

ALASKA STATE LEGISLATURE
SENATE HEALTH, EDUCATION & SOCIAL SERVICES COMMITTEE

April 15, 2002
1:50 p.m.

MEMBERS PRESENT

Senator Lyda Green, Chair
Senator Loren Leman, Vice Chair
Senator Gary Wilken
Senator Jerry Ward
Senator Bettye Davis

MEMBERS ABSENT

All Members Present

COMMITTEE CALENDAR

SENATE BILL NO. 311

"An Act relating to the public school trust fund, the Alaska children's trust, and the Alaska heritage endowment fund; and providing for an effective date."

MOVED CSSB 311(HES) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 160(JUD)

"An Act requiring the reporting of induced terminations of pregnancies."

MOVED OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 276(L&C)

"An Act relating to temporary permits and licenses by endorsement issued by the Board of Nursing; and relating to the delegation of nursing duties."

MOVED OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 209(HES)

"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."

HEARD AND HELD

PREVIOUS SENATE COMMITTEE ACTION

SB 311 - See HESS minutes dated 4/8/02.

HB 160 - No previous action to record.

HB 276 - See Labor and Commerce minutes dated 3/14/02.

HB 209 - See HESS minutes dated 4/15/02 and 4/24/02.

WITNESS REGISTER

Mr. Zach Warwick
Staff to Senator Therriault
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Testified for the sponsor of SB 311

Representative John Coghill
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of HB 160

Ms. Karen Pearson
Division of Public Health
Department of Health &
Social Services
PO Box 110601
Juneau, AK 99801-0601
POSITION STATEMENT: Supports CSHB 160(JUD)

Representative Peggy Wilson
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of HB 276

Ms. Lynn Hartz
Board of Nursing
3104 Brookside Dr.
Anchorage, AK 99517
POSITION STATEMENT: Supports CSHB 276(L&C)

Ms. Patricia Senner
Alaska Nurses Association
PO Box 102264
Anchorage, AK 99510
POSITION STATEMENT: Supports CSHB 276(L&C)

Ms. Mary Weymiller
Board of Nursing
666 11th Ave. #302
Fairbanks, AK 99701
POSITION STATEMENT: Supports CSHB 276(L&C)

Ms. Nancy Davis
Division of Public Health

Department of Health &
Social Services
PO Box 110601
Juneau, AK 99801-0601

POSITION STATEMENT: Supports CSHB 276(L&C)

Representative Dyson
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of HB 209

Ms. Joanne Gibbons
Division of Family and Youth Services
Department of Health &
Social Services
PO Box 110601
Juneau, AK 99801-0601

POSITION STATEMENT: Answered questions about the DHSS foster care program.

ACTION NARRATIVE

TAPE 02-30, SIDE A

Number 001

CHAIRMAN LYDA GREEN called the Senate Health, Education & Social Services Committee meeting to order at 1:50 p.m. Senators Wilken, Ward, Davis and Green were present. The first order of business to come before the committee was SB 311.

#SB 311

SB 311-STATE TRUST FUND MONIES

CHAIRWOMAN GREEN reminded members that a motion to move CSSB 311(HES) from committee was made by Senator Leman and objected to by Senator Davis at the last meeting.

SENATOR WARD moved to withdraw the motion to move CSSB 311(HES) from committee and asked for unanimous consent.

MR. ZACH WARWICK, staff to Senator Therriault, explained that at Chairwoman Green's request, a change was made on page 7, line 17, so that any individual non-profit agency can apply for multiple grants but can only be awarded one grant each year. After speaking with legal counsel, they settled on the language, "within a municipality, regional education attendance area or unincorporated community."

CHAIRWOMAN GREEN informed members no other changes were made in the committee substitute.

SENATOR WARD moved to adopt CSSB 311(HES), Version C, as the working draft of the committee.

CHAIRWOMAN GREEN announced that with no objection, Version C was before the committee.

There being no other questions or discussion, SENATOR WARD moved CSSB 311(HES) and its accompanying fiscal notes from committee with individual recommendations.

CHAIRWOMAN GREEN announced that with no objection, CSSB 311(HES) would move to its next committee of referral. She then announced the committee would take up HB 160.

