

ALASKA STATE LEGISLATURE
SENATE JUDICIARY COMMITTEE

April 10, 2002
1:40 p.m.

MEMBERS PRESENT

Senator Robin Taylor, Chair
Senator John Cowdery
Senator Gene Therriault
Senator Johnny Ellis

MEMBERS ABSENT

Senator Dave Donley, Vice Chair

COMMITTEE CALENDAR

SENATE BILL NO. 231

"An Act relating to correctional facilities."

HEARD AND HELD

SENATE BILL NO. 295

"An Act relating to the disclosure of information regarding delinquent minors to certain licensing agencies; and providing for an effective date."

MOVED SB 295 OUT OF COMMITTEE

SENATE BILL NO. 302

"An Act defining the term 'mental health professional' for the purpose of statutes relating to the evaluation of prisoners who may need psychological or psychiatric treatment, for the purpose of statutes relating to the evaluation of children in need of aid and delinquent minors who may need to be confined in a secure residential psychiatric treatment center or who should be released from such a center, for the purpose of statutes requiring certain professionals to report the possibility that a vulnerable adult has been abused or neglected, and for the purpose of statutes relating to mental health civil commitments."

MOVED CSSB 302(JUD) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 418 (L&C)

"An Act amending the Alaska Corporations Code as it relates to delivery of annual reports, notice of shareholders' meetings, proxy statements, and other information and items to shareholders, to voting, and to proxies, including electronic proxy voting and proxy signing; and providing for an effective date."

MOVED CSHB 418 (L&C) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

SB 231 - See CRA minutes dated 3/20/02.
SB 295 - See HESS minutes dated 3/4/02.
SB 302 - See HESS minutes dated 3/4/02.
HB 418 - See Labor and Commerce minutes dated 3/21/02. See
Judiciary minutes dated 4/8/02

WITNESS REGISTER

Mr. David Mitchell
Staff to Senator Pete Kelly
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Testified for the sponsor of SB 295

Mr. Robert Buttane
Division of Juvenile Justice
Department of Health &
Social Services
PO Box 110601
Juneau, AK 99801-0601

POSITION STATEMENT: Supports SB 295

Mr. Jerry Burnett
Staff to Senator Lyda Green
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Testified for the sponsor of SB 231

Commissioner Margaret Pugh
Department of Corrections
431 N. Franklin, Suite 400
Juneau, AK 99801

POSITION STATEMENT: Supports SB 231

Ms. Margo Knuth
Strategic Planning Coordinator
Department of Corrections
431 N. Franklin, Suite 400
Juneau, AK 99801

POSITION STATEMENT: Supports SB 231

Mr. Deven Mitchell
Treasury Division
Department of Revenue

PO Box 110400
Juneau, AK 99811-0400
POSITION STATEMENT: Answered questions about SB 231

Mr. David Germer
Assistant Manager
Matanuska-Susitna Borough
350 East Dahlia Avenue
Palmer, AK 99645
POSITION STATEMENT: Supports SB 231

Mr. Bob Herron
City Manager
City of Bethel
PO Box 388
Bethel, AK 99559
POSITION STATEMENT: Supports SB 231

Mr. John Williams
Mayor, City of Kenai
210 Fidalgo Ave., Suite 200
Kenai, AK 99611
POSITION STATEMENT: Supports SB 231

Ms. Linda Freed
City Manager
City of Kodiak
10 Mill Bay Road, Room 211
Kodiak, AK 99615
POSITION STATEMENT: Supports SB 231

Mr. Steve Sweet
Public Employees Local 71
Fairbanks, AK
POSITION STATEMENT: Supports SB 231

Ms. Sheila Peterson
Aide to Senator Wilken
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Testified for the sponsor of SB 302

Ms. Anne Henry
Division of Mental Health & Developmental Disabilities
Department of Health &
Social Services
PO Box 110601
Juneau, AK 99801-0601
POSITION STATEMENT: Supports SB 302

Ms. Sharon Bullock

Fairbanks Community Mental Health Center
122 1st Ave.
Fairbanks, AK

POSITION STATEMENT: Expressed support for one provision of SB 302

Mr. Wayne McCollum
Fairbanks Community Mental Health Center
122 1st Ave.
Fairbanks, AK

POSITION STATEMENT: Supports SB 302

Ms. Stacie Kraly
Assistant Attorney General
Department of Law
PO Box 110300
Juneau, AK 99811-0300

POSITION STATEMENT: Answered questions about SB 302

ACTION NARRATIVE

TAPE 02-15, SIDE A
Number 001

CHAIRMAN ROBIN TAYLOR called the Senate Judiciary Committee meeting to order at 1:40 p.m. Senators Cowdery, Therriault, Ellis and Chairman Taylor were present.

