, Alaska 99801
POSITION STATEMENT: Testified on behalf of herself on HB 173.

LISA OWENS, Audiologist and Speech Pathologist
11935 Kristie Circle
Anchorage, Juneau 99503
POSITION STATEMENT: Testified on HB 173.

REPRESENTATIVE HUGH FATE
Alaska State Legislature
Capitol Building, Room 416
Juneau, Alaska 99801
POSITION STATEMENT: Testified as sponsor of HB 174.

ELMER LINDSTROM, Special Assistant
Office of the Commissioner
Department of Health & Social Services
PO Box 110601
Juneau, Alaska 99811
POSITION STATEMENT: Testified on HB 174 and HB 124.

ANNE HENRY, Special Projects Coordinator
Division of Mental Health & Developmental Disabilities
Department of Health & Social Services
PO Box 110620
Juneau, Alaska 99811
POSITION STATEMENT: Answered questions on HB 174.

PAT DAVIDSON, Legislative Auditor
Legislative Audit Division
Alaska State Legislature
PO Box 113300
Juneau, Alaska 99811
POSITION STATEMENT: Answered questions on HB 174.

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.

ALISON ELGEE, Deputy Commissioner
Office of the Commissioner
Department of Administration
PO Box 110200
Juneau, Alaska 99811

POSITION STATEMENT: Testified on HB 124.

ACTION NARRATIVE

TAPE 01-44, SIDE A
Number 0001

CHAIR FRED DYSON called the House Health, Education and Social Services Standing Committee meeting to order at 3:02 p.m. Members present at the call to order were Representatives Dyson, Coghill, Stevens, and Joule. Representatives Wilson, Kohring, and Cissna joined the meeting as it was in progress.

HB 197-HEALTH CARE SERVICES DIRECTIVES

CHAIR DYSON announced that the first order of business would be HOUSE BILL NO. 197, "An Act relating to directives for personal health care services and for medical treatment."

Number 0019

MELANIE LESH, Staff to Representative Bill Hudson, Alaska State Legislature, came forth on behalf of the sponsor of HB 197. She read to the committee a statement written by Representative Hudson:

I was asked to support this legislation by people I respect and who have long proved worthy of representing good causes. This cause I find to be very civilized and humanitarian. You will hear testimony from several persons in agencies that wish to enable others to give a voice to others who can no longer offer their own through the preparation of a list of their wishes for their final days. This bill expands the options for people who want to prepare themselves for when they can no longer speak or act on their own behalf. These expanded directives do not interfere with the current statutes concerning living wills and "do not resuscitate" orders. They simply

provide for a form to be circulated with which the patient[s] can determine what they will need in respect to their comforts - emotional, spiritual, and physical. This bill will enable agencies that assist terminally ill patients by providing a document contained in the bill that spells out choices for them to consider with their family and their loved ones. It is hope that this document will continue to gain attention, as it has in 37 other states, and broach a subject that is uncomfortable for most of us, but necessary for all of us.

CHAIR DYSON asked what keeps people from doing this now.

MS. LESH responded that she would rather somebody else spoke to that. She said there are limited allowances in statutes now that provide for living wills, but nothing sets forth a form providing choices and options.

Number 0300

SIOUX PLUMMER, Juneau End of Life Task Force, came forth and stated that [HB 197] is easily a piece of legislation that can be supported by a variety of people in [Alaska]. She explained that this enables the legislature to aid Alaskans in having more clear and defined choices in how they want the end of their lives to be. She said 35 other states have laws that have a similar concept. This is based on the Five Wishes, a document of a few pages of statements that talks about what a person might want to think about and want the family or doctor to know when he or she is terminally ill. She stated that Five Wishes was created by an organization out of Florida called Aging With Dignity. The gentleman who formed the Five Wishes worked with Mother Theresa for several years. She added that the intent of HB 197 is good public policy.

CHAIR DYSON asked why this needs to be in law.

MS. PLUMMER responded that to her understanding this improves and expands existing state statutes so it is clearer as to what the choices are. This aids someone in thinking about these things and legally enables him or her to do it.

CHAIR DYSON stated that the value of law is not to aid people in thinking. He asked who would go to jail if someone were to fill this out and it was not followed through.

MS. PLUMMER answered that she does not know of any language in this law or the new proposed law that would say that if it weren't followed, somebody would go to [jail].

CHAIR DYSON asked why this should be put in law, then.

MS. PLUMMER replied that she thinks the Department of Health & Social Services or the Department of Administration might have some suggestions that it merely be in regulation.

CHAIR DYSON asked why the state needs to be involved in this.

MS. PLUMMER remarked that she was hoping someone from Aging With Dignity could talk about what other states have done and why this was put it into law. She added that she wants to urge [the legislature] to understand and support the concept and the intent of [HB 197].

Number 0573

REPRESENTATIVE STEVENS stated that he thinks Chair Dyson is getting at a good point. He said he had just received from his mother a power of attorney and a living will and would like to know what [the proposed legislation] would do that the power of attorney and the living will do not do.

MS. PLUMMER stated that she believes this language just expands on what already exists and gives a greater clarity to what a living will could include.

