

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

April 18, 2002  
4:22 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. 180

"An Act requiring child services providers to obtain criminal background checks for child services workers."

- MOVED CSHB 180(HES) OUT OF COMMITTEE

**PREVIOUS ACTION**

BILL: HB 180

SHORT TITLE: YOUTH SERVICES: REGULATION & TASK FORCE

SPONSOR(S): REPRESENTATIVE(S) MCGUIRE

Jrn-Date	Jrn-Page		Action
03/13/01	0560	(H)	READ THE FIRST TIME - REFERRALS
03/13/01	0560	(H)	HES, JUD
03/16/01	0636	(H)	COSPONSOR(S): DYSON
04/10/01		(H)	HES AT 3:00 PM CAPITOL 106
04/10/01		(H)	<Bill Postponed to 4/19>
04/19/01		(H)	HES AT 3:00 PM CAPITOL 106
04/19/01		(H)	Heard & Held
04/19/01		(H)	MINUTE(HES)
02/04/02	2152	(H)	COSPONSOR(S): CROFT
04/18/02		(H)	HES AT 3:00 PM CAPITOL 106

**WITNESS REGISTER**

REPRESENTATIVE LESIL MCGUIRE

Alaska State Legislature  
Capitol Building, Room 418  
Juneau, Alaska 99801

POSITION STATEMENT: Presented HB 180 as sponsor.

ELMER LINDSTROM, Deputy Commissioner

Department of Health and Social Services  
P.O. Box 110601  
Juneau, Alaska 99811-0601

POSITION STATEMENT: Answered questions on HB 180.

YVONNE CHASE, Deputy Commissioner of Early Development  
Office of the Commissioner

Department of Education & Early Development  
333 West Fourth Avenue, Suite 320  
Anchorage, Alaska 99501-2341

POSITION STATEMENT: Testified in support of HB 180.

JOANNE GIBBENS, Program Administrator

Division of Family & Youth Services (DFYS)  
Department of Health & Social Services  
PO Box 110630

Juneau, Alaska 99811-0630

POSITION STATEMENT: Explained and answered questions on HB 180.

MARTHA ANDERSON, Manager

Child/Adult Care  
Social Services Division  
Department of Health & Human Services  
Municipality of Anchorage

632 West Sixth Avenue  
Anchorage, Alaska 99501

POSITION STATEMENT: Testified in support of HB 180.

JACK BOWEN

11224 Via Balboa  
Anchorage, Alaska 99515

POSITION STATEMENT: Testified in support of HB 180.

**ACTION NARRATIVE**

TAPE 02-34, SIDE A  
Number 0001

CHAIR FRED DYSON called the House Health, Education and Social Services Standing Committee meeting to order at 4:22 p.m. Representatives Dyson, Wilson, Coghill, Stevens, Kohring, Cissna, and Joule were present at the call to order. [Minutes for the Overview: Departments of Health & Social Services and Administration: Long Term Care Task Force; Assisted Living can be found in the 3:08 p.m. minutes for the same date.]

HB 180 - YOUTH SERVICES: REGULATION & TASK FORCE

CHAIR DYSON announced that the first order of business would be HOUSE BILL NO. 180, "An Act requiring child services providers to obtain criminal background checks for child services workers."

Number 0065

REPRESENTATIVE KOHRING made a motion to adopt the proposed committee substitute (CS) for HB 180, version 22-LS0642\T, Lauterbach, 4/18/02, as a work draft. There being no objection, Version T was before the committee.

Number 0108

REPRESENTATIVE LESIL MCGUIRE, Alaska State Legislature, sponsor, presented HB 180. She recognized that all the committee members were doing everything they could to protect children in the state. She agreed that much needs to come from the home, but there are certain situations in society where children only have the legislature to look to for protection, and this bill is one more effort to do that.

Number 0236

REPRESENTATIVE MCGUIRE noted that HB 180 would make Alaska one of the many states moving into compliance with the adoption of a federal law, the Adoption & Safe Families Act (ASFA) passed by Congress in 1997, to take further steps to promote the safety of children. As the committee knows, there are already statutes in place that allow the State of Alaska to oversee the licensure and supervision of foster homes, residential childcare facilities, semi-secure residential childcare facilities, secure residential psychiatric treatment centers, child placement agencies, and maternity homes. This bill is simply an effort at bringing Alaska into compliance with the federal law and protecting the kids more.