#HB 418

HB 418-CORPORATE NOTICES/PROCEDURES/VOTING

CHAIRMAN TAYLOR reminded committee members that they had an extensive discussion on HB 418 at Monday's meeting, at which time an amendment to HB 418 was tabled. He noted that Representative Murkowski, Chair of the House Labor and Commerce Committee, was present.

SENATOR COWDERY said he initially offered the amendment and moved to withdraw it.

CHAIRMAN TAYLOR announced that without objection, the motion carried.

SENATOR COWDERY moved CSHB 418(L&C) to its next committee of referral.

SENATOR THERRIAULT asked if a representative of the Division of Banking and Securities was available.

CHAIRMAN TAYLOR said apparently not. He said that without the amendment, the bill will not have a significant impact on corporations. With no further objection, CSHB 418(L&C) was moved from committee.

#

The committee took up SB 295.

#SB 295

SB 295-LICENSING: DISCLOSURE OF MINORS' RECORDS

MR. DAVID MITCHELL, staff to Senator Pete Kelly, sponsor of SB 295, made the following statement.

Both state and federal laws currently require all child and adult care licensing authorities to review criminal histories of every individual aged 16 or older who is seeking either a care license, employment with a care provider, or residing in the home with a care provider. Criminal history information for persons under 18 is not accessible through the Alaska Public Safety Information Network but is available through the Division of Juvenile Justice. Due to the language in the current statute, the division may release certain information for specific situations to only a few of the licensing agencies. The fact that an applicant may have a son living in the home who is a convicted child molester could be kept from the licensing agency because of limitations on the division's authority to release that information. This bill would give the Department of Health and Social Services clear authority to provide all child and adult care licensing agencies access to appropriate licensing information. This bill will help facilitate the licensing of suitable individuals, as well as help ensure that quality of care and safety concerns are met for every client receiving services in a care facility or program.

MR. MITCHELL offered to answer questions.

There being no questions, CHAIRMAN TAYLOR took further testimony.

MR. ROBERT BUTTCANE, Division of Juvenile Justice, Department of Health and Social Services, stated support for SB 295 as it will take care of an omission in the division's statutes. SB 295 will allow the division to work with licensing agencies to make sure they have access to delinquency information to ensure they are licensing people who will preserve the safety of people being

cared for in elderly and child care facilities.

MR. BUTTCANE said the recent spate of laws that passed at the federal and state levels regarding licensing for care facilities mandate that licensing agencies have access to records of persons 16 and older. Alaska's current delinquency records confidentiality statute is written in such a way that it doesn't include all conditions that arise in licensing situations. SB 295 will provide explicit authority to the division to provide information for those purposes.

There being no further testimony or questions, SENATOR COWDERY moved SB 295 from committee with its accompanying fiscal notes and individual recommendations.

CHAIRMAN TAYLOR announced that without objection, the motion carried.

#

The committee took up SB 231.

#SB 231

SB 231-CORRECTIONAL FACILITY EXPANSION

MR. JERRY BURNETT, staff to Senator Lyda Green, sponsor of SB 231, noted that Senator Green was unable to attend due to illness. He explained that SB 231 provides a regional approach to expanding correctional facilities throughout Alaska. It provides for approximately 1200 prison and jail beds in a variety of communities throughout the state. The question of the need for additional jail beds has been settled by the legislature twice in the last five years. In 1998, the legislature passed legislation authorizing the Anchorage jail and an 800-bed facility at Delta, which was not built. In 2001, the legislature authorized another 800-bed facility in the Kenai Peninsula and that was not built. Clearly, the intent of SB 231 is to build community acceptance of expanded jail facilities and to work with the municipalities to finance and provide the facilities. He informed members that each of the municipal bodies named in the bill have sent resolutions in support of the bill. He offered to answer questions.

SENATOR COWDERY asked if the number of beds in the bill represent the actual needs.