REPRESENTATIVE STEVENS asked if there is a contradiction among the living will, the power of attorney, and this [proposed] form. He asked what legally would take precedence.

Number 0671

JANE DEMMERT, Executive Director, Alaska Commission on Aging, Department of Administration, came forth and stated, in response to Representative Stevens' questions, that it might be helpful to take a look at some of the statements that begin on page 13 of the bill. She said:

I'll just speak for myself as an individual. Acknowledging that I will die is a hard thing to come to grips with; it's even harder to think about how - to the extent that it could happen - I would like to be cared for and treated when I can no longer, through

a discussion like this, tell people what I'm seeking. One of the steps that this takes is to - based on the experience of people in many different settings now - pose some statements here that would help me ... to anticipate the kinds of circumstances that I would experience. And then to, based on that, say, "And here's how I'd like you to support me as I'm going through these last stages of my life."

CHAIR DYSON asked what would take precedence and if this has any legal standing.

MS. DEMMERT explained that there is a reference on page 17 about how this would phase in. It states:

... a person who, by a statutory form power of attorney executed under AS 13.26.332 before the effective date of this Act, has been given powers to make health care decisions under and consistent with authority set out in the repealed provisions, may continue to exercise those powers under and consistent with the authority set out in the repealed provisions until the appointment made by the statutory form power of attorney with respect to health care services terminates or is revoked.

MS. DEMMERT stated that she thinks this speaks to one of the considerations in terms of how this would articulate with current statutes.

Number 0880

CHAIR DYSON remarked that there is no "or else." He asked if there is anything that binds the caregiver to obey it, besides helping people think this through. He asked what the penalty would be for disobedience.

MS. DEMMERT responded that she does not know. She asked, "Philosophically, do you think there should be, if there's not?"

CHAIR DYSON answered absolutely, if it is going to be put into law.

MS. DEMMERT remarked that this is very interesting because it brings together a number of provisions as well as charts some new ground. She said she believes everyone is thinking about this in a more comprehensive fashion.

Number 0981

REPRESENTATIVE CISSNA asked if this is a general power of attorney. She said that would mean the person who has been designated as having the power of attorney can do the things that are listed here; therefore, there would be some statutory strength. She also asked if there are additional things in [the proposed form] beyond a normal power of attorney

MS. DEMMERT answered yes.

REPRESENTATIVE CISSNA remarked that she personally thinks this is useful. She shared that her late husband had a power of attorney and a living will, and one of the horrendous things she went through was trying to figure out what he meant. She said she can see a real need for trying to make that very end decision a clear one.

CHAIR DYSON stated that it certainly is a power of attorney and covers a lot of things. He said that he suspects [the committee] will pass the bill and let [the House Judiciary Standing Committee] wrestle with whether or not there should be a form in state law.

MS. LESH commented that Representative Hudson has acknowledged that the directive could be maintained in the bill and that the form could be brought about through a regulatory direction through the legislature. She said Representative Hudson was willing to work with the national Dying with Dignity group because there is some legislation in other states that enables the state agency to create the form with the direction of the legislature. She added that Representative Hudson has also wrestled with the idea that the form's being in the statute may not be the best method.

Number 1245

CHAIR DYSON stated that he appreciates that. He remarked that he is particularly interested in how the [medical] industry feels when somebody says, "I don't want pain killers," and yet the whole tradition has been to make the patient comfortable. He asked if [the industry] will be afraid of liabilities.

MS. PLUMMER stated that the Juneau End of Life Task Force is a group of people that began talking with Representative Hudson about this legislation. She said she also serves on the Hospice

Foundation Board for Juneau, which endorses HB 197. She read from a document from the Hospice Foundation Board:

The meaning of HB 197 is really a gift to one's family members and friends so they won't have to guess what you want. The Hospice and Homecare of Juneau's board of directors urges approval of HB 197.

CHAIR DYSON remarked that the two times he has been involved in cases like this, there weren't elderly people involved. He noted that nothing has been put in [the bill] that refers to children.

MS. PLUMMER responded that those are the kinds of things that people often include in their durable powers of attorney or their wills. She said this is only addressing the very intimate end of life decisions a person makes.

CHAIR DYSON stated that he is confused because page 2 [of the bill] lists a lot of important things such as banking transactions, real estate, claims, and litigation.

MS. LESH responded that those provisions stay in statute just as they are. [House Bill 197] creates a new section that deals with health care directives.

REPRESENTATIVE CISSNA stated that she is assuming the line here is between the [the person the] power of attorney that is in place while the person in question is alive and the executor of the will who is there after that transition.

MS. PLUMMER responded that sometimes it is the same person [who is named in the durable power of attorney], but that is up to each individual.

Number 1444

MOLLY EIDEM, Long Term Care Ombudsman, testified via teleconference on behalf of Suzan Armstrong. She read to the committee:

The Office of the Long Term Care Ombudsman (OLTCO) supports HB 197, "An Act relating to directives for personal health care services and for medical treatment." Long Term Care Ombudsmen from around the country have been extolling the benefits of Five Wishes for some time now. Our clients, the elderly of

Alaska, need clear tools, written in specific language, that [direct] our health care providers and others on how to administer to our clients' final needs. Too often, the OLTCO has attempted to help family and friends struggling to determine what their loved one would want and not want, and having little, if any, input from the elder. Sadly, acute conditions that inhibit worthwhile communication or chronic conditions such as dementia prevent our clients from expressing their wishes and desires during their final days and hours. The Five Wishes format would be a priceless gift to all of our Alaska families and would greatly enhance our capabilities to administer to our dying Alaskans' final wishes and to plan for our own.

