

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

May 8, 2003  
3:14 p.m.

**MEMBERS PRESENT**

Representative Peggy Wilson, Chair  
Representative Carl Gatto, Vice Chair  
Representative Paul Seaton  
Representative Kelly Wolf  
Representative Sharon Cissna

**MEMBERS ABSENT**

Representative John Coghill  
Representative Mary Kapsner

**OTHER LEGISLATORS PRESENT**

Senator Fred Dyson

**COMMITTEE CALENDAR**

CONFIRMATION HEARING

University of Alaska, Board of Regents

David Parks - Anchorage

- CONFIRMATION(S) ADVANCED

CS FOR SENATE BILL NO. 157(HES)

"An Act relating to inpatient psychiatric services for persons who are under 21 years of age and are either eligible for medical assistance or are in the custody of the Department of Health and Social Services."

- MOVED CSSB 157(HES) OUT OF COMMITTEE

HOUSE BILL NO. 292

"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."

- HEARD & HELD

**PREVIOUS ACTION**

BILL: SB 157

SHORT TITLE:INPATIENT PSYCHIATRIC SERVICES

SPONSOR(S): SENATOR(S) GREEN

Jrn-Date	Jrn-Page		Action
03/26/03	0592	(S)	READ THE FIRST TIME - REFERRALS
03/26/03	0592	(S)	HES, FIN
04/09/03		(S)	HES AT 1:30 PM BUTROVICH 205
04/09/03		(S)	Moved CSSB 157(HES) Out of Committee
04/09/03		(S)	MINUTE(HES)
04/10/03	0781	(S)	HES RPT CS 3DP 2NR SAME TITLE
04/10/03	0781	(S)	DP: DYSON, GREEN, WILKEN;
04/10/03	0781	(S)	NR: GUESS, DAVIS
04/10/03	0781	(S)	FN1: ZERO(HSS)
04/25/03	0966	(S)	FIN RPT CS(HES) 5DP 2NR
04/25/03	0967	(S)	DP: GREEN, WILKEN, TAYLOR, BUNDE,
04/25/03	0967	(S)	STEVENS B; NR: HOFFMAN, OLSON
04/25/03	0967	(S)	FN1: ZERO(HSS)
04/25/03		(S)	FIN AT 9:00 AM SENATE FINANCE 532
04/25/03		(S)	Moved Out of Committee
04/25/03		(S)	MINUTE(FIN)
04/29/03	1028	(S)	RULES TO CALENDAR 4/29/2003
04/29/03	1028	(S)	READ THE SECOND TIME
04/29/03	1028	(S)	HES CS ADOPTED UNAN CONSENT
04/29/03	1028	(S)	ADVANCED TO THIRD READING 4/30 CALENDAR
04/30/03	1051	(S)	READ THE THIRD TIME CSSB 157(HES)
04/30/03	1052	(S)	PASSED Y17 N- E1 A2
04/30/03	1059	(S)	TRANSMITTED TO (H)
04/30/03	1059	(S)	VERSION: CSSB 157(HES)
05/01/03	1228	(H)	READ THE FIRST TIME - REFERRALS
05/01/03	1228	(H)	HES, FIN
05/08/03		(H)	HES AT 3:00 PM CAPITOL 106

BILL: HB 292

SHORT TITLE:ABORTION: INFORMED CONSENT; INFORMATION

SPONSOR(S): REPRESENTATIVE(S) DAHLSTROM

Jrn-Date	Jrn-Page		Action
04/30/03	1202	(H)	READ THE FIRST TIME - REFERRALS
04/30/03	1202	(H)	HES, JUD
05/06/03		(H)	HES AT 3:00 PM CAPITOL 106
05/06/03		(H)	Heard & Held MINUTE(HES)
05/08/03		(H)	HES AT 3:00 PM CAPITOL 106

**WITNESS REGISTER**

SENATOR LYDA GREEN

Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: As sponsor of SB 157, explained the purpose of the bill and answered questions from the members.

KATHY CRONEN, Regional Vice President  
Universal Health Services and  
North Star Behavioral Health System  
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 157 and answered questions from committee members.

REPRESENTATIVE NANCY DAHLSTROM

Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: As sponsor of HB 292, spoke to the amendments of the bill and answered questions from the members.

JOHN SHERWOOD, Unit Manager  
Division of Medical Assistance  
Department of Health and Social Services  
Juneau, Alaska

POSITION STATEMENT: Testified on HB 292 and responded to questions from the committee.

MYRNA GARDNER

Juneau, Alaska

POSITION STATEMENT: Testified in opposition to HB 292, and answered questions from the committee.

BOB JOHNSON, M.D.

Kodiak, Alaska

POSITION STATEMENT: Testified via teleconference in opposition to HB 292.

GENENEIVA PEARSON

Kodiak, Alaska

POSITION STATEMENT: Testified via teleconference in opposition to HB 292.

KAREN VOSBURGH, Executive Director

Alaska Right to Life

Palmer, Alaska

POSITION STATEMENT: Testified via teleconference in support of HB 292.

### **ACTION NARRATIVE**

#### **TAPE 03-41, SIDE A**

Number 0001

**CHAIR PEGGY WILSON** called the House Health, Education and Social Services Standing Committee meeting to order at 3:14 p.m. Representatives Wilson, Gatto, Seaton, and Cissna were present at the call to order. Representative Wolf arrived as the meeting was in progress.

#### CONFIRMATION HEARING

University of Alaska, Board of Regents

Number 0086

CHAIR WILSON announced that the first order of business would be the confirmation hearing for David Parks, Appointee to the University of Alaska Board of Regents. She told the committee that Mr. Parks was selected by the student body and appointed by the governor to fill the student seat on the Board of Regents. Unfortunately, Mr. Parks is in Spain until May 24 and is not available to be interviewed by the House Health, Education and Social Services Standing Committee. Chair Wilson pointed out that the members have his resume in their packets. The University of Alaska has asked the committee to approve Mr. Parks and forward his name to the joint session for confirmation. Wendy Redman is available from the university to answer any questions the members might have. Chair Wilson told the committee that the committee packet includes a letter from Ms. Redman, and information about student representatives' selection process.

REPRESENTATIVE SEATON commented that Mr. Parks' resume is very impressive and that the process in selecting the student representative looks fair.