MR. BURNETT said the numbers represent the need expressed to Senator Green by the Department of Corrections. She worked primarily with the Mat-Su Borough and the Department of Corrections to prepare SB 231. Some of the numbers, such as 64 additional beds at the Juneau facility, have to do with the type of facility and location. The Mat-Su Borough has three facilities: Palmer Pre-Trial; Palmer Correctional Facility; and

the Point Mackenzie Farm. Each facility will have a different number of beds depending on the physical structure and the specific needs of the community.

SENATOR COWDERY asked if prisoners are housed at particular facilities based on the severity of their crimes.

MR. BURNETT replied there are medium security facilities and pre-trial facilities.

SENATOR THERRIAULT said according to the bill the average capital cost for all beds may not exceed \$155,000 per bed, adjusted for three percent inflation a year and asked how long this authorization will apply and whether it will just be on the books if a community chooses not to exercise it ten years from now.

MR. BURNETT replied:

As the bill is currently written, that would be the case and I believe that Senator Green is certainly amenable to making adjustments to that, either here or in the Finance Committee as this goes to Finance. There's a very large fiscal note that you might have noticed in your packet although the fiscal note somewhat exaggerates the extra cost here because you have to do something with these prisoners, assuming that there really are 1200 - a need for 1200 prison beds. The fiscal note doesn't discount the alternatives so something is going to be done with them.

SENATOR THERRIAULT thought that issue should be addressed by the Finance Committee but suggested putting the authorization on the books with an adjuster so that 10 or 15 years from now someone can't build something that obligates the state.

CHAIRMAN TAYLOR noted the annual three percent would have a compounding effect.

MR. BURNETT said Senator Green would be amendable to re-wording that provision or include phase-in dates for the facilities in the bill.

CHAIRMAN TAYLOR asked if Senator Green consulted with former Senator Frank Ferguson on this legislation.

MR. BURNETT said he did not believe she did.

CHAIRMAN TAYLOR took public testimony.

COMMISSIONER MARGARET PUGH, Department of Corrections, verified

that Margot Knuth was available via teleconference, and said they were willing to answer any questions.

MS. MARGOT KNUTH, Strategic Planning Coordinator, Department of Corrections, thanked the committee for hearing SB 231 and said it represents a regional approach to expanding prisons and jails. The Administration supports the concept of regionalization. Alaska has distinct needs for both jail beds and for prison beds. SB 231 recognizes those two parallel needs and contains a select number of beds in the right locations. She noted the number of beds in Fairbanks and Bethel will just keep up with the jail needs of those communities. The expansion would allow those facilities to house pre-trial felons and inmates with short sentences. The expansion will not bring home prisoners from that area with lengthy sentences. Those inmates will serve their sentences in the state's prison facilities at Spring Creek, Palmer, or Wildwood.

MS. KNUTH advised members that the provision for the Mat-Su Borough in SB 231 should refer to "facilities" because the number of beds identified would be placed in the Palmer Correctional Center, the Mat-Su Pre-Trial facility and the Point MacKenzie prison farm.

COMMISSIONER PUGH informed members that error was corrected in the Community and Regional Affairs Committee Substitute.

MS. KNUTH said SB 231 also includes four community jail projects, which are overdue. Alaska has 15 community jails and all of them need capital funds. The four in SB 231 were selected because they have the highest utilization rate. She stated SB 231 provides a good, holistic approach to Alaska's prison needs and should enable all of Alaska's prisoners to come back to Alaska, thereby keeping funds in the state. For those reasons the Administration is generally in favor of SB 231. She offered to answer questions.

SENATOR THERRIAULT asked which jails are community jails.

COMMISSIONER PUGH said the last four on page 2 (Dillingham, Kodiak, Kotzebue and the North Slope Borough).

MR. DAVID GERMER, Assistant Manager of the Matanuska Susitna Borough, affirmed the Mat-Su Borough has three facilities within its borders and the Borough has experienced very few, if any, problems associated with those facilities. The Borough has found Department of Corrections employees to be good members of the community. The Borough also recognizes that various communities across the state have needs for expanded correctional facilities and believes it is important that those needs be addressed. The Borough supports the concept of expanding existing prisons, as

well as jails.