Number 1529

CHAIR DYSON called for an at-ease at 3:28 p.m. The meeting was called back to order at 3:40 p.m.

[HB 197 was held over.]

SJR 21-EXTEND FEDERAL TANF GRANTS

[Contains discussion of HJR 24, the companion bill.]

CHAIR DYSON announced that the next order of business would be CS FOR SENATE JOINT RESOLUTION NO. 21(HES), Urging the United States Congress to extend the authorization date for supplemental block grants to the State of Alaska under the Federal Temporary Assistance to Needy Families Program.

Number 1650

JOHN MANLY, Staff to Representative John Harris, Alaska State Legislature, came forth on behalf of Representative Harris, sponsor of HJR 21, to explain SJR 21. He stated that [SJR 21] asks the federal government to continue the supplemental funding for the TANF (Temporary Assistance to Needy Families) program, which is about \$6.9 million or about 30 percent of [Alaska's] block grant. He remarked that a number of states that were either poor or growing faster than the national rate were allowed this. He noted that according to the census figures, [Alaska] has grown by 14 percent since 1990. [The supplemental funding] is scheduled to expire the next federal fiscal year, and the whole TANF authorization program expires a year after that. He explained that this resolution asks for a one-year

extension so that when the program is reconsidered, [Alaska] will be funded up to that point.

MR. MANLY explained that there are a few changes in the Senate version from the House version of the resolution. The House version had included the Head Start program in the list of programs and services that TANF funds cover. However, in the Senate version, on page 2, line 10, that has been taken out. The Senate version also added the President and the U.S. Secretary to be the designated recipients of the resolution.

CHAIR DYSON asked why the legislature needs to be involved with this.

Number 1753

JIM NORDLUND, Director, Division of Public Assistance, Department of Health & Social Services (DHSS), came forth and stated that this is a resolution to Congress encouraging them to continue the funding. This is using the "finesse" and the authority of the legislature to deliver that message.

REPRESENTATIVE JOULE asked, if the legislature did not pass a resolution, whether congress would [continue the funding].

MR. NORDLUND answered that this is a formal way of bringing attention to the issue. He noted that [the resolution] will be fairly well received by Congress. There have already been 14 [U.S.] Senators who have written letters to the President asking for this extended funding, including Alaska's Senator Stevens. It is supported by resolutions from the National Governor's Association, and from the American Public Human Services Association. He stated that there is broad support for this, but lending the voice of [Alaska's] legislature would be helpful.

Number 1816

CHAIR DYSON stated that he thinks Representative Joule was asking if this is the only way to make this happen and that Mr. Nordlund's response was, "No, but it would be useful." He asked if the Knowles Administration has any other way of notifying the U.S. government of the desire to have this funding continue.

MR. NORDLUND responded that [DHSS] has been working through the Governor's office and the congressional delegation to get this [resolution] through. He said it certainly would be helpful if

the legislature would lend its voice as well. He added that this could happen without the passage [of the resolution].

MR. NORDLUND, in reply to a further question, explained that the resolution states that "we" have committed this funding for various programs. If [Alaska] receives that \$7 million cut to the block grant, then "we" will have to reach out to some of those agencies and figure out who can no longer be funded. He added that [Alaska] is facing a \$14 million deficit with TANF funds for FY 2003. He said getting the supplemental funding continued would plug a big hole in that deficit.

CHAIR DYSON asked Mr. Nordlund what the Senate's thinking was in taking out Head Start.

MR. NORDLUND answered that it was [DHSS's] request. He stated that [DHSS] is funding Head Start right now; however, it doesn't seem proper. [DHSS] is presently under an audit, and the legislature should not have extended TANF funding to the Head Start program because it is not an allowable use under the federal rights.

Number 1959

REPRESENTATIVE CISSNA stated that it would seem to her that as money policy makers [legislators] should be weighing the costs of all of these things, making resolutions on federal funds, and knowing what they are.

REPRESENTATIVE COGHILL remarked that block grants are based on the rolls of the temporary assistance [programs]. He asked Mr. Nordlund if, since [Alaska] has gone down in the [number of people on temporary assistance, [this resolution] is asking to be held harmless for the amount [Alaska] has gone down.

MR. NORDLUND responded that with the way the block grant was structured when welfare reform passed, the deal in Congress was that the entitlement status for welfare would end, and states would be given a set amount of money. The states would have to live with that amount of money if the welfare caseloads go up; if the caseloads go down, the states get to keep the money, regardless of the size of the caseload. He stated that there was one provision whereby states with high populations and the poorer states would get a 2.5 percent bump every year. [Alaska] has been getting that "bump" every year, regardless of what has been happening with the caseload. Since the caseload has been going down, the state has been able to keep that difference and

use that funding for other purposes. He explained that in [Alaska] the child care program used to have about \$10 million in general fund (GF) money. The federal TANF dollars that have been saved have supplemented the GF, thereby helping to close the fiscal gap.