REPRESENTATIVE MCGUIRE pointed out that HB 180 would also create a legislative task force. This is an effort to seek to protect children beyond the state licensed agencies just mentioned. She noted that there are staggering rates of children who have been victims of predators in situations which the parents thought their children would be protected and safe. Statistics show that child molesters will seek out opportunities to be in positions where they have power and control over young people. That is why background checks are required, and they are a necessary evil in some places. She reiterated that she just wants to make sure that the kids in places licensed by the State are protected.

REPRESENTATIVE MCGUIRE indicated that an earlier draft of HB 180 suggested beginning the process of requiring background checks for people who have immediate contact and unsupervised control over children, but there were many problems with that. One of the problems was the fiscal impact on the volunteer agencies; then it was reduced in a CS to a state background check which currently runs \$25. Some people agreed that wasn't a high price to pay for the cost of protecting children. The reason for the language in Section [14] regarding the task force is an attempt to sit down with people and talk about what can be done.

Number 0480

REPRESENTATIVE MCGUIRE shared her idea for a safe kids seal program patterned after the Better Business Bureau. If something meets certain things, then it gets the seal, and parents could start looking for it. People can look for the seal and know that if the agencies have it, they are taking those extra steps to provide background checks. That will reduce the risk of kids being placed in harm's way. There is nothing the government can do to ensure that 100 percent, but background checks do tend to reveal past molestation and predatory offenses. There does seem to be a pattern by those people to place themselves back in those situations, she noted.

Number 0679

CHAIR DYSON asked if this was only requiring background checks for organizations or people who are working in organizations that are licensed by the state.

REPRESENTATIVE MCGUIRE replied absolutely.

CHAIR DYSON asked why the task force is chaired by the chair of the Administrative Regulation Review Committee ("Reg Review").

Number 0713

REPRESENTATIVE MCGUIRE admitted that she has an interest in chairing it because she's been following it for the past year and a half. She also sees some wisdom as putting herself as chair of Reg Review in that, because there has been discussion about whether this should be done through regulations or statutes. She stated:

Mostly it is absolute 100 percent self-interest. I want to chair it because I've been following it. I've been doing the research and the homework, and I'd also like to have members of the House and members of the Senate to help me along ... but I do see some wisdom is trying to see whether we can tackle it from a regulation point of view or whether it has to be law, or perhaps it's a whole other concept such as the safe seal.

CHAIR DYSON asked what she would want to do if she doesn't get re-elected.

Number 0774

REPRESENTATIVE MCGUIRE answered that the recommendations will be submitted to the legislature by January 21, 2003, so the bulk of the work is going to go on this summer. She said if this task force didn't have recommendations by November 7, [2002], then she would feel that she hadn't done her job. She would hope those recommendations could be carried forward by whoever is the chair in the event she was not re-elected.

Number 0840

REPRESENTATIVE JOULE asked if it was correct that Representative McGuire would appoint the rest of the members herself.

REPRESENTATIVE MCGUIRE replied that is how it currently reads, but she is open to the committee making modifications.

Number 0959

REPRESENTATIVE WILSON agreed this was an excellent idea and many states have these task forces and have accomplished a lot.

Number 0991

CHAIR DYSON asked for some clarification on the changes on page 2, lines 8 to 14.

Number 1034

ELMER LINDSTROM, Deputy Commissioner, Department of Health and Social Services, answered that the Department of Education & Early Development actually suggested it. He explained that the classic example is Mt. Edgecumbe [state boarding school], but it would be DFYS [Division of Family & Youth Services] licensing the domiciliary portion of the facility. It is a residential facility which is also a school, but the DFYS would license the residential portion of the school or any other similar boarding school.

CHAIR DYSON asked if the boarding schools around the state have been checked with on this.

REPRESENTATIVE MCGUIRE answered that she has not checked with them, but there have been philosophical discussions about it. Her initial concern was making sure that the regular village charter schools would not be subjected to this; they are not.

Number 1100

YVONNE CHASE, Deputy Commissioner of Early Development, Office of the Commissioner, Department of Education & Early Development, testified via teleconference. She told the committee there has been discussions with the boarding schools and DFYS, and she expressed support for this language.

