

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

March 3, 2004

1:38 p.m.

TAPE(S) 04-11

**MEMBERS PRESENT**

Senator Fred Dyson, Chair  
Senator Lyda Green, Vice Chair  
Senator Gary Wilken

**MEMBERS ABSENT**

Senator Bettye Davis  
Senator Gretchen Guess

**COMMITTEE CALENDAR**

SENATE BILL NO. 340

"An Act relating to the detention of delinquent minors in correctional facilities; relating to emergency detention of minors for evaluation for involuntary admission for mental health treatment; relating to detention of intoxicated minors and minors incapacitated by alcohol or drugs; and providing for an effective date."

MOVED SB 340 OUT OF COMMITTEE

HOUSE BILL NO. 282

"An Act relating to contracts between the University of Alaska and its employees involving research or other development of intellectual property and to the authority of the president of the University of Alaska regarding employee contracts for development of intellectual property."

HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 340

SHORT TITLE: DETENTION OF MINORS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/16/04	(S)	READ THE FIRST TIME - REFERRALS
02/16/04	(S)	HES, JUD

03/03/04 (S) HES AT 1:30 PM BUTROVICH 205

BILL: HB 282

SHORT TITLE: UNIVERSITY EMPLOYEE RESEARCH CONTRACTS

SPONSOR(S): REPRESENTATIVE(S) FATE

04/23/03 (H) READ THE FIRST TIME - REFERRALS  
04/23/03 (H) HES, L&C  
05/15/03 (H) HES AT 3:00 PM CAPITOL 106  
05/15/03 (H) Scheduled But Not Heard  
01/22/04 (H) HES AT 3:00 PM CAPITOL 106  
01/22/04 (H) Moved Out of Committee  
01/22/04 (H) MINUTE(HES)  
01/23/04 (H) HES RPT 3DP 1NR  
01/23/04 (H) DP: CISSNA, SEATON, WILSON; NR: GATTO  
02/02/04 (H) L&C AT 3:15 PM CAPITOL 17  
02/02/04 (H) Moved Out of Committee  
02/02/04 (H) MINUTE(L&C)  
02/04/04 (H) L&C RPT 4DP 3NR  
02/04/04 (H) DP: CRAWFORD, ROKEBERG, GUTTENBERG,  
02/04/04 (H) ANDERSON; NR: LYNN, GATTO, DAHLSTROM  
02/19/04 (H) TRANSMITTED TO (S)  
02/19/04 (H) VERSION: HB 282  
02/20/04 (S) READ THE FIRST TIME - REFERRALS  
02/20/04 (S) HES  
03/03/04 (S) HES AT 1:30 PM BUTROVICH 205

**WITNESS REGISTER**

MS. PATTY WARE, Director  
Division of Juvenile Justice  
Department of Health & Social Services (DHSS)  
PO Box 110635  
Juneau, AK 99801-0635  
POSITION STATEMENT: Presented SB 340.

MR. AL STOREY, Lieutenant  
Division of Alaska State Troopers  
Department of Public Safety  
PO Box 111200  
Juneau, AK 99811-1200  
POSITION STATEMENT: Testified in support of SB 340.

MR. JIM POUND  
Chief of Staff for Representative Hugh Fate  
Alaska State Capitol  
Juneau, AK 99801-1182

POSITION STATEMENT: Provided sponsor statement for HB 282.

**ACTION NARRATIVE**

**TAPE 04-11, SIDE A**

**CHAIR FRED DYSON** called the Senate Health, Education and Social Services Standing Committee meeting to order at 1:38 p.m. Present were Senators Wilken, Green, and Chair Dyson.

**SB 340-DETENTION OF MINORS**

MS. PATTY WARE, Director of the Division of Juvenile Justice (DJJ), Department of Health & Social Services (DHSS), testified that SB 340 modifies the delinquency as well as the alcohol and mental health statutes. It prohibits the placement of minors in a jail or secure facility - including a secure justice facility solely related to protective custody - due to mental illness, disability, intoxication or incapacitation by alcohol or drugs. She emphasized that this does not impact the department's ability to hold juvenile offenders who are accused of a delinquent or criminal offense in an adult jail or juvenile facility, but relates to kids being held due to protective custody concerns related to intoxication or mental illness. She clarified, "so we will continue to provide accountability and hold juvenile offenders accountable, and protect the community."