Number 2078

REPRESENTATIVE COGHILL asked if the grant itself will be based on the reauthorization of what [Alaska's] caseload is.

MR. NORDLUND answered that "we" don't know that yet. He stated that this is a huge debate in Congress right now. There is a lot of pressure within Congress to say, "Well, since the caseload has dropped in half, you obviously don't need as much money as we guaranteed you in '94." But states are saying, "Well, but we are using those funds for very legitimate other purposes and are actually running programs with it. ... Pulling back that funding level would mean defunding certain programs."

REPRESENTATIVE COGHILL remarked that this is probably why he won't support the resolution, because he thinks it is the state's responsibility and not the federal government's [to fund these other programs].

Number 2152

REPRESENTATIVE JOULE made a motion to move SJR 21 [CSSJR 21(HES)] from committee with individual recommendations and the attached zero fiscal note.

REPRESENTATIVE COGHILL objected.

A roll call vote was taken. Representative Stevens, Cissna, Joule, Wilson, and Dyson voted in favor of moving the resolution. Representative Coghill voted against it. [Representative Kohring was absent.] Therefore, CSSJR 21(HES) moved from the House Health, Education and Social Services Standing Committee by a vote of 5-1.

HB 173-SCREENING NEWBORNS FOR HEARING ABILITY

CHAIR DYSON announced that the next order of business would be HOUSE BILL NO. 173, "An Act relating to establishing a screening, tracking, and intervention program related to the hearing ability of newborns and infants; providing an exemption to licensure as an audiologist for certain persons performing

hearing screening tests; relating to insurance coverage for newborn and infant hearing screening; and providing for an effective date." [Before the committee was the original bill; although there was a proposed committee substitute (CS) in the packets; version 22-LS0003\B, Lauterbach, 4/11/01, it was never adopted.

Number 2199

CHAIR DYSON called for an at-ease at 3:55 p.m. The meeting was called back to order at 3:56 p.m.

REPRESENTATIVE JOULE stated, as sponsor of the bill, that each year in Alaska approximately 10,000 babies are born. Around 30 to 40 of these children will have some sort of congenital hearing loss. Hearing loss, he said, is more prevalent than any other congenital abnormality for which newborns are routinely screened. Without newborn screening, the average age at which children in the United States are identified with hearing loss is 12 to 25 months - after critical windows of learning have passed. If left undetected, hearing loss can result in lifelong delays in language, cognitive, socio-emotional, and academic development.

REPRESENTATIVE JOULE explained that [HB 173] does three things. It requires testing of infants before release from a hospital or within 30 days, except if hospitals have less than 50 births a year or birthing centers refer for screening within 30 days; the development of a reporting and tracking system for newborn and infants; and intervention by providing parents with information through which they could get services if their child has a hearing loss, as well as providing general information about hearing testing of infants.

REPRESENTATIVE JOULE explained that in the last several years 32 states have passed legislation requiring newborn hearing screening. Three or more states test on a voluntary basis, and four states are considering legislation this year. He added that there is a new fiscal note for [the bill], which is \$90,000 a year, whereas the old fiscal note, was over \$500,000.

REPRESENTATIVE JOULE offered Amendment 1, which read:

Page 5, subsection (g), lines 14-18

DELETE

TAPE 01-44, SIDE B

CHAIR DYSON asked, if [the committee] were to accept Representative Joule's amendment, whether the fiscal note would go away.

REPRESENTATIVE JOULE responded that the change in the fiscal note is the result of deleting the one section [referred to in the amendment].

CHAIR DYSON asked how much the old fiscal note was.

Number 2275

CHRISTINE HESS, Staff to Representative Reggie Joule, Alaska State Legislature, answered that it was almost \$600,000.

REPRESENTATIVE JOULE explained that if newborns who are otherwise covered by some form of insurance, such as IHS (Indian Health Service) or Denali KidCare, are born in a hospital where there are 50 or more births, they automatically get screened within the first 30 days. The cost that goes away is for those children who were not covered by one form or another of insurance, which is about four to six children yearly.

CHAIR DYSON asked if Denali KidCare covers hearing screenings for newborns.

MS. HESS answered yes.

CHAIR DYSON asked if most of the health care policies that families have in Alaska cover it.

MS. HESS responded that several hospitals are screening right now and have reported that they haven't had any problems with the insurance covering it. It has been part of a newborn hearing-screening package. The hearing screening is included with everything that is done now with the newborn. Eventually, she said, it will get its own medical code. However, the bill provides that in certain circumstances the insurance is going to have to provide that as part of the insurance coverage.

CHAIR DYSON asked what those circumstances would be.

MS. HESS responded that on page 3, lines 9 through 14, it states that if the plan covers services provided to women during pregnancy and childbirth and the dependents of a covered individual, it should include the hearing screening and a

follow-up if required. She added that the test is relatively inexpensive, ranging from \$45 to \$100, and takes about five minutes.

CHAIR DYSON asked about the deletion Representative Joule wants to make on page 5.