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#HB 160

HB 160-REPORTING OF ABORTIONS

REPRESENTATIVE JOHN COGHILL, sponsor of HB 160, explained that HB 160 is straightforward and requires reporting of abortions in Alaska. The bill has been amended several times and was improved by those amendments. HB 160 asks for mandatory reporting by doctors who perform abortions in Alaska within 30 days of the procedure to the Bureau of Vital Statistics within the Department of Health and Social Services (DHSS). HB 160 amends some of the statutes pertaining to the Bureau of Vital Statistics and asks the Bureau to prepare an annual report of the aggregate information and destroy the records so that information cannot be traced back to a physician, patient, facility or municipality. The report is patterned after a report of induced termination of pregnancy produced by the Center for Disease Control (CDC). Sections 3-5 amend places where the vital statistics records are held and Section 6 differentiates between an abortion and a miscarriage. The bill contains privacy provisions so that in a state as small as Alaska, one cannot go back to a municipality and make erroneous charges.

REPRESENTATIVE COGHILL told members that DHSS supports the bill, as does the American Civil Liberties Union (ACLU), which brought forth some of the language in the privacy provisions. He agreed with the ACLU that the privacy provisions were important. He maintained that one of the reasons there is support from both sides of this issue is that pro-choice opponents and proponents want information from which to make public policy calls. Therefore, regardless of what side of the abortion debate one is

on, everyone will benefit from knowing what the facts are.

CHAIRWOMAN GREEN asked if Alaska furnishes no information to the CDC at this time.

REPRESENTATIVE COGHILL said that is correct.

SENATOR DAVIS asked which version was before the committee.

CHAIRWOMAN GREEN stated Version L.

REPRESENTATIVE COGHILL informed members that the change made by the House Judiciary Committee pertains to the privacy provisions on page 2, line 9. He pointed out the individual forms will be reported to the Division [of Public Health], which will aggregate the information and destroy the records.

MS. KAREN PEARSON, Director of the Division of Public Health, stated support for CSHB 160(JUD) and thanked the sponsor for being so responsive to the division's concerns about confidentiality and protecting the identity of everyone involved.

There being no further discussion, SENATOR WARD moved CSHB 160(JUD) and its accompanying fiscal notes from committee with individual recommendations.

CHAIRWOMAN GREEN announced that with no objection, the motion carried and acknowledged the presence of Senator Leman.

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HB 276-REGULATION OF NURSING

#HB 276

REPRESENTATIVE PEGGY WILSON, sponsor of HB 276, informed members that the measure is a clean-up bill that aligns the nursing statutes with current practice in three ways:

- It gives licensed nurses the authority to delegate nursing duties to other personnel;
- It increases the length of time available for a temporary nursing certificate from four to six months to accommodate the length of time it takes to get a criminal background check done;
- It changes the wording regarding licensure by endorsement and aligns the statute with what is already being done.
- The Labor and Commerce Committee added a definition of

"unlicensed assistive personnel" so there would be no question of who is covered.

CHAIRWOMAN GREEN asked for clarification.

REPRESENTATIVE WILSON said it specifies who a nurse can delegate duties to in Section 6. She also pointed out the bill has a zero fiscal note.

CHAIRWOMAN GREEN noted the term "unlicensed assistive personnel" first appears in the bill on page 2, line 10.

REPRESENTATIVE WILSON said she has letters of support for HB 276 from the Alaska State Hospital and Nursing Home Association, the Alaska Nurses Association, the Alaska School Nurses Association, and the Alaska Board of Nursing, and the Division of Public Health also support the measure. She indicated that she does not know of anyone who opposes the bill.

SENATOR WILKEN stated support for HB 276 but noted that concerns were expressed on behalf of the physicians. He asked if those concerns have been addressed and whether any outstanding issues remain.

REPRESENTATIVE WILSON said that adding the definition of unlicensed assistive personnel raised the physicians' comfort level. She said that as far as she knows, they are not opposed to the measure.

CHAIRWOMAN GREEN asked what physicians Senator Wilken was referring to.

SENATOR WILKEN said the Alaska Medical Association and private physicians.

The committee took public testimony.