Number 0142

REPRESENTATIVE SEATON made a motion to advance the confirmation of David Parks, Appointee to the University of Alaska Board of Regents, to the joint session for consideration. There being no objection, the confirmation of David Parks was advanced.

SB 157-INPATIENT PSYCHIATRIC SERVICES

CHAIR WILSON announced that the next order of business would be CS FOR SENATE BILL NO. 157(HES), "An Act relating to inpatient psychiatric services for persons who are under 21 years of age and are either eligible for medical assistance or are in the custody of the Department of Health and Social Services."

Number 0243

SENATOR LYDA GREEN, Alaska State Legislature, as sponsor of SB 157, explained the purpose of the bill and answered questions from the members. She told the committee that SB 157 addresses the need and concern about psychiatric facilities for juveniles. Too many juveniles need services at psychiatric facilities, and currently there is a tendency to send these children out of state. Senator Green said it is her desire to place greater emphasis on determining if there is a place in state for these students where they can remain closer to their homes and parents, and allow them to reassimilate into the community when the time comes. Having treatment in state would allow for assistance to the families and other auxiliary needs that might be required when a child requires psychiatric services.

SENATOR GREEN pointed out the key provisions on the sponsor statement, which says that the Department of Health and Social Services will not grant assistance or pay for inpatient psychiatric care for children under the age of 21 who are placed in an out-of-state facility unless adequate services are unavailable in the state. The department will evaluate the types of services available in state and subsequently transfer these students back to Alaska when a room becomes available, unless the transfer would be detrimental to the student's health, therapeutic relationship, or clinical needs. This bill would also encourage those who provide these services to create local facilities so these kids can stay at home.

Number 0410

SENATOR GREEN told the committee that the bill identifies two classes of individuals. Section 1 primarily deals with Medicaid recipients "in custody and non-custody." Sections 2 and 3 deal with kids who are in state custody. For a child who is on Medicaid there is one standard, and for a child who is in the custody of the state there is another standard. She said she believes that the review process should be consistent. State regulation currently mandates the review process and sets up a review team. It is a fairly rigorous system, and a variety of people are required to examine, review, and determine what is in the best interest of the child. It is not an arbitrary decision. Nor should it be. There are many steps that are taken before a child is determined to be institution bound. Some of these include foster care, special care, medical treatment, and group therapy. There are many steps, including assistance for the family and the child, to work through before institutionalization is determined necessary. These provisions are part of the legislation.

Number 0508

CHAIR WILSON commented that the state has already gone through several steps and that those options have already been implemented before this point [institutionalization] is reached.

SENATOR GREEN replied that there is an inpatient disciplinary team that would parallel, for example, an individual education program (IEP) that is designed for student education. They review and determine what is needed, what must be done, and what cannot be allowed to happen. The team would assist in determining what is the best treatment for that child.

Number 0576

REPRESENTATIVE CISSNA commented that this bill addresses the numbers of youth who have been sent out of state relatively recently, as in the last ten years. She asked whether the Alaska Youth Initiative (AYI) program relates to any of this.

Number 0626

SENATOR GREEN responded that AYI is an in-state option.

REPRESENTATIVE CISSNA commented that AYI was historically an extraordinarily successful in-state option and it is tragic that it is not available. She said she is concerned about the language in the fiscal note [under Analysis] where it says that "this bill addresses the perception that our mental health and residential treatment service system relies too heavily on out-of-state placement". Representative Cissna said that those who have been deeply involved in the issue concerning kids' suddenly being transferred out-of-state do not share the perception that it is a fact. She asked Senator Green to comment on this point.

Number 0684

SENATOR GREEN replied that she could not speak to the fiscal note or the language, but she said that there has been an incredible increase, probably an anomaly, since the advent of Denali KidCare. Children are being transferred outside of Alaska without the interdisciplinary team focused as fully as would be desired.

REPRESENTATIVE CISSNA asked if this is being for paid by Medicaid funds.

SENATOR GREEN responded that is correct. Medicaid funding needs to be tightened up as well. This legislation will determine the appropriate way of handling these issues.

SENATOR GREEN noted that Representative Seaton was leaving the hearing and before he went she wanted to address a question that he asked her staff about this legislation. She told the committee that Medicaid determines how much will be paid for treatment. If a request is made for something that is more expensive, for example, treatment that requires that the student stay here versus sending the student out of state, Medicaid determines the rate. Senator Green reiterated that Alaska does not have any control over the rate.

Number 0804

KATHY CRONEN, Regional Vice President, Universal Health Services (UHS), testified in support of SB 157, and answered questions from committee members. She told the committee that UHS [recently acquired] North Star Behavioral Health System ("North Star"). Prior to her current position she was the chief executive officer (CEO) at North Star for the past 18 years. She said she has been involved daily with/in decisions related to sending kids outside of Alaska to treatment centers in the

Lower 48 states. Currently there are 300 to 400 Alaskan children in residential treatment centers in the Lower 48. This has devastating long-term impacts on these children, on the families, and ultimately on our state. Last year the House and Senate unanimously passed SCR 21. This bill [SB 157] is a formalization of that resolution to complete the good work the legislature started last year. Mental health treatment and follow-up care should be done close to home, she said. Coordination between the residential treatment provider and the ongoing outpatient treatment provider is essential. Ms. Cronen reiterated that it needs to be done in close proximity. Treatment should involve families because the family's treatment is critical to children's long-term success. Family treatment that is delivered over the telephone is just not as effective as treatment that is done face-to-face.

Number 0923

MS. CRONEN told the committee that the legislature's support of this bill will encourage providers like North Star, Providence, or any long-term treatment provider to expand the number of beds because there will be a commitment to keep kids in state. Valuable Medicaid dollars are currently being sent to the Lower 48, and the state is losing jobs. If North Star were to expand beds in Alaska to meet the needs of the number of kids that are outside, there would be an additional 400 jobs created. This is good public policy, she said. It is good for the kids' treatment; it is good for families; it keeps Medicaid dollars in state; and it creates jobs. Ms. Cronen said it is a win for everyone, and she encouraged the members to support the bill.