REPRESENTATIVE JOULE stated that the deletion of subsection (g) eliminates a large part of the fiscal note for a relatively small group of children. He said he felt it was more important at this point to get the larger number of kids taken care of and to get the bill moving. In discussing the bill with [committee] members, he said, there is a huge concern about a large fiscal note.

CHAIR DYSON asked if most hospitals are already doing this.

REPRESENTATIVE JOULE answered no.

CHAIR DYSON asked if by deleting [subsection] (g), coverage for the people who fall through that crack would be eliminated.

REPRESENTATIVE JOULE said he was correct.

MS. HESS stated that from discussions the Department of Health & Social Services (DHSS), a couple of things would happen. She said [DHSS] is not actually sure of the statistical data regarding how many kids are uninsured with Denali KidCare. She said "we're" hoping it's only two to four kids and that some nonprofit groups such as the Lion's Club and Rotary will help. The hospitals will help with the hearing screenings. The other good news, she said, is that ILP (Infant Learning Program) is currently funded for \$700,000; therefore, those kids would go on to the ILP waitlist and hopefully get services through that.

Number 2028

REPRESENTATIVE WILSON said she is thinking about her area, Wrangell, and asked how much the machines that do the tests cost; she noted that right now Wrangell's hospital does not have anything like that. She also said she is concerned that since the hospital doesn't [have the machine] but has 30 days to make sure the patient gets referred, the patient would have to spend money to fly someplace else.

MS. HESS responded that the testing equipment costs anywhere from \$9,000 to \$15,000. There is a program with the National

Hearing Association whereby hospitals can [lease] the equipment while they get started, for free. There is also, she said, a portable device, which can be easily transported. Therefore, a couple of hospitals could get together and share a hearing-screening device. Some rural states are actually doing this, and other states use volunteers to do the testing, which reduces the cost. She added that there is a lot of federal grant money available now.

REPRESENTATIVE STEVENS asked, since the old fiscal plan was \$600,000 and this fiscal plan is \$95,000 and the only difference is two to four children who will not be tested, whether that means it costs \$500,000 for two to four children.

MS. HESS responded yes, but it is not only for the testing; it is for the intervention, all follow ups, and any hearing devices.

Number 1931

KAREN PEARSON, Director of Public Health, Department of Health & Social Services, came forth and explained that the title of the initial bill states that it provides for screening tests and intervention. The three to four children would have been the ones without insurance who needed the full-blown intervention. There is an unknown number of kids, represented by about \$200,000 in the original fiscal note, who don't have a payment source for their screening. The remainder for the fiscal note was for the intervention as well as travel for kids who live in a place where screening or intervention is not available. She stated that the current fiscal note is what is needed to put the data system together to do the tracking. Then, she explained, in 2005 the grant for the staff goes away so there is a request for half a staff person to keep the project going.

REPRESENTATIVE COGHILL asked how many screenings would be mandated to Alaska right now under this bill.

MS. Pearson responded that she does not have that information.

REPRESENTATIVE COGHILL stated that he is concerned that places like Wrangell, Kotzebue, or Barrow, where they have health care facilities, will be mandated a \$9,000 to \$12,000 machine, which seems like a pretty heavy load. He added that this is not going to have a small impact on health care facilities.

MS. PEARSON stated that the technology is changing quite rapidly and she thinks the costs will be coming down. She added that there is a lot of interest in this area at the federal level because they understand the impact on the education system and justice system of children not being able to hear.

REPRESENTATIVE STEVENS asked what would be accomplished with this equipment that a good family doctor would not be able to tell when examining a baby.

Number 1787

HEATHER ALLIO, Parent, came forth and stated that to test for [hearing loss, doctors] originally put a sound into a baby's ear and then measured the amount of sound that came back out. That can tell whether or not a child has a hearing loss, but it can't tell the degree of the hearing loss. A second test can then be performed, which is called an ABR (auditory brainstem response) test or a BAER (brainstem auditory evoked response) test, during which electrodes are put on the head. Sound is admitted into the ear and the brain's response to the sound is tested.

CHAIR DYSON asked how that has gone for her family.

MS. ALLIO shared her story with the committee:

My first son was diagnosed at six months. In fact, [apart from] a family dog that barked and barked and barked and my son never responded, he was not tested at birth. He was then fitted with the hearing aids. Since then - he's three - he [knows] well over 1,500 signs [of sign language]; he's got sounds that he can make that represent words. Had he not had those hearing aids at six months, he would have missed an awful lot of that. My second son, Brady (ph) was tested at one week old, here at the audiologist, and found that he had a loss of some sorts. So we went to Seattle and had the second test done.

CHAIR DYSON asked if this is hereditary in her family.

MS. ALLIO answered no. She continued stating that most kids are not caught at six months like her son was. Most are not caught until age two; therefore, they have missed out on that two-year window of the ability to hear and the ability to learn sign language.

Number 1675

CHAIR DYSON asked Ms. Pearson what [Alaska's] situation would be if parents were unwilling to have their kids tested and if that would be considered a child-in-need-of-aid case.

MS. PEARSON responded that there is the potential of being asked what the impact on the child is if there is no religious basis for the choice of medical care.