MS. LYNN HARTZ, a member of the Board of Nursing, said she will only address amendments made to HB 276 in the Senate Labor and Commerce Committee since she testified before the committee on SB 283, the companion bill to HB 276. The amendment, which is the only change from the bill passed from committee, SB 283, puts the term "unlicensed assistive personnel" into statute and defines that term. It is a broad definition but a broad one is required since UAPs work under many different job titles and new job titles are created regularly. She emphasized the importance of passing this bill because current nursing practice is to delegate to unlicensed assistants daily and has been an accepted part of

the health care system for years. However, that practice is not legally authorized in Alaska according to the assistant attorney general. The board realizes this is going on and does not intend to discipline nurses who currently delegate to unlicensed personnel since enforcement would literally risk bringing health facilities to a halt. Until this bill has passed, the board will be unable to write or enforce any safety regulations regarding delegation to UAPs. The board is advising nurses to abide by the delegation guidelines, described in its 1993 position statement on delegation, but that is not satisfactory since guidelines in the position statement do not have the weight of regulation. The board of nursing appreciates passage of SB 283 and CSHB 276(L&C) with equal speed.

The committee took a brief at-ease.

MS. PATRICIA SENNER, Alaska Nurses Association, stated support for CSHB 276(L&C). The Alaska Nurses Association is in agreement with the definition of UAPs. She asked the committee to support the bill and pass it out quickly.

MS. MARY WEYMILLER, Board of Nursing, told members the Board is charged with the protection of the public for safe medical practice. CSHB 276(L&C) will provide the legal authority needed to write regulations to provide for safe delegation of nursing tasks. One way that delegation is used in this changing health care environment is for people who choose to stay in their homes for as long as their conditions permit. Often these people do not need skilled nursing care on a continuous basis but assistance with their care if their condition is stable and long term. Those delegating and being delegated to depend on the guidance of statutes and regulations to set standards for safe practice. She urged members to pass CSHB 276(L&C) so the Board of Nursing has the authority to protect both the public and practitioners in the delegation process.

MS. NANCY DAVIS, Chief of Public Health Nursing for the Alaska Division of Public Health, stated support for CSHB 276(L&C) and appreciates the language changes that clarify the endorsement licensure process. The division especially appreciates the attention given to the delegation of authority issue and the definition of UAPs. Public health nurses work throughout rural Alaska in villages and, in order to accomplish health care across Alaska, it is essential to be able to delegate.

SENATOR WARD moved CSHB 276(L&C) and its accompanying fiscal notes from committee with individual recommendations.

CHAIRWOMAN GREEN announced that with no objection, the motion carried. The committee then took up HB 209.

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#HB 209

HB 209-PROGRAM FOR FORMER FOSTER CHILDREN

SENATOR WARD moved to adopt a proposed Senate HESS Committee substitute to HB 209, Version L, for the purpose of discussion. There being no objection, the motion carried.

REPRESENTATIVE FRED DYSON, sponsor of HB 209, told members that he spoke with Karen Perdue, former commissioner of DHSS, about foster children several years ago and was told that the state is not doing the job it should to help children who have been in state custody all of their lives make the transition to living on their own. He said the federal government has just taken a major step in that direction - a step that includes a funding package. HB 209 will enable the state to get federal funds, fulfill the mandates of the state and improve the services provided by DHSS. In the past, foster children who reach the age of 18 were given their last two or three permanent fund dividend checks and told to have a good life. HB 209 will help DHSS assess the life skills, education, vocational skills, jobs, housing and/or mentor needs of each child. The proposed committee substitute contains changes that were worked out between DHSS and the Covenant House. The Covenant House wants to make sure that non-government organizations get a chance to participate in the design and delivery of services to these children.

SENATOR LEMAN noted that Version L contains a provision that says DHSS shall develop the regulations in concert with public, private and Alaska Native organizations. He said he sees the merit in that list as many children are probably Alaska Native but asked whether there is merit in doing a broader reach to include other groups.

REPRESENTATIVE DYSON said it is a judgment call but he wouldn't recommend it. He said nothing in the bill precludes what can be done to help an individual child.

CHAIRWOMAN GREEN asked who would be excluded if it read, "The department shall develop the regulations in consultation with public and private organizations."

REPRESENTATIVE DYSON said no one would be excluded.

CHAIRWOMAN GREEN said she saw no reason to specify Alaska Native

organizations.

SENATOR WILKEN moved [Amendment 1] on page 2, lines 4 and 5, to amend the sentence to read, "The department shall develop the regulations in consultation with those public and private organizations as they deem necessary."

CHAIRWOMAN GREEN announced that with no objection, Amendment 1 was adopted.

CHAIRWOMAN GREEN asked if the current federal funding falls under the Foster Care Independence Act of 1999 and whether it pays 100 percent.