Number 0949

REPRESENTATIVE GATTO said that he would like to discuss the fiscal note for the record. He pointed out that if the state sends kids outside of Alaska, the state has to pay for their education; if the state keeps the kids here at home, the state pays for their education. He said he does not know which is more or less expensive. He asked how the legislature knows which is more expensive, since the fiscal note says zero?

MS. CRONEN responded that she can provide some firsthand experience because she is responsible for the UHS facility in Provo, Utah. She said that 30 percent of the student population in that facility is Alaskan kids. The price at Provo Canyon School is less than the price here, but it does not include transportation, nor does it take into consideration the

treatment outcome of the kids. The costs can be slightly lower, but when adding in the costs of transportation and education the price is comparable. She said she believes the department agrees because it has provided a zero fiscal note.

Number 1027

REPRESENTATIVE GATTO said that he has had discussions about prisoner transfers to out-of-state facilities where a number of factors are evaluated including the cost, transportation, and the opinion that there is a better result if the prisoners are kept at home. Is there any evidence that kids that stay in Alaska do better than those sent out of state?

CHAIR WILSON responded that all the members have to do is think about how they would feel if it was their child being sent out of state. Would anyone want his/her child to get treatment where the parent could not take part? She said she thinks it is important to look at this legislation as a policy issue, and not look at the finances. She said she believes it is better for the kids and the families to have interaction, go through treatment together, and try to work things out. She pointed out that in some instances, parents do not even have the money to go see the kids. Chair Wilson asked the committee to look at this legislation in that light.

Number 1093

SENATOR GREEN pointed to this year's supplemental budget wherein there was approximately [\$366,000] to [\$400,000] supplemental request for educational fees for out-of-state facilities. She told the committee that there was \$663,000 in fiscal year 2002 (FY 02) and it is expected to be \$866,000 to \$870,000 for FY 03. The average cost is \$5,160 per student for an average of 78.5 education days. Education costs charged by facilities range from \$38 per day to \$102 per day in some of these facilities. So if the \$102 rate is multiplied by the required 180 school days, one can make the leap very quickly that it is multiples of what the state is providing for the education of Alaska's children in state. The proposal is \$500,000 for FY 04, but with the continuing increase of children going out of state, that number will continue to rise and certainly will be more than this year's authorized and supplemental budget of \$900,000.

Number 1179

REPRESENTATIVE CISSNA commented that she served on the Finance Subcommittee on Education in 1999 when this issue was looked at. At that time it was more expensive per child partly because the school district absorbed the students in Alaska, but in cases where they are sent Outside, the money must be sent out. She said she was shocked at that time.

REPRESENTATIVE GATTO asked how many of the children that are sent Outside are returned.

MS. CRONEN responded that she believes that is a clinical decision based on where the kids are in treatment and if they are eligible to be returned.

REPRESENTATIVE GATTO commented that there are some cases where it is better to take the child away from the family.

MS. CRONEN replied that it is not just the families that the kids need to be attached to. There are many people in communities that kids respond to, for instance, their teachers, school counselor, pastor or minister, or a neighbor. It is important to keep kids connected to the healthy people in their lives. She said if it is not their families, and unfortunately oftentimes it is not, then it is important to make sure it is someone in their local community.

Number 1313

SENATOR GREEN asked the members to look at page 2, paragraph (b), on line 3, where it says:

"The department shall, on a monthly basis, evaluate what types of services are available in the state for inpatient psychiatric care"

SENATOR GREEN said on the same page and paragraph on line 11 it says that the transfer cannot be detrimental to the person's health. If that were the case, the student would not be transferred. For example, if there is an established therapeutic relationship or a clinical need for the student to be Outside, then the student would not be transferred. There would be a complete review. She told the committee the other factor that needs to be considered in all of this is that there is space available in Alaska.

Number 1359

REPRESENTATIVE WOLF moved to report CSSB 157(HES) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSSB 157(HES) was reported out of the House Health, Education and Social Services Standing Committee.

The committee took a brief at-ease from 3:40 p.m. to 3:41 p.m.

HB 292-ABORTION: INFORMED CONSENT; INFORMATION

CHAIR WILSON announced that the final order of business would be HOUSE BILL NO. 292, "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."

CHAIR WILSON told the members that while there are members of the public that would like to testify on the bill, she will be taking up the amendments to the bill, as the amendments may address some of the public's concerns.

Number 1438

REPRESENTATIVE SEATON asked Representative Dahlstrom, sponsor of HB 292, if she is in agreement with the amendments he is proposing before the committee.

Number 1464

REPRESENTATIVE NANCY DAHLSTROM, Alaska State Legislature, as sponsor of HB 292, spoke to the amendments of the bill and answered questions from the members. In response to Representative Seaton question, she responded that she is in agreement with the amendments.

Number 1518

REPRESENTATIVE SEATON moved to adopt Amendment 1, which read [original punctuation provided]:

Page 1, line 9,  
After "professional conduct" delete the words  
**in a critical area of practice**

Page 1, line 13,  
After "on the Internet" insert the words

**that is reviewed and approved by the State Medical Board and**

Page 2, lines 1 and 2,  
After "private choices" delete  
**between permanent and life affecting alternatives**

Page 2, line 3,  
After "information site" insert the words  
**that is reviewed and approved by the State Medical Board**

Page 2, lines 8 through 10,  
Delete all material

Page 2, line 19,  
After "agencies" delete  
**and** and insert ,

Page 2, line 21  
After "(B)" insert  
**agencies, services,**

Page 2, line 22  
After "and services" insert  
**and**

Page 2, 23,  
Create a new sub-section that shall read  
**{C} agencies, services, clinics and facilities  
designed to assist or provide contraceptive options  
and counseling;**

Page 2, line 30,  
After "abortions services;" insert  
**and the circumstantial criteria for the availability  
of medical assistance benefits for contraception;**

Page 3, line 12,  
After "objective nonjudgmental, and" insert  
**that is reviewed and approved by the State Medical Board and**

Page 3, line 1,  
After "information that" insert  
**is reviewed and approved by the State Medical Board  
and**

Page 3, line 20

After "unbiased information" insert  
**that is reviewed and approved by the State Medical Board**

Page 3, line 24,

Create a new sub-section that shall read

**(9) contains objective, unbiased and comprehensive information that is reviewed and approved by the State Medical Board on different types of available contraceptive choices and the medical risk and possible complications commonly associated with each method as well as the possible psychological effects that have been associated with using contraceptives.**

Page 5, line 16,

Delete

**at least 24 hours before the abortion procedure,**

Page 6, line 16,

After "this section" insert

**that do not violate the woman's privacy by including her name or any another [other] identifying information.**

Page 6, line 23,

After "whether the" insert

**unidentified**

Number 1523

REPRESENTATIVE CISSNA objected to the motion.