MR. GERMER noted that expansion was considered when many of the jails were first constructed. In some places, the infrastructure is already established. The Borough also understands from the Department of Corrections that the prisoners who are incarcerated close to their families and support networks have a better chance at rehabilitation than those housed a long way away. In addition, the economic impact associated with returning prisoners to Alaska should be shared statewide; rural and urban Alaskans should receive the economic benefits associated with jail and prison expansions. He repeated that the Borough's interactions with the Department of Corrections has shown the Department to be a very responsive agency. The Borough firmly believes that facility expansion should be publicly operated and managed. The Mat-Su Borough supports SB 231 because it appropriately addresses the overcrowded prisons and jails through a regional approach and it spreads the economic benefits across the state of Alaska. He noted the Ketchikan, Saxman, Fairbanks, Kenai, Juneau, Bethel, Kodiak, Seward, Mat-Su and Palmer governments have passed resolutions in support of SB 231.

CHAIRMAN TAYLOR noted that Deven Mitchell was available to answer questions.

MR. DEVEN MITCHELL, Debt Manager, Department of Revenue, told members there is one technical issue with the Spring Creek project. At present, bonds are outstanding for the Spring Creek facility so it would be difficult to issue additional bonds with a different structure if the City of Seward was going to be the conduit or issuer of those bonds. Those bonds will mature in 2006 so if the legislation has a sunset date for that project, it will have to be later than 2006 otherwise it would be excluded from the financing.

CHAIRMAN TAYLOR said that goes back to Senator Therriault's question of how long the authorization will remain outstanding and whether the legislation should contain a time limit.

SENATOR THERRIAULT asked for more detail about the Spring Creek situation.

MR. MITCHELL explained:

The Spring Creek facility has State of Alaska certificates of participation outstanding on it. They have been advanced, refunded once, and then [currently] refunded a second time so the bonds that are currently outstanding through 2006 couldn't be refunded again under the tax code. So, if you were to issue new bonds,

there's already a lien, if you will, placed against the Spring Creek facility. There's a lease in place providing security to bond purchasers so you couldn't refinance with a different issuer until those bonds [reached] maturity. You could issue those bonds on a parity basis per the existing bond agreement but you'd have to have the same issuer, which, with this legislation, it would be the City of Seward. The current issuer is the State of Alaska.

SENATOR THERRIAULT asked if that means that project would not be able to go forward until the year 2006.

MR. MITCHELL said that is correct.

MR. BOB HERRON, representing the City of Bethel, stated support for SB 231. He noted Bethel houses the Yukon Kuskokwim Correctional Facility as a regional jail. Bethel is a hub for about 20,000 who live in that region. The city council is in full support of the legislation and asks the committee to move the bill to the next committee of referral.

MR. JOHN WILLIAMS, Mayor, City of Kenai, informed members he is representing the City Council and the community of Kenai who support SB 231 as written. He pointed out the City of Kenai is a first class home rule city with extra territorial powers so it has the ability to issue bonds and construct beyond its boundaries. He noted Wildwood is just outside the boundary of the City of Kenai but the city has legal authority to operate it. Mr. Williams said passage of SB 231 will put the issue of private prisons aside. The issues of prisoner location and post-incarceration location came up during a recent attempt to build a prison in Kenai. Those issues will be resolved as prisoners will be spread across the state. The use of existing infrastructure is very important at this time when the state needs to control the growth of government and expenditures. The issues associated with requirements to relocate Alaskan prisoners to Alaska will be taken care of.

MR. WILLIAMS said the question of whether the community would support a prison has come up in former hearings. The community voted overwhelmingly in opposition to a private prison. However, he believes it is an absolute fact that the community will support the addition of 256 beds at Wildwood. He repeated the city council has discussed SB 231 at length and endorses the concept of spreading beds throughout the state.

CHAIRMAN TAYLOR asked Mr. Williams if he is aware of any state prison facility ever built in Alaska where the state waited for an advisory vote from the community before it was built.

MR. WILLIAMS said not to his recollection.

CHAIRMAN TAYLOR said he doesn't remember any advisory votes on the Spring Creek or Lemon Creek facilities either. He noted that once a prison is built, every community that has one wants it expanded. Chairman Taylor thanked Mr. Williams and took testimony from Kodiak.