CHAIR DYSON asked if it would be the same situation if it were diagnosed and [the parents] refused to do anything remedial.

MS. PEARSON stated that she thinks so.

MS. HESS responded that the bill provides for an exemption if the parent objects, for example, due to religious practices. She added that DFYS (Division of Family and Youth Services) could step in if a parent refuses to take appropriate medical procedures.

Number 1574

LISA OWENS, Audiologist and Speech Pathologist, testified via teleconference. She explained that there is audiology coverage for almost every area of the state right now, and almost every audiologist has one of the types of systems being used, that can travel. She said she thinks there are three areas right now that have the equipment available; however, they are working on getting grants to cover the costs through state task forces. The second point is that for 50 percent of children there is no known cause for hearing loss. The average age of identification right now, in states that do not have newborn hearing screening, is 18 months to 2 years. In states such as Colorado, Rhode Island, and Hawaii that have been doing newborn hearing screenings for the past six or seven years, the average age of identification is lowered to 3 months of age. She said there are many studies showing that children who are identified by 3 months of age and given hearing aids and early intervention are developing language and communication skills at age-appropriate levels, versus children who are identified at 18 months to 2 years who end up having a reading level of third grade.

MS. OWENS explained that a child being identified at 18 months to 2 years hears virtually nothing for those first 18 months or 2 years of life. Information on brain research shows that there is a critical time for brain development, and if children miss

that window it is hard for them to ever fully develop those skills. In states that have been doing these programs, kids are going on to preschool and kindergarten and are not requiring the special assistance that they would need if they were identified later in life, which is a huge cost savings.

CHAIR DYSON asked, if this passes, whether Ms. Owens would get more business.

MS. OWENS answered probably not; she said [her practice] is pretty full as it is. She stated that this would protect kids who are missing out on hearing.

CHAIR DYSON asked what percentage of the newborns in [Alaska] are not getting screened now.

MS. OWENS responded that right now Providence Hospital is the primary birthing center and is screening all babies, as are Columbia National Regional and the Native hospitals. She said Nome is now screening and Kotzebue is going to start screening within the next month. She said the problem in some of the rural areas is not necessarily the equipment but the training of the hospital staff. Therefore, most of the audiologists are trying to get to those areas to provide appropriate training and help them to get the funding for equipment.

CHAIR DYSON asked who pays [the audiologists] to do that.

MS. OWENS stated that nobody does; she is doing it on a volunteer basis.

Number 1320

REPRESENTATIVE COGHILL asked how the follow-up works now.

MS. OWENS explained that typically babies are screened during their first day of life in a hospital. If they fail the screening, the hospital will try to rescreen before they are discharged or they are screened within the first week of life when the parents bring them back to the hospital. Children who fail both screenings, are referred to an audiologist for a full diagnostic test, who would then confirm the [hospital's] diagnostic testing. From that point, they would be referred to the ILP and to the Alaska Early Intervention Hearing Resource Program, which provides parents with sign language and educational support.

[HB 173 was held over.]

HB 174-MENTAL HEALTH INFORMATION AND RECORDS

CHAIR DYSON announced that the next order of business would be HOUSE BILL NO. 174, "An Act relating to mental health information and records; and providing for an effective date."

CHAIR DYSON called for an at-ease at 4:29 p.m. The meeting was called back to order at 4:31 p.m.

Number 1070

REPRESENTATIVE HUGH FATE, Alaska State Legislature, came forth as sponsor on HB 174. He stated that this bill is a result of the Legislative Budget & Audit Committee's recommendation to the state auditor and the Department of Health & Social Services. House Bill 174 allows the state to better track direct grant money given to a community mental health provider. He stated that the bill does two things: it complies with the auditor's report for reporting actual consumer data, and it holds agencies harmless for being sued by the consumer for breach of confidentiality if that should ever occur. He added that this is about accountability for state grant funds.

CHAIR DYSON asked whether somebody who breaks that confidentiality would not be liable for it.

REPRESENTATIVE FATE responded yes, that this holds harmless an agency if a suit should occur by a consumer for a breach of confidentiality.

Number 0974

ELMER LINDSTROM, Special Assistant, Office of the Commissioner, Department of Health & Social Services [DHSS], came forth and stated that there has been a requirement in regulation for a number of years for providers and community mental health centers to provide client information. Generally, they have not complied. He explained that one of the reasons they have not done so is because of a fear that without clear, explicit authority for them to share this information with the [DHSS], they would be subject to suit by a consumer. This bill gives immunity to the community mental health center that would be required to provide [DHSS] the data under this bill.

CHAIR DYSON asked if there is very limited scope in this bill, which gives [the community mental health centers] immunity if they are providing this confidential information.

MR. LINDSTROM replied that this is specifically for providing the information to [DHSS].

CHAIR DYSON asked if [DHSS] will treat [the information] well.

MR. LINDSTROM answered that there is a lot of confidential information in his department. He stated that in his ten years working for the department he doesn't recall ever being called "on the carpet" by the legislature for disclosing confidential information. On the other hand, he said, he gets questions about why [the department] won't release confidential information. He added that this is a normal bit of his business.