CHAIR WILSON told the committee that she would like to individually discuss each change to the bill.

REPRESENTATIVE SEATON said on page 1, line 9, after the words "professional conduct", delete the words "in critical area of practice." He pointed out that the State of Alaska regulates all of those professional standards of conduct.

CHAIR WILSON asked Representative Seaton to clarify whether those words are in existing statute.

REPRESENTATIVE SEATON responded that this is a new bill [new law].

REPRESENTATIVE SEATON said that [on page one] line 13, after the words "on the Internet", insert the words "that is reviewed and approved by the State Medical Board and". This language is inserted so that there is a standard for scientific and unbiased information.

REPRESENTATIVE SEATON said that on page 2, lines 1 and 2, after the words "private choices", delete the words "between permanent and life affecting alternatives".

REPRESENTATIVE SEATON said that on [page 2] line 3, after the words "information site", insert the words "that is reviewed and approved by the State Medical Board". Representative Seaton asked if he could make a change to that amendment. He said that he wants to make sure the same wording is used as that in the previous section. So instead of the wording "after information site", it will be "after information site on the Internet", and then insert the words "that is reviewed and approved by the State Medical Board".

Number 1710

CHAIR WILSON commented that this is amending the amendment. She said on page 2, line 3, of the amendment, after the words "information site", she will insert the words "on the Internet".

CHAIR WILSON asked if there was any objection to amending the amendment. There being no objection, she announced that the amendment to Amendment 1 was adopted.

REPRESENTATIVE SEATON said that on page 2, lines 8-10 would be deleted.

Number 1735

REPRESENTATIVE WOLF asked what is the purpose of that amendment.

REPRESENTATIVE SEATON replied that the information is out of context with the other findings. He said there has been considerable testimony on both sides of the issue, and the purpose is to show that there are findings on this and not to try to weight the bill one way or another.

Number 1798

REPRESENTATIVE SEATON said that on page 2, line 19, after the word "agencies", delete the word "and" and insert ",".

REPRESENTATIVE SEATON said the next change is on page 2, line 19, after the word "services", insert the following: ", clinics and facilities".

REPRESENTATIVE SEATON said on page 2, line 21, after "(B)", insert "agencies, services,".

REPRESENTATIVE SEATON said on page 2, line 22, after the words "and services", insert the word "and".

REPRESENTATIVE SEATON said on page 2, line 23, a new subsection will be created that will read as follows: "(C) agencies, services, clinics and facilities designed to assist or provide contraceptive options and counseling;".

Number 1869

REPRESENTATIVE COGHILL asked for clarification on this language. Is this wording an effort to address organizations like Planned Parenthood?

REPRESENTATIVE SEATON replied that is correct. It would cover Planned Parenthood or other organizations that may need to be covered.

REPRESENTATIVE SEATON said on page 2, line 30, after the words "abortions services;", insert the following language: "and the circumstantial criteria for the availability of medical assistance benefits for contraception;".

CHAIR WILSON pointed out that a word was added that is not on the amendment document provided to the committee. The word "and" was added.

REPRESENTATIVE SEATON responded that it was an error in reading the amendment. He had not intended to add anything to the amendment.

Number 1938

REPRESENTATIVE SEATON said on page 3, line 12, after the words "objective, nonjudgmental, and", insert the following language: "that is reviewed and approved by the State Medical Board and".

REPRESENTATIVE SEATON commented that this language is to ensure that the information that is portrayed is scientific, accurate, and consistent throughout the bill.

CHAIR WILSON asked about the next portion of the amendment because the numbering appears to go back up to line 1.

REPRESENTATIVE SEATON responded that is a typographical error. It should have read page 3, line 15 [not line 1].

REPRESENTATIVE SEATON said on page 3, line 15, after the words "information that", insert "that is reviewed and approved by the State Medical Board and".

Number 2039

CHAIR WILSON moved to adopt a conceptual amendment to change the wording from page 3, line "1" to read page 3, line "15". There being no objection, she announced that the amendment to Amendment 1 was adopted.

REPRESENTATIVE SEATON said on page 3, line 20, after the words "unbiased information", insert the words "that is reviewed and approved by the State Medical Board".

REPRESENTATIVE SEATON said on page 3, line 24, a new subsection is created which reads: "(9) contains objective, unbiased and comprehensive information that is reviewed and approved by the State Medical board on different types of available contraceptive choices and the medical risk and possible complications commonly associated with each method as well as the possible psychological effects that have been associated with using contraceptives."

CHAIR WILSON commented that this subsection is information related to pregnancy and pregnancy alternatives that the department shall maintain on the Internet in printable form.

Number 2130

REPRESENTATIVE GATTO said that the previous sentence should end in "; and" to make it accurate.

CHAIR WILSON moved to amend the amendment on page 3, line 23, by deleting the "." and insert ";". There being no objection, the amendment to Amendment 1 was adopted.

Number 2172

REPRESENTATIVE COGHILL asked for some discussion on the new subsection where it provides for the State Medical Board's approval of the information. The bill also allows for the Department of Health and Social Services, Division of Public Health to review this information. He asked if the purpose of the amendment is to have two reviews of the language.

REPRESENTATIVE SEATON responded that the information will be created by the department and reviewed by the State Medical Board.

REPRESENTATIVE COGHILL asked if anyone has talked with the State Medical Board on this. He said he is curious whether this complies with its scope of authority. He suggested that should be explored.

Number 2253

REPRESENTATIVE SEATON said on page 5, line 16, the words "at least 24 hours before the abortion procedure," are deleted.

CHAIR WILSON commented that this would delete the required 24-hour waiting period.

REPRESENTATIVE SEATON responded that is correct.

Number 2270

REPRESENTATIVE COGHILL asked Representative Seaton what the rationale is behind this change.