MS. LINDA FREED, City Manager of Kodiak, informed members the Kodiak City Council and the Kodiak Island Borough passed a resolution in support of SB 231. Kodiak serves as the regional jail facility for all of the Kodiak Island Borough and part of the Alaska Peninsula. They appreciate the regional approach in SB 231 for all of the reasons previously stated. SB 231 is very significant for Kodiak as it is running a state contract jail in partnership with the state in a building that is over 60 years old. Kodiak is in a position where it either needs to rebuild or close the facility because of liability issues. At this point, Kodiak must pick up the entire liability cost for that facility. As the jail ages, the liability to the City of Kodiak and its taxpayers increases exponentially. The City believes that rebuilding the facility will be a cost saving measure for the state as well as Kodiak. Without this facility, the state will incur incredible transportation costs for prisoners. The City of Kodiak is committed to putting land into this project and it is hoping to build a multi-use facility with a police station so it will absorb some of the costs identified in the fiscal note. She urged members to pass SB 231 to the next committee of referral.

MR. STEVE SWEET, representing Public Employees Local 71, stated support for SB 231 and said by expanding existing facilities, the state will save thousands of dollars by not having to duplicate existing infrastructures. He questioned why Alaskans can't use the \$20 million to house prisoners in Arizona. Alaska contractors and residents should benefit by building the new expansions for the correctional facilities. He noted if the state hopes to rehabilitate prisoners, it is extremely important they be near their families for support. He stated the expanded prisons should be operated publicly, by professionals. It makes economic sense to expand existing facilities.

SENATOR COWDERY asked Mr. Sweet if the administrative sections of the existing prisons would be adequate to cover the expansions or whether those sections will have to expand also.

MR. SWEET said he believes there is adequate administration in place.

SENATOR COWDERY announced that the committee would hold the bill until Chairman Taylor returned and that the committee would take

up SB 302.
#

The committee took a brief at-ease.

2:20 p.m.

#SB302

SB 302-DEFINITION OF MENTAL HEALTH PROFESSIONAL

MS. SHEILA PETERSON, staff to Senator Gary Wilken, said that she would read the sponsor statement for Senator Wilken who was needed to make a quorum in another committee.

SB 302 is a mental health professional definition bill. It recognizes the growth of the clinical mental health profession; it broadens the mental health professional definition to include licensed clinical social workers, licensed marital and family therapists, and a licensed professional counselor. The current Title 47 definition was written in 1981, prior to the passages of Alaska's licensing requirements governing these master level mental health clinicians.

SENATOR COWDERY asked if that was in 1981 or 1986.

MS. PETERSON explained there was a revised sponsor statement that was provided March 21. Originally, Senator Wilken thought the year was 1986 but upon further research found it was 1981. She then continued reading the sponsor statement.

A more inclusive mental health professional definition increases the capacity of Alaska's mental health system to protect our youth and adults who are experiencing acute psychiatric crises in our communities. Today, not enough mental health professionals are authorized under the current definition to respond to some critical public safety situations, particularly in rural Alaska, and yet there are hundreds of licensed professionals who are qualified to aid these Alaskans but cannot, as they do not fall within the current statutory definition. SB 302 recognizes this problem and updates the Title 47 definition. The expanded mental health professional definition as stated in SB 302 increases the number of trained professionals: who will be allowed to provide mental health treatment for prisoners; authorized to evaluate children and minors in custody; to determine placement in residential

treatments; required to report incidences of harm to vulnerable adults and allowed to conduct civil commitment evaluations.

MS. PETERSON informed committee members that Ms. Anne Henry from the Department of Health and Social Services was present to answer questions if necessary.

[SENATOR WILKEN arrived.]

SENATOR THERRIAULT asked about the proposed committee substitute.

MS. PETERSON said the sponsor statement addressed the committee substitute.

CHAIRMAN TAYLOR asked if the proposed committee substitute was adopted.

MS. PETERSON said it was not.

SENATOR COWDERY moved to adopt Version J as the committee substitute for SB 302.

CHAIRMAN TAYLOR announced that without objection, Version J was adopted as the committee substitute.

SENATOR WILKEN noted that Anne Henry and others were available to answer questions.