REPRESENTATIVE DYSON said that is his understanding.

CHAIRWOMAN GREEN said she wants to be certain that when the federal government cuts back those funds 30 or 40 percent, it cannot force the state to make up the difference.

CHAIRWOMAN GREEN said she is concerned that the program will gain a huge constituency and, if it is then cut, that constituency will anticipate state support.

SENATOR DAVIS noted the bill applies to 18 to 20 year olds and said many foster children transition into the adult world who are not 18 years old. They can legally emancipate themselves. She asked why the minimum age is 18.

CHAIRWOMAN GREEN thought it was patterned after the federal program.

REPRESENTATIVE DYSON said the age was changed to 16 in the proposed committee substitute before the committee.

CHAIRWOMAN GREEN asked how that comports with the federal program.

REPRESENTATIVE DYSON said DHSS is authorized by the state to take care of children under the age of 18.

CHAIRWOMAN GREEN asked why those children would be put under this program.

REPRESENTATIVE DYSON said the proposed committee substitute authorizes DHSS to use federal funds to provide some services up through age 20, which DHSS cannot currently do.

CHAIRWOMAN GREEN said she understands that, but questions why the bill references 16 year olds.

REPRESENTATIVE DYSON stated, "So that we can start working with these kids when they're 16."

CHAIRWOMAN GREEN asked, "With federal funds?"

MS. JOANNE GIBBONS, state program administrator of the Division of Family and Youth Services, DHSS, explained that the funds for the independent living program are currently being used for children in custody. One of the requirements for receiving the funds is that the state serve young adults who were in the foster care system but are no longer. SCS CSHB 209(HES) will give DHSS the statutory authority to spend funds on individuals not in state custody.

CHAIRWOMAN GREEN acknowledged that the bill has a zero fiscal note. She asked if all of the funds will be federal.

SENATOR WARD asked if DHSS now spends money on children between the ages of 14 and 18 and whether the federal legislation will continue to be earmarked for children between the ages of 14 and 21 or between the ages of 18 and 21.

MS. GIBBONS said DHSS will always be required to provide those services for children 14 to 18, both in custody and formerly in custody of the state. She explained the current federal law requires DHSS to spend these funds not only on teenagers and young adults in state custody, but also to provide a certain amount of services and financial support for young adults once they have left state custody. DHSS cannot just drop them at age 18, or whenever custody is dropped, without any support. Under current Alaska statute, DHSS cannot expend funds on individuals no longer in its custody so it cannot serve the individual who was in custody six months ago but is now on his own trying to find an apartment and job.

SENATOR WARD asked if this bill will allow DHSS access to funds that it cannot currently capture.

MS. GIBBONS said these funds are specifically for the State of Alaska. Each state was given a certain amount of funds to use specifically for this purpose. DHSS is currently expending these funds, but they are only used for children in custody of the state.

REPRESENTATIVE DYSON asked whether future appropriations will be

in jeopardy if Alaska statute is not changed.

MS. GIBBONS said the federal agency has made it clear that if Alaska does not spend part of the federal funds on foster children who are no longer in state custody, it will lose funding. The federal agency has not been specific about how much, but has announced that it will place sanctions on states that do not comply.

SENATOR DAVIS asked what year of the five-year grant DHSS is in now.

MS. GIBBONS said DHSS is in the second year right now.

SENATOR DAVIS asked if DHSS knows how much of that money it has spent each year.

MS. GIBBONS said she believes it does and that DHSS must go through a reauthorization process every year and submit an annual report.

SENATOR DAVIS asked if this bill will allow DHSS to take those foster children in who are no longer in state custody and allow it to provide services to them.

REPRESENTATIVE DYSON said the phrase, "take them in" is not exactly accurate. They will not be in a state run home but could be in a state subsidized apartment and get job placement and counseling if necessary.

SENATOR DAVIS asked if this will be a tool to transition children in custody to independence.

REPRESENTATIVE DYSON said it will. He added that DHSS is really pushing to get children in to permanent homes, but the children this bill will apply to never got adopted or had a guardian and were most likely in a series of group or foster homes.

CHAIRWOMAN GREEN announced that she would hold the bill until Wednesday. She also announced the committee would hear about the Baldrige Award for the Chugach School, HB 239 and SB 306 at that time. With no further business to come before the committee, she adjourned the meeting at 2:30 p.m.

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