REPRESENTATIVE SEATON commented that the testimony heard in an earlier hearing is that the waiting period would vastly increase the cost and delay other patients from receiving medical services because of the limited number of appointments available.

Number 2272

REPRESENTATIVE DAHLSTROM told the committee that in speaking with Senator Dyson, who is the cosponsor of the companion bill in the other body [SB 30], they are comfortable with shortening the time period to address some of the issues the medical community has expressed. However, they do believe there needs

to be a waiting period, contemplation period, or an absorption-of-information period. Representative Dahlstrom said she does not support taking any time limit out of the bill.

Number 2304

REPRESENTATIVE COGHILL commented that this will be a two-day process from the time of contact. There are early-term abortions that could happen on the first day. The further along in pregnancy, the more time is required. Removing this language creates some pressure in making the decision for those who have early-term pregnancies, and in his view this is an informed-consent issue. One size does not fit all for the time limit. There needs to be more work done in this section of the bill, he concluded.

REPRESENTATIVE SEATON responded that he has no objection to a contemplation time. He said he believes to force someone who has come in from the Bush to overnight an extra night creates a hardship. As long as the contemplation time is short enough so that the patient could have the procedure during the same appointment, it would be helpful.

Number 2374

REPRESENTATIVE DAHLSTROM commented that when the amendments being presented by Representative Seaton are complete, she has an amendment that she would like to present to the committee that addresses some of the issues being discussed today and some of the issues raised in Dr. Murphy's testimony yesterday. She stated that most of the women have the abortion scheduled a few weeks ahead of time. If there were a printable signature page on the web site, that would address this issue.

**TAPE 03-41, SIDE B**

REPRESENTATIVE COGHILL said he does not want to slow down the discussion of these amendments.

REPRESENTATIVE SEATON said on page 5, line 16, after the words "this section", insert the following: "that do not violate the woman's privacy by including her name or any other identifying information."

REPRESENTATIVE SEATON said on page 6, line 23, after the words "whether the", insert the word "unidentified".

REPRESENTATIVE SEATON said that the purpose of this change is to ensure that these reports are kept confidential and do not contain any identifying information. This language assures that the law follows the federal guidelines.

Number 2314

REPRESENTATIVE DAHLSTROM said she is comfortable with all of the changes with the exception of the one on page 5, line 16, which deletes the 24-hour waiting period.

CHAIR WILSON suggested that the committee accept Amendment 1 with the agreement that there will be a change in the language to address Representative Dahlstrom's concern about the removal of the 24-hour waiting period. There being no objection, she announced that Amendment 1 was adopted.

REPRESENTATIVE SEATON brought attention to Amendment 2, labeled 23-LS0867\H.1, Lauterbach, 5/7/03, which read:

Page 4, line 24, following "woman":

Insert "and the pregnant woman's estate, and only to the pregnant woman and the pregnant woman's estate,"

Following "damages":

Insert "caused by the violation"

CHAIR WILSON labeled the foregoing Amendment 2. She asked Representative Seaton to explain it.

REPRESENTATIVE SEATON told the committee that the purpose of Amendment 2 is to ensure that it is clear that the woman and her estate are the entities that would be entitled to this presumptive information. This is to demonstrate a rebuttable presumption and that this accrues to a woman and her estate and not a third party. For example, Greenpeace, Right to Life, a church, or someone not involved would not be able to come in and assert for the woman, and get this information.

Number 2184

REPRESENTATIVE GATTO said he believes there needs to be a sponsor statement and a sectional analysis on this bill. Since there are so many amendments [changes] all at one time, he asked if there is a summary of what the amendments accomplish.

REPRESENTATIVE COGHILL commented that he was trying to follow the rationale on this amendment. He said he is concerned whether this is legal.

REPRESENTATIVE SEATON responded that the Legislative Legal and Research Services drafted this language to make sure the amendment is correct. This change is only to prevent a third party from filing a lawsuit on someone's behalf that is not the woman or her estate.

Number 2113

REPRESENTATIVE COGHILL removed his objection to the amendment.

REPRESENTATIVE DAHLSTROM asked if the Legislative Legal and Research Services talked about parental consent being involved.

REPRESENTATIVE SEATON said that they did not talk about that. But he said he assumes it is the person who has consent and the interested parties. This could be researched further by Legislative Legal and Research Services to ensure that situation is covered.

REPRESENTATIVE DAHLSTROM responded that she will follow up on that issue.

REPRESENTATIVE COGHILL reiterated that he has removed his objection.

Number 2045

CHAIR WILSON said that without objection, Amendment 2 was adopted.

REPRESENTATIVE SEATON responded to Representative Gatto's request for a sponsor statement on the amendments by saying that this is a very complex bill and it could be a very controversial subject. The intent of these amendments is to take as much of the emotional fabric out of the bill so that it will have broad support. This can be accomplished by inserting scientific evidence, review of that evidence, and assurance that it does not restrict a woman's right to access information and does not remove confidentiality from medical procedure; then there can be broad support for this bill. Representative Seaton summarized his statement by saying his intent is to aid the sponsor in getting a bill that can have broad support.

Number 1990

REPRESENTATIVE COGHILL commented that he agrees with a lot of what Representative Seaton says; however, he is not a scholar on the amendments that were presented. He reiterated his concern that the Department of Health and Social Services already provides many brochures on a variety of health and women's issues. None of them, to his knowledge, need to be reviewed by the State Medical Board before they are provided to the public. He wonders if this bill is starting a precedent and wonders if that is what the legislature wants to do. He told the committee that at this point he is not prepared to agree to that. He said he would like to take that portion out of the bill.

CHAIR WILSON asked if the Department of Health and Social Services is available to address this question.

CHAIR WILSON told the committee that because of the many changes to the bill, she is inclined to hold the bill and have the committee review the committee substitute. She asked the sponsor and other members of the committee what their thoughts are on this.

REPRESENTATIVE DAHLSTROM responded that she would be fine with that. She said she does have a question for the department. She said she knows the department makes many publications available to the public. For example, the department provides brochures about fetal alcohol syndrome and informational flyers about smoking while pregnant. She would like to know if those brochures are reviewed by the State Medical Board or if the department has full control over those publications.