MS. ANNE HENRY, Division of Mental Health and Developmental Disabilities, Department of Health and Social Services (DHSS), told members that when the definition of mental health professional was originally written, it included all of the recognized professions at the time. She explained that an evaluation for civil commitment determines whether a person is suicidal, homicidal, or gravely disabled at that moment. When a clinician decides in favor of civil commitment, the clinician gets concurrence from the psychiatrist on duty at the time and then calls a judge, who makes the final decision about commitment to hospitalization where the person would be evaluated by a staff psychiatrist. The law allows people who are employed by community mental health centers around the state to do civil commitment evaluations. They receive state funding for emergency services for mental health crisis situations. Of about 900 licensed professionals in Alaska now, only about 140 people work for those agencies. Those are the people who this bill applies to. DHSS is finding that agencies all over the state are having difficulty hiring and retaining people of that level of professionalism. She noted that since the law was originally written, the legislature has recognized licensure clinical social workers, marriage and family therapists, and professional counselors. Every one of

those professions has the statutory authority to diagnose, which is what is done in an evaluation situation. She told members that SB 302 is supported by DHSS, the Alaska Mental Health Authority, the Association of Mental Health Consumers in Alaska and the Alaska Community Mental Health Services Association.

SENATOR WILKEN referred to a chart in members' packets and said it provides a visual explanation of what the bill will do.

CHAIRMAN TAYLOR took public testimony.

MS. SHARON BULLOCK, a licensed clinical social worker and director of the Fairbanks Community Mental Health Center, affirmed the Center has had difficulty hiring people straight out of graduate school. The Center will have difficulty if SB 302 is passed as is because the way it is written, only people with a license or those with 24 months of experience after graduate school can do the screenings. In Fairbanks, when someone files a Title 47, the court gives it to the Center who sends someone out to do the screening. The screener makes recommendations to the court and the judge makes the final decision. The Center needs to have enough employees who are eligible to help with the screenings.

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MS. BULLOCK said she supports part of the bill that being that an employee could be supervised by a licensed clinical worker. She suggested shortening the 24-month requirement to 12 months.

CHAIRMAN TAYLOR informed Ms. Bullock that the committee substitute before members provides for a 12-month period of work experience in the field of mental illness post Masters degree.

MS. BULLOCK thanked Chairman Taylor for the update.

MR. WAYNE MCCOLLUM, a licensed clinical social worker and the Community Support Program Director at the Fairbanks Community Mental Health Center, stated support for the legislation and said he shares the same concerns that Ms. Henry and Ms. Bullock expressed. He said it is very difficult to recruit and retain qualified individuals in the Interior and in rural communities. SB 302 will allow the Center to recruit a wider pool of individuals to perform an important service.

CHAIRMAN TAYLOR noted there was no one else who wished to testify on SB 302 but the committee received a letter from Phillip Baker, a licensed clinical psychologist from Anchorage, which he read into the record:

My name is Phillip Baker, Licensed Clinical Psychologist and Executive Director of the Alaska Psychological Association. I am writing on behalf of the Executive Staff of our association who voted unanimously to oppose SB 302 and we urge you to oppose this bill also.

We are aware of the need for qualified and trained mental health professionals to work in remote communities. We were informed that SB 302 was created to help meet that need. The bill proposes to add Licensed Marriage and Family Therapists, Licensed Professional Counselors and an unlicensed mental health worker under supervision. We feel this is the wrong solution to the shortage of qualified mental health workers in rural settings. Professional Counselors, Marriage and Family Therapists and unlicensed counselors have one or two academic courses in assessment and evaluation, inadequate training for the tasks required.

The unlicensed mental health worker under supervision that is mentioned in this bill would be a great liability to the State and to vulnerable mental health consumers. There is no way to regulate the practices of these particular mental health practitioners and no way for consumers to seek recourse for inept, unethical and poorly trained practices. Who would want their family members, friend or loved one's mental health needs determined by a poorly trained and unregulated provider of these important and very personal services?

We urge you to return this bill to the Department of Health and Social Services and inform them that SB 302 is an inadequate solution to their problem and it increases the danger that vulnerable Alaskans will be mistreated.

CHAIRMAN TAYLOR asked for a response to those comments.

SENATOR WILKEN said he believes Mr. Baker's concern about the supervision of an unlicensed person has been taken care of in the committee substitute.

MS. HENRY explained the current statute allows any Masters level social worker with experience in the field to do civil commitment evaluations. The committee substitute raises the qualifications to a Masters level degree plus 12 months of experience and a six-month internship. These professionals will be supervised by a

licensed professional, although that is not required by the current statute. They must also be in the process of getting licensed so their dedication to becoming licensed provides more accountability. She noted that currently about eight PhD psychologists work with emergency services throughout the state. DHSS believes that most of those people work in a supervisory capacity and do not actually do the evaluations themselves so the work is being done by people who do not actually meet the definition in SB 302.