CHAIR DYSON asked if the information are held in electronic or paper files.

MR. LINDSTROM responded that files exist in both formats. The goal in this program ultimately would be an electronic exchange of information that is encrypted.

CHAIR DYSON asked if anyone has every "hacked" into [the files].

MR. LINDSTROM answered not to his knowledge.

Number 0808

REPRESENTATIVE STEVENS asked whether the information being collected about people with mental health problems is by name or just includes data.

MR. LINDSTROM answered that it would be client-specific. A unique identifier would be used for an individual, but it would be encrypted so [the person] would not be readily identifiable. He clarified for the committee that [DHSS] funds community mental health centers in two ways. One is the grant aid process, whereby general fund grant dollars are given to community mental health centers to provide mental health services to clients. He stated that this was the only thing that existed as recently as eight or nine years ago. In 1992 [DHSS] began allowing them to bill through Medicaid, and the costs of mental health services billed through Medicaid went from \$0 to \$5 million to \$10 million to \$20 million and are now

in excess of \$50 million. The Finance Committee requested the original audit, and in noting this growth in the Medicaid budget, wondered how the funding through Medicaid related to the funding of the general fund grants. The conclusion of the audit, he stated, is that they really cannot [relate the funding], because while [DHSS] gets that client-specific data very well in the Medicaid system, it has not been historically captured for persons served through those grant dollars that go to the community mental health centers. He added that this would give [DHSS] that same level of detail for those grant dollars that have been customarily received through the Medicaid program.

Number 0684

REPRESENTATIVE STEVENS asked why [DHSS] would need the name.

MR. LINDSTROM answered that he believes it gets to the issue of outcomes of individual clients' treatment. He stated that it is not unusual and that it is the same data received on Medicaid clients as a matter of course.

REPRESENTATIVE CISSNA asked if it is possible to have numbers rather than names [in the data].

MR. LINDSTROM responded that that is the goal. [The information] would be electronically transmitted and encrypted.

Number 0578

ANNE HENRY, Special Projects Coordinator, Division of Mental Health & Developmental Disabilities, Department of Health & Social Services, came forth and stated that the unique identifier used on the data that are collected from providers include the person's initials, date of birth, and the last four digits of the social security number. She added that for the grant work, [DHSS] does not collect any names. When [DHSS] receives the information from providers, it is in encrypted form, which is then decrypted [by DHSS] and stored back in an encrypted form.

CHAIR DYSON asked if [DHSS] has been unable to figure out how the public money was being spent or the desired outcomes that were happening because they couldn't track individual clients.

PAT DAVIDSON, Legislative Auditor, Legislative Audit Division, Alaska State Legislature, answered that he was correct. She

stated that the auditors could show what the trends were in Medicaid, what services were being provided, and what clients in terms of age or location services were being provided for. After discussing it with [DHSS] they could see where the growth was. As a result of the audit, she said, one of the things that changed was the rate. There was a leveling off and, in some cases, decreased costs in certain activities. However, she said, the auditors hit a blank wall when it came to the state grants because they did not know who was being served, what services were being provided, or if some of the clients were also being billed under Medicaid or private insurance. This, she explained, comes down to the unique identifier. From an accountability standpoint it is necessary to know that the same person isn't billing insurance, Medicaid, and the state grant. She remarked that [the auditors'] conclusion was that a fee for service and a grant program are inherently incompatible, and that one way around that is to get the same data for state-funded clients as for Medicaid clients.

CHAIR DYSON asked Representative Fate if he or anyone in his office has talked with any of the mental health consumers to see if they would take exception to this bill.

Number 0300

REPRESENTATIVE FATE answered that they haven't. He noted that there is an ongoing lawsuit that involves a Fairbanks community mental health center. That lawsuit was brought because of the mere fact that [the mental health center] was liable because of its requirement for submissions of certain confidential client information. He stated that if this bill were to pass, this lawsuit would be dropped.

CHAIR DYSON remarked that it is his sense that this is more of a legal issue than a health issue and perhaps it should be sent on to the consideration of the House Judiciary Standing Committee. He added that if that occurs then he will write a note to the chairman of the House Judiciary Standing Committee that [DHSS] should give notice to and an opportunity for any of the representatives of the mental health consumer community to weigh in on it.

Number 0223

REPRESENTATIVE CISSNA made a motion to move HB 174 from committee with individual recommendations and the attached zero

fiscal note. There being no objection, HB 174 moved from the House Health, Education and Social Services Standing Committee.

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

CHAIR DYSON announced that the last item of business would be 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."

KEVIN HAND, Staff to Representative Andrew Halcro, Alaska State Legislature, came forth on behalf of the sponsor of HB 124. He noted that the most current committee substitute (CS) draft is Version P. He explained that HB 124 is a barrier-crime piece of legislation that was brought about in part because of a legislative audit, which mentioned that the Pioneers' Home employs several sex offenders. Version P removes a number of contentious points that were raised by various parties. For example, contract workers, non-employees, and volunteers would be removed from being subject to a background check. It also removes crimes in which the victim was a resident [of a nursing home] from the background check requirement

TAPE 01-45, SIDE A

MR. HAND continued, stating that [Version P] adds Section 2 on page 3, line 11, which reads, "(d) A nursing facility administrator shall provide safeguards to ensure that contractors, volunteers, and other persons entering the nursing facility do not abuse, neglect, or exploit a resident of the facility." He added that this has a mirror section for assisted living facilities later in the bill.