Number 1860

JOHN SHERWOOD, Unit Manager, Division of Medical Assistance, Department of Health and Social Services, testified on HB 292 and responded to questions from the committee. He said he cannot claim to be familiar with all of the brochures and pamphlets that the department provides; however, he wanted the committee to be aware that this information comes from a variety of sources. Some things are written in-house, and some things are provided to the department by different federal agencies that are in the business of providing this information in supporting states. He said he is not aware of anything going to the State Medical Board or some other in-state board for approval, but there could be some instance when that has occurred that he is not aware of.

Number 1837

REPRESENTATIVE COGHILL commented that the question is how to verify scientifically appropriate and accurate information. Within the department's scope of work there must be instances when a variety of different brochures or pamphlets must be verified for accuracy. Does the department have a process where the information is examined for accuracy, scientifically accurate, and et cetera?

MR. SHERWOOD stated that is not within his particular scope of work; however, he assumes the Division of Public Health medical professionals would review the information and determine that it is accurate before it would be disseminated. He said he is comfortable making that statement.

Number 1797

REPRESENTATIVE COGHILL commented that last year the committee talked about this issue with the head of the Division of Public Health. The director had very firm views on this issue and assured the committee that the division could craft scientifically accurate information. The doctors who are hired to work in the Division of Public Health are quite capable, he said. Representative Coghill said that is his reason for bringing this question to the committee. Representative Coghill agreed with Chair Wilson's idea about holding the bill so that a few phone calls could be made to confirm and clarify some information. He said he is interested in seeing this legislation pass.

Number 1750

REPRESENTATIVE CISSNA commented that she has several questions, some of which will be handled in the House Judiciary Standing Committee. Her concern is that this bill would appear to be creating obstacles to abortion, which is unconstitutional. She asked if this bill is affected by the new HIPAA [Health Insurance Portability and Accountability Act] rules that have to do with confidentiality. Some people she has talked to say these rules are much more complicated than the state understands.

CHAIR WILSON stated that she will request that the Department of Health and Social Services look into that question before Tuesday, when the bill will be heard again.

REPRESENTATIVE CISSNA said that those that have been waiting to testify on line may contribute things that the committee has not thought of.

CHAIR WILSON announced that she will be closing the discussions soon. However, once the committee substitute is available, the committee will send a copy of it to anyone in the committee room or on line who would like to see it. She apologized to anyone who has been waiting to testify, but said she believes the amendments have changed the bill significantly and it is likely many of the public questions have been addressed in those changes. Chair Wilson said public testimony will be taken on Tuesday.

CHAIR WILSON said copies will be sent to the members prior to the next meeting. If any members wish to offer amendments, she asked that they talk with the sponsor and provide a copy of proposed amendments prior to the meeting.

Number 1604

REPRESENTATIVE CISSNA pointed out that some of the people who wish to testify could have come to meetings twice, taken time off of work, or arranged for babysitters, all in an effort to testify.

Number 1593

CHAIR WILSON agreed with Representative Cissna. She asked if there is anyone on line who would find it difficult to return to the hearing on Tuesday.

Number 1571

MYRNA GARDNER, testified in opposition to HB 292 and answered questions from the committee. She questioned that the intent of the bill is to provide an unbiased information web site for women. She offered her belief that in the state of Alaska, according to the Denali Commission, Internet technology, which is revolutionizing communication in urban areas of Alaska, is nonexistent in rural Alaska. The services are not there and the cost is astronomical to residents, so they do not have it available. She asked who this information would benefit. Ms. Gardner told the committee the language in the bill indicates that it is to be unbiased and should provide alternative options to abortion, but in subsection 2(a) and subsection 6, this

language is not unbiased. She said this section describes the fetal development of an unborn child from fertilization to full term, including photographs. This bill is designed to scold women and to intimidate them, she said. She stated that she believes this bill says women are not competent or capable enough to make this decision on their own or that women are not intelligent enough to go out there, get information, and make that decision rationally with their family, preacher, or physician. Ms. Gardner said these are the reasons why the legislature wants to mandate legislation to create a web site and force physicians to prove that they have given their patients this information.

MS. GARDNER said that 20 years ago or more, people did not talk about abortions. Women did not have a lot of choices and they surely did not have people they could speak to. Now there are a lot of services out there. The information is on television, radio, and in the print media. [Abortion] is not an issue that is not spoken of or a procedure that people are unaware of. Everyone knows about it. Ms. Gardner pointed out that the situation has changed. This is another reason why she believes the State of Alaska does not believe these women are competent enough to make this decision on their own. She said she respects the sponsor's intent to make sure there is information out there, but that can be achieved by contributing to organizations that do that. She said she does not believe it is necessary to provide a state regulation [law].

MS. GARDNER said that she has a question about the bill on page 4, line 27, where it talks about "a preponderance of the evidence that a person gave to a woman a written copy of the material maintained on the Internet." She reported that according to the new HIPAA law, no information regarding a person's medical records is to be given to anyone without written consent. This bill does not even pay any respect to that law and would violate it, she suggested. She stated the law [HIPAA] is only as good as its enforcement. The only way a doctor can prove compliance is by having some state employee go to the doctor and ask him/her to prove compliance. How is the information validated? It means someone is looking at private medical records, which violates their privacy. Ms. Gardner said this bill is not the answer and asked the committee to not let this bill pass.

Number 1300

REPRESENTATIVE GATTO asked what her affiliations are with respect to this issue.

MS. GARDNER responded that she has no affiliations and is speaking only for herself as an active registered voter.

REPRESENTATIVE CISSNA commented that the average citizen usually does not come in and testify. Usually it is someone representing a group. She asked how sophisticated the women are who seek abortions in her circle.

MS. GARDNER replied that the people she knows are almost overwhelmed with the technology today. This issue is sensitive, personal, and private. Because of the political sensitivity to this issue, there is a great deal of print media available. She has had family members and friends who have talked about abortion. Now sex education is taught to children. Most women are high school graduates and can research an issue; it is not like 50 years ago when women did not know what to do. She said women are competent and capable of making decisions now.

Number 1172

REPRESENTATIVE GATTO said if the amount of information is overwhelming, and the women are competent and capable, then why are there so many teen pregnancies at the high school level.

Number 1136

MS. GARDNER responded that it is not just women's fault, but she agrees that women should take protection, and so should men. She said she does not have an answer to Representative Gatto's question.