CHAIRMAN TAYLOR pointed out that committee members received several other letters.

SENATOR COWDERY said that he received letters from two constituents who were concerned about the letter of intent that accompanies HB 343.

MS. HENRY explained that letter of intent pertains to the extension of the licensed professional counselor sunset date and asks that the boards be combined and has nothing to do with SB 302.

SENATOR ELLIS commented that he voted no on similar legislation that passed through the committee last year because he received an overwhelming amount of letters from people who express concern about how careful the state should be in the area of civil commitments because to deny a person their freedom or civil liberties for any period of time is an awesome power. He asked Ms. Henry to walk him through the civil commitment process and to describe the minimum credentials of a professional who would be permitted to do an evaluation.

MS. HENRY asked that Stacie Kraly answer that question.

MS. STACIE KRALY, Assistant Attorney General, Department of Law, informed members that she does the civil commitments for Southeast Alaska. She said she would defer to Ms. Henry to describe the clinical part of the civil commitment process. She explained that the process works in Juneau in the following way. An individual who is in crisis is, either through a family member, a police officer or a concerned community member, usually brought to a hospital for a medical evaluation. If it appears the individual is decompensating and suffering from a mental illness, a clinical person is called in. An emergency services worker from the Juneau Alliance for the Mentally Ill goes to the hospital to conduct an evaluation of the individual in consultation with a physician and sometimes a psychiatrist. An evaluation can take up to four hours to determine whether the individual meets the statutory criteria for a commitment; that being whether the individual is mentally ill and as a result is a threat to self or others or is gravely disabled. If the individual meets the

statutory criteria, the clinician meets with a psychiatrist to make sure the assessment is accurate. The clinician then calls the judicial officer and makes a recommendation and explains the reasons behind the recommendation, i.e., the individual is suicidal or was brandishing a knife in McDonald's. The judge then determines whether to commit that person for 72 hours. If so, the judge issues an ex parte order and the individual is transferred from the emergency room to the mental health ward at the hospital. Over the next 72 hours, the individual is evaluated every 24 hours by a clinician, psychiatrist, and social worker at the hospital. Within those 72 hours they are either released if they no longer meet the criteria, they may volunteer to stay longer, or the Department of Law can file a petition for a 30 day commitment whereupon the Department goes to court, presents evidence and calls witnesses, and the judge determines whether the individual should be committed for up to 30 days.

CHAIRMAN TAYLOR asked Ms. Kraly to address Senator Ellis's question about the minimum qualifications allowed for a clinician under SB 302.

MS. KRALY said that statewide, in rural communities, the minimum level could be pretty low. Statutorily the lowest level would be an unlicensed social worker who is not supervised. In Juneau, a few PhDs do this work.

CHAIRMAN TAYLOR asked how that would change under SB 302.

MS. KRALY replied that it would remain the same in the sense that there would be the added qualifications of intending to be licensed, having 12 months of supervision and clinical experience.

SENATOR ELLIS asked if passage of the bill will increase the qualification requirements of the lowest level person.

MS. KRALY replied, "Most definitely."

SENATOR ELLIS said he appreciated the explanation about Juneau, although he is concerned about villages like Chevak or Kaktovik.

MS. KRALY said the process is basically the same everywhere so that if an individual was being committed in Hoonah or Craig, a village public safety officer would call a judge and provide the information and the judge would order that the individual be transferred to an evaluation facility in either Ketchikan, Sitka or Juneau where the process would start over. If there is a mental health professional in a rural village, he or she would initiate the proceedings.

SENATOR ELLIS said his concern is that SB 302 dramatically

expands the number of people who can participate in this process, yet the qualifications will be higher, not lower.

MS. HENRY explained that SB 302 expands the disciplines that are recognized as being licensed and, in terms of those people that are not licensed, it requires them to have a certain level of experience, including the Masters degree. Currently, any social worker with a Masters degree, whether trained clinically or not, can do a civil commitment. A good portion of people who did civil commitments in the past did not have clinical education. She repeated the bill will require a Masters degree, 12 months of field experience, and working toward being licensed. The pool will be expanded because it includes all of the different licensed disciplines.

SENATOR ELLIS asked if the impact will be an improvement in the quality of the work done or whether it will just increase the number of people who can do civil commitments.