Number 0101

REPRESENTATIVE WILSON asked if the concern about facilities where the owner lives in the same household was taken care of.

MR. HAND answered that it has been addressed by a slight change; however, there is not a total agreement on it. Part of it is because it is under a receivership clause in the latter part of the bill. From the standpoint of the administration, it wouldn't be people taking physical possession of the home; it would just be administration of the services of those residents. The other option would be that those people are just kicked out in the street because the government would be forced to either

shut it down or take it over, the alternative being that someone would come in on a daily basis and run the home.

CHAIR DYSON stated that in the last hearing of this bill he had a question concerning what should be done with a new hire that just "got off the boat," since there would be no instantaneous criminal check. He asked if this was addressed in the current revisions.

MR. HAND responded that it was point that was discussed at length regarding how in-state workers would have some background information available with nursing home administrators in assisted living home facilities. [The administrators] were all in agreement that that point would make it completely unworkable, and they would all voice opposition if that portion were included.

Number 0317

REPRESENTATIVE CISSNA remarked that she has recently learned that personnel in a few of the nursing homes in her area [Anchorage] make trips to foreign countries to get staff, because there is such a shortage. She asked what is done in situations like that and if there is any kind of reciprocal information exchange with foreign countries.

MR. HAND replied that as for the person's background and criminal history, that question may be better suited for licensing. He added that these people are subject to the same background checks; however, the availability of that information would seemingly be difficult, although it is ascertainable.

CHAIR DYSON asked where the bill is going next.

MR. HAND stated that it is going to [the House Finance Committee]. He explained that it is actually referred to [the House Judiciary Standing Committee] next; however, the chairman has waived it in lieu of a new House finance Committee referral.

CHAIR DYSON asked Mr. Hand how he would feel about adding on page 3, line 13, after "volunteers," "new hires from out of state or out of country,". He stated that this establishes the duty of the administrator to take care of it.

MR. HAND responded that he sees no [problem with adding that language].

REPRESENTATIVE CISSNA remarked that she thinks this is worth investigating. She stated that she has heard some folks who have relatives in nursing homes say that when they looked for nursing homes they discovered that the people who appeared to be most concerned about the elderly were in fact from other countries.

ELMER LINDSTROM, Special Assistant, Office of the Commissioner, Department of Health & Social Services, remarked that there is parallel language relative to assisted living [homes] beginning on page 5, line 31. He stated that he does not think that this would be a meaningless amendment. The licensing agency would go into a nursing home or an assisted living home and will want to see concrete evidence of policy procedures that have been put in place to implement that section.

Number 0740

REPRESENTATIVE CISSNA made a motion to adopt Conceptual Amendment 1, adding, after "volunteers," on page 3, line 13, and on page 6, line 1, "new hires from out of state and out of country,".

REPRESENTATIVE COGHILL made a motion to adopt the proposed CS for HB 124, version 22-LS008\P, Lauterbach, 4/5/01. There being no objection, Version P was before the committee.

REPRESENTATIVE CISSNA repeated her motion to adopt Conceptual Amendment 1. There being no objection, Conceptual Amendment 1 was adopted.

Number 0890

REPRESENTATIVE COGHILL referred to the emergency involuntary termination of contract on page 8, which states, "with less than 30 days' notice". He asked if the less than 30 days could mean immediately, for example, if somebody becomes violent.

MR. HAND responded that it is not necessarily immediate. He stated that this deals with the termination of a contract. If someone were to grow violent in a home, he or she could be removed immediately. The home could then move forward with terminating the person's contract, which could take [as little as] 72 hours.

REPRESENTATIVE COGHILL asked if the receivership of the assisted living home, referenced on page 12, Section 15, has been run by the assisted living home organization.

MR. HAND answered that it has been a point of extensive discussion; however, not everyone agrees with how it has been written.

Number 1049

ALISON ELGEE, Deputy Commissioner, Office of the Commissioner, Department of Administration, came forth and stated that the receivership provision is a very last recourse and would only be used if there were no other alternatives. One of the things heard from some of the assisted living administrators is that maybe it could be limited from a size standpoint. However, this is a situation in which there is not any other capacity in the community to deal with a long-term care situation. She stated that the first choice, if there were problems with the home, would be to relocate the residents from the home into another environment and not to take over the operation of the home itself. She added that if there is a small home in a community where that is the only home, this may take a little longer than if it were a home in a community with a variety of alternatives. She remarked that this provides some protection to the administrators of these assisted living homes, because it brings a neutral third party into it. The licensing agency would have to go to court to demonstrate that it has exhausted every other possibility in terms of remedying the problems of the assisted living home operations.

Number 1138

REPRESENTATIVE COGHILL made a motion to move the CS for HB 124, 22-LS0087\P, Lauterbach, 4/5/01, as amended, from committee with individual recommendations and the attached zero fiscal note. There being no objection, CSHB 124(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 5:09 p.m.