REPRESENTATIVE SEATON commented that Representative Gatto's question is a good one. There were a rash of pregnancies in Homer for several years; and those girls wanted to get pregnant because it was the thing to do at the time, he surmised. It astounds him and others. They were having babies in high school and these were not accidents. It was the rage for a while. Why some make these choices is confounding to us, he said.

REPRESENTATIVE CISSNA said that a recent report showed that births to teens shows Alaska behind the national average. At one time Alaska led the nation, but that turned around. Alaska is doing better.

REPRESENTATIVE GATTO pointed out the contradiction in information: Ms. Gardner said that Alaska's women are overwhelmed with information, but earlier she said in the Bush there is not good access to information. He said he actually believes that there is good access in the Bush because Alaska is the most Internet-connected state in the country and it is available. He commented that Ms. Gardner is one of the few people he has heard say that the problem is too much information.

MS. GARDNER said that the common citizen does not have access to the Internet in the Bush. The cost to use the Internet is expensive; however, there is television, radio, and the printed word. She believes this bill still says women are not competent to make this decision. She disagrees with this assumption, she told members. This bill is not about new information, but old and biased information, and about saying women are not capable.

REPRESENTATIVE GATTO responded that he does not think women are not capable. He said that if someone goes to a store and buys anything, there are labels that go on and on and on; that does not mean that the storeowner or the manufacturer thinks the consumer is incompetent and therefore has to be told a lot of information. It is simply another source of information. He asked whether Ms. Gardner would object to a label on a can that specifies what vitamins are contained in it, for example, that milk has vitamin D, and therefore it implies that the consumer is incompetent to find this information himself or herself and thus would be insulted it is on a milk container.

Number 0874

MS. GARDNER said she would not find that insulting. She said she believes knowledge is powerful. But what this bill is saying is that it is mandatory that the physician prove that beyond a preponderance of the evidence he/she has given this specific information to the patient before the procedure can be done. Ms. Gardner stated that this is not additional information; it is mandatory. If this bill said this web site is available to be helpful, she said she would say thank you, but this is mandatory.

Number 0770

BOB JOHNSON, M.D., testified via teleconference in opposition to HB 292. He told the committee that during his last ten years of medical practice he performed approximately 70 abortions per

year for a total of 700 abortions. He said he is thoroughly familiar with the procedure, the risks, and the results. He told the committee he is retired and has nothing to gain by promoting abortion. He commented that Senator Dyson's testimony before the committee cautioned the members to note that there will not be any reference to the term "unborn child" by those opposing the bill. Dr. Johnson said this clearly indicates his bias with respect to abortion and his obvious conflict of interest. He said he thought this was to be a hearing and not a discussion of the bill and testimony of the committee in favor of the bill, and it soon became apparent that it was. Because of this, only two individuals were able to testify that afternoon, he complained. Some of those who were not able to testify were not able to come this afternoon.

DR. JOHNSON told the committee his purpose for testifying is to see that obstacles are not placed in front of women who for multiple reasons feel they need an abortion. Each of his patients was provided with options available to them in addition to an abortion. Each was told as much as she wanted to know about the procedure, risks, and outcome. Each was scheduled for a follow-up visit two weeks after the procedure. He said his finding supports Dr. Murphy's findings. He said that the committee made a big fuss about her use of the term "termination of pregnancy", which he suspects was her attempt to be sensitive to patients' feelings about the term "abortion" because those who are in favor of a right to life have made it a nasty word.

DR. JOHNSON told the committee that his findings show that the risks are considerably less than what some are led to believe by those who oppose abortion. For instance, only two of his patients experienced post-abortion depression requiring treatment, and both of these patients recovered. Dr. Johnson said this is less than the incidence of postpartum depression. None of his patients lost enough blood to require a transfusion, two of his patients had post-abortion infections that responded promptly to treatment, and those that so desired went on to have normal pregnancies. He said he saw no fertility problems associated with abortion. He told the committee that he does not believe politicians have any business telling patients what they must know, in spite of what advice they receive or from whom. It is an insult to the intelligence of women who, in his opinion, know exactly what they want to know and if encouraged will make sure their physician tells them.

Number 0560

DR. JOHNSON asked if the committee really thinks physicians are not familiar with their responsibility to explain the options, risks, benefits, and details of any treatment. This legislation places more obstacles in the path of those who need an abortion. This legislation, along with much inaccurate publicity, complicates the decision and tends to make women who elect to have an abortion feel guilty. He said he thinks the occasional suicide he has heard mentioned is a direct result of this [inaccurate publicity]. Dr. Johnson asked the committee, on behalf of women who cannot raise a child, for any reason, to reject this legislation and any similar legislation.

Number 0520

GENENEIVA PEARSON testified via teleconference in opposition to HB 292. She told the committee that she listened to Dr. Murphy's testimony and believes that physicians are taking care of the concerns the committee has. Ms. Pearson said that if the committee believed legislation was necessary, Dr. Murphy's testimony should make it clear that the bill is not necessary. Government should not interfere with a relationship between physician and patient. She said that the women who complained to Representative Dahlstrom about their choices need to take responsibility and not blame someone else for their actions.

Number 0401

KAREN VOSBURGH, Executive Director, Alaska Right to Life, testified via teleconference in support of HB 292. She told the committee that she represents not only herself, but also the 50,000 people in their database. Ms. Vosburgh said that it is a fact that abortion leads to physical and psychological damages to women. Abortionist do not like to call it a child, but that is exactly what it is. The description of the pre-born baby is relevant to a woman's decision about abortion. To claim that this information does not pertain directly to the abortion procedure is to deny any possibility that a second human being is involved. Women deserve to know exactly what is being removed before they make that decision. The doctor, nurse, or counselor who protects the woman seeking the abortion from the facts to keep them from anxiety or guilt, has made a moral decision on the woman's behalf, she said, and that is completely unacceptable.