Number 1135

JOANNE GIBBENS, Program Administrator, Division of Family & Youth Services (DFYS), Department of Health & Social Services, explained that this change codifies practice that is already occurring. Regulations already exist for the licensure process for boarding schools. It is a residential care license with a specialty in providing boarding school care. Boarding school care is 24-hour care of children away from home, so it has always been considered part of the licensing process already.

MS. GIBBENS reiterated that it is already in regulation, but the law is not clear in terms of a specific statement regarding licensing boarding schools.

CHAIR DYSON asked what this bill will change if it passes.

MS. GIBBENS answered that HB 180 brings the current licensing statute into compliance with federal law, the Adoption & Safe Families Act. The federal law has specific requirements for what circumstances states may not license a potential foster parent. As a result of making that change, some subsequent sections were changed that related back to criminal background checks.

Number 1265

MS. GIBBENS told the members that the federal law states that the state may not approve or license a foster parent if there has been a felony conviction for child abuse or neglect, spousal abuse, a crime against children, including child pornography, or a crime involving violence, including rape, sexual assault, or homicide. The other requirement is if there has been a conviction in the last five years for physical assault, battery, or a drug related offence, that person cannot be licensed. She said she believes that alcohol is included as part of the drug definition.

REPRESENTATIVE COGHILL commented that some of those offenses fall into the misdemeanor category.

REPRESENTATIVE MCGUIRE explained that there are two separate levels. A felony is an automatic no, and a misdemeanor in the last five years is an opportunity for further review by the department.

Number 1355

MS. GIBBENS reiterated that the federal law specifically states felony convictions are the absolute bar. Anything less than that is considered a discretionary decision made by the division in terms of its licensing process. The division can thoroughly investigate those circumstances and make a judgment regarding the safety of children in that home.

REPRESENTATIVE COGHILL commented that the laws make it very easy for someone to become a misdemeanant these days.

REPRESENTATIVE MCGUIRE clarified it's not saying all misdemeanors, but only those that have to do with physical assault, battery, or drug-related offenses. She also clarified that it is only a threshold. If it's been ten years, it won't even be looked at; within the last five years, it warrants concern, so the department will investigate it.

CHAIR DYSON asked if this would be exacerbating the problem in the rural areas for finding foster homes due to problems with alcohol-related offenses.

MS. GIBBENS replied that she doesn't believe so. This bill doesn't criminalize anything that's currently not considered criminal in state law. The division wants the flexibility to do what he just talked about in terms of understanding the difficulty of finding appropriate homes and family homes for children in the Bush communities. She stressed that the division wants the flexibility to make those decisions.

Number 1670

REPRESENTATIVE CISSNA commented that in her experience working with youth over the years, there have been people on the staff of institutions or foster parents who have been found abusing children, and in one case she had no idea this was going on. She wondered if a person is charged, does that show up in the record.

REPRESENTATIVE MCGUIRE answered that a charge will appear in a background check. She indicated that ICWA [Indian Child Welfare Act] has been helpful in Bush communities in figuring out placement for some of the Native kids.

Number 1820

REPRESENTATIVE STEVENS made a motion to adopt a conceptual amendment, "the total membership of the task force be nine with four public members and two House members and two Senate members appointed by the Speaker of the House and the President of the Senate [plus the chair]." There being no objection, it was so ordered.

REPRESENTATIVE KOHRING asked why the task force needs to be in statute.

REPRESENTATIVE MCGUIRE replied that her reason for putting it in statute is just the gravity of the situation. She wants people

to feel the pressure of a timeline and a law to do it. She said she felt that this would get people's attention to recognize that this has to be done by a due date and to be accountable to the legislature.

Number 1955

MARTHA ANDERSON, Manager, Child/Adult Care, Social Services Division, Department of Health & Human Services, Municipality of Anchorage, testified via teleconference. She expressed support for HB 180 to increase the overview of persons caring for children. She also expressed support for the task force. She offered the help of the municipality if needed.

Number 1993

JACK BOWEN testified via teleconference and expressed strong support of HB 180.

MS. CHASE expressed support for HB 180.

Number 2028

REPRESENTATIVE WILSON moved to report CSHB 180, version 22-LS0642\T, Lauterbach, 4/18/02, as amended, out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection, CSHB 180(HES) was reported out of 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 5:02 p.m. [Minutes for the Overview: Departments of Health & Social Services and Administration: Long Term Care Task Force; Assisted Living can be found in the 3:08 p.m. minutes for the same date.]