MS. HENRY said she believes both will increase. She noted that she recently spoke with the director of the mental health center in Galena who said Galena has had no VPSO for six months, there are two troopers who could participate but they cover an area the size of Oregon, and she is not qualified to participate. The troopers have told her that unless someone has a knife, gun or rope in their hands, they will not get involved because they have more urgent priorities. Ms. Henry said if no one in the community is qualified, individuals end up in jail or being sent home with family members who don't know what to do. She noted that the Alaska Psychiatric Institute has reported that it gets an inappropriate number of people come in to be committed so they are sent back, a traumatic and expensive experience. She said she believes SB 302 will provide greater access to those people who really need services in a time of crisis and with Alaska's high suicide rate, the need is critical.

SENATOR THERRIAULT said he received a lot of feedback on last year's civil commitment bill but most of the people who wrote were under the mistaken assumption that individuals would be able to commit themselves. He asked what level of scrutiny the judges use to make these determinations.

MS. KRALY said under the ex parte order it is similar to a probable cause situation. For a 30-day commitment or anything further, the standard is clear and convincing evidence on the part of the state in the form of expert testimony by a psychiatrist.

SENATOR THERRIAULT commented the scrutiny is fairly loose for the initial 72 hours but anything after that is more rigorous.

MS. KRALY said that if, at any time during the 72-hour evaluation period, the individual no longer meets the statutory criteria, the individual must be released. She noted that very few individuals are sent to a 30-day commitment hearing; most people are released or go voluntarily.

SENATOR COWDERY asked Ms. Kraly if her recommendations have ever been denied by the court.

MS. KRALY said yes, occasionally. She said the judges she works with in the First Judicial District are very aware of the liberty interests at stake and take these cases very seriously. They do not grant 30-day commitments with any joy.

SENATOR COWDERY asked Ms. Kraly if she has denied the recommendation of another.

MS. KRALY said that is an interesting question because many of these petitions are based upon medical expertise and she certainly would defer to a psychiatrist who believes that a petition should go forward. However, there have been instances in which she has questioned whether or not the petition is appropriate, so she has questioned some of the petitions she has seen but generally she defers to the experts.

MS. HENRY added that the standard in the mental health profession is to do whatever is the least restrictive, given the particular situation. She said she is aware of situations where clinicians have had to come up with alternatives to keep the individual safe because the individual does not quite fit the statutory criteria.

CHAIRMAN TAYLOR maintained that because of the arduousness of the task, it is probably easier to charge a person with a criminal act so it is important to get the best people involved. He added that Joe Juneau was successful in establishing the mine in Juneau. His family was concerned about his activities and wanted to take over his mine. In the Territorial Days, if 10 friends and neighbors signed a petition, you went before a judge and the judge would decide whether you should be committed. Mr. Juneau was committed to a mental institution and his family took over the business. Several years later, Mr. Juneau returned to Juneau with a certificate declaring that he was safe. Chairman Taylor found it ironic that no one else in the town could be declared to be safe. Chairman Taylor noted we have come a long way and thanked the sponsor and DHSS staff for their efforts.

SENATOR ELLIS said he appreciates the work done on the bill also. He noted that the people who contacted him last year did not seem to be misguided about who had the power to do a civil commitment. Their main point seemed to be that the people who do the initial evaluations have a lot of influence in the process. He said he

believes SB 302 is moving in a good direction and that he will have to trust professional judgment about the balances this bill strikes. He asked participants to keep in mind that the goal is to increase the quality of mental health professionals. He noted that the lack of funding in rural areas and difficulty in providing decent coverage across the state should not be used as an excuse to change the laws. He said that does not appear to be the reason for SB 302 but it is of concern.

CHAIRMAN TAYLOR said with no further testimony or comments, he would entertain a motion.

SENATOR COWDERY moved to pass SB 302 from committee with individual recommendations. There being no objection, the motion carried.

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#SB 231

CHAIRMAN TAYLOR said he is seriously concerned about the issue raised by Senator Therriault that there be some limitation placed on two provisions within SB 231. The first is the unlimited aspect of authorization and whether some parameters should be placed on that provision. The second concern is whether or not the bill should contain an automatic ratchet on the 3 percent. He felt that is a fiscal matter that should be taken up by the Senate Finance Committee. He then announced that he would hold the bill in committee and bring it up again the following day and adjourned the meeting at 2:58 p.m.

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