Number 0318

MS. VOSBURGH said everyone has heard the reference of the pre-born baby as tissue or some term that would not give any humanity to the baby within it. Abortionists say they fully inform their patients before committing the abortions; however, Ms. Vosburgh told members, nearly 80 percent of the women surveyed by the Elliot Institute said that they were actively misinformed by their counselors prior to their abortion. In every one of the thousands of cases documented, a full explanation and possible risks of complications were not given by abortion providers. When questions were asked, answers about risks were understated, misconstrued, or avoided. Rather than addressing risks, alternatives, fetal development, the abortion counseling consisted of birth control techniques. This is precisely why there needs to be informed-consent laws. Women have the right to know, and a lot of them are not getting the information. Women rely on their doctors for accurate information, and they are not getting it, she asserted. That does not apply across the board, but in all the research she has done, it applied to a great percentage of women. It is very necessary that women have this knowledge. Ms. Vosburgh pointed out that those providing the counseling have a huge conflict of interest, considering that they receive payment for "committing" abortions on those they counsel.

Number 0212

MS. VOSBURGH told the committee of an example in Red River Abortion Clinic, where she said a counselor provided the following false statements to her clients:

Anti-abortion activists say having an abortion increases the risk of developing breast cancer and endangers future childbearing. None of these claims are supported by medical research or established medical organizations.

MS. VOSBURGH stated that this abortionist should not be passing out information like this. If this person were to research the evidence about breast cancer, future childbearing complications, and a huge psychological impact that most women have, she would not be providing this information. The hormonal disruption that occurs when a woman's pregnancy is artificially interrupted leaves the breast with an abnormally high number of cells vulnerable to cancer, she told members. The first study done on abortion as a risk factor for breast cancer was published in 1971. That report showed that abortion appears to cause substantial increase and risk of subsequent breast cancer.

Almost two decades later, 15 or 14 American studies bear out this early warning. But to this day, women are not informed about this significant health threat. She told the committee it is time for the American people to decide for themselves whether the evidence warrants disclosure. It is time the women in Alaska get protection because the abortionists providing the services are not informing them. She told the committee she has a lot more information and will send it on to the committee.

Number 0090

REPRESENTATIVE GATTO announced that Chair Wilson had left the meeting and that he will be chairing the meeting. He asked if anyone else on line would like to testify. [There was no response.]

**TAPE 03-42, SIDE A**

REPRESENTATIVE CISSNA commented that those wishing to testify via teleconference often need a few minutes before they can be heard.

REPRESENTATIVE GATTO announced that Chair Wilson had returned to the meeting.

Number 0031

CHAIR WILSON asked Representative Dahlstrom to summarize any further statement she might have on HB 292.

REPRESENTATIVE DAHLSTROM commented that the information Ms. Vosburgh provided in testimony is in the bill packets. She thanked those that testified and said that it takes a lot of courage to talk about sensitive issues. Representative Dahlstrom said there are comments made in testimony by Ms. Gardner that bother her and she wants to address those. Ms. Gardner had said this bill states that women are not competent. Representative Dahlstrom said she absolutely does not believe that is the case. She said she operates on the true feeling that information is power and it does not matter what it is, whether it was the example given previously about reading labels in the grocery store, or staying current on all types of medical information, health information, the best way to build a home, or any area where there is an effort to gain as much information as possible. Representative Dahlstrom stated for the record that it is absolutely untrue that her intent in filing this bill was based on her belief that women are not competent.

Number 0186

REPRESENTATIVE DAHLSTROM told the committee that she had an opportunity to speak with a woman who had an abortion 30 years ago. It just came up in a conversation. The woman told her that it almost destroyed her life and that she had years and years of counseling. She said she does not know the particulars on this, but that this is a woman who has been dealing with this for a long time. As a previous testifier [Ms. Pearson] said, individuals must be responsible for their actions and there are consequences for every action that is taken in life. That is why it is extremely important that there is as much information as possible, so that all women can have this information. Representative Dahlstrom told the committee of a woman who is very close to her, who had an abortion and her comments were, "Why can't this be like when I go to the store and I buy something and I decide I don't want it and I go back to the store and I return it and it is done." Buyer's remorse is a simple thing that is experienced by many individuals. For something that is so critical that affects women's bodies and affects them for a very long period of time, erring on the side of caution cannot be bad in any way, shape, or form.

REPRESENTATIVE DAHLSTROM addressed the comments and facts that were stated earlier from a publication Representative Cissna has. She said she is interested in looking at those facts. She agreed that Alaska used to be the number-one state in the nation in teenage pregnancies, unwed pregnancies, and unwanted pregnancies. While the numbers are down, her personal belief is that a big reason that those numbers are down is due to the many abortions that are taking care of those pregnancies. She said that she does not have the numbers in front of her now, but will have them available for the next hearing. She recalled that the numbers were very alarming and that they listed the number of abortions performed on young women between the ages of 12 and 15, 15 and 17, and then 18 and above. It was broken down by inside the Municipality of Anchorage and outside the Municipality of Anchorage.

Number 0438

REPRESENTATIVE DAHLSTROM said that she goes back to the thought that information is power. If a woman has made that very personal choice, she will respect that choice. She said that in her life when there are very important decisions to make, information provided to her helps her make the best decision

possible. People all deal with the consequences of our actions. The intent of this legislation is to provide information so that when people make choices, they are informed, and they know exactly what they are doing. Then they can move on with their life and have a happy productive life.

Number 0501

REPRESENTATIVE CISSNA responded that she agrees with Representative Dahlstrom's testimony that one can never get enough information and she supports that effort. However, since many of the people who probably are seeking this procedure are people well over 35 years old, why include the requirement to check to see if they did their homework. These people are individuals who have done all the things expected in being responsible adults.

Number 0560

REPRESENTATIVE DAHLSTROM replied that she is 45 years old, and has been through many experiences in life. However, she continues to be amazed at all the things she does not know, and all the things that she has not experienced because these situations have not been a part of her personal life. Representative Dahlstrom said as she learns and becomes aware of other experiences, it makes her a better person, and it makes her more accepting of other people. Understanding different circumstances helps to shape who she is because she gains that information. When someone is over 21, he/she is responsible for certain things; for example, most people by the time they are in their 30s or 40s have purchased a home. The intent of this bill is not to state that someone is not able to make a good decision, but maybe it is the first time that person has had to make this decision.

CHAIR WILSON announced that will be the end of testimony on HB 292 until next week. [HB 292 was held over.]

#### **ADJOURNMENT**

Number 0702

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at 5:00 p.m.