MS. WARE said the bill is a requirement for DHSS/DJJ to be in compliance with the most recent reauthorization of the federal Juvenile Justice and Delinquency Prevention Act (JJJPA), which went into effect on October 1, 2003. As background, she said the division currently receives approximately \$700,000 annually in a formula grant that is used for an array of services for juveniles across the state. As a recipient of those funds, the state is required to be in compliance with core requirements of that act. She outlined the requirements, beginning with adherence to deinstitutionalization of status offenders and non-offenders. For purposes of this legislation, juveniles who are in a locked facility for protective custody purposes are considered to be non-offenders because they have not committed a crime.

MS. WARE continued that there must also be separation of juveniles from adult offenders in institutions. In those instances where it is allowable to hold juvenile offenders in adult jails or lockup [facilities], juveniles must be held separately - both in sight and sound - from adult offenders.

Also, regarding removing juveniles from adult jails and lockup facilities, there are certain circumstances where states are allowed to hold juvenile offenders in adult jails. Given the geographic challenges in Alaska, this is allowable if the juvenile is an accused offender. Lastly, reducing over-representation of minorities in the juvenile justice system; there are no numerical requirements and the state is currently in compliance with that particular core mandate.

MS. WARE said Alaska is currently out of compliance with the numerical requirements of the Act, and has been notified that the state will lose 40 percent of federal funds related to the federal grant year for the FFY 2004 grant award. SB 340 allows for seeking reinstatement of 20 percent of that loss of federal funding. From the federal policy perspective, in addition to Alaska's violation rates being too high, Alaska has not shown that it's in the best interest of kids to not hold juveniles in a locked setting when they haven't committed a crime. However, she emphasized that it is in the best interest of kids and said, "We should not be putting a juvenile in an adult or a juvenile jail when they have not committed a delinquent offense."

MS. WARE said there are alternatives for young people who are severely incapacitated. The state has a fairly robust array of non-secure shelters. These are alternatives provided by non-profit agencies. Through the federal grant, money is provided to eight different agencies that in turn provide services to ten different communities in the state. Those existing non-secure shelter communities are located in Fairbanks, Juneau, Kenai (serving Kenai, Seward, and Homer), Kodiak, Ketchikan, Valdez, Sitka, Barrow, and Wrangell. She said work is being done to expand the array of non-secure shelters. An agreement has recently been signed to provide for a non-secure shelter alternative in the Mat-Su Borough. Also, work is being done to provide shelter services in: Anchorage, Barrow, Wrangell, Dillingham, Emmonak, Hooper Bay, and Kotzebue.

MS. WARE said the expansion of non-secure shelters is one alternative for this population, and communities with high violation rates are being targeted; it is a resource allocation decision based on data. She told members that there are many stakeholders both in the state and the non-profit sector who have stepped up to the plate. She mentioned the Bethel Youth Facility as an example. In FY 03, 25 percent of the detention admissions were Title 47 admissions, involving either protective custody alcohol or mental health. Because Bethel Youth Facility has worked closely with the Yukon Kuskokwim Health Corporation

(YKHC), when a Title 47 juvenile is brought in, he/she is brought to a hospital bed that is managed by YKHC. This situation is both helpful and a more appropriate use of resources as it helps to reduce over-crowding at a youth facility and is more appropriate from the standpoint of treatment for that young person's needs. Based on an evaluation and assessment, a young person can be referred to a wide array of behavioral health interventions that YKHC can provide. Ms. Ware concluded by saying the division works closely with state and local law enforcement, the troopers and DPS. Training materials and information will need to continue to be developed so that troopers are clear on what can and cannot be done regarding this change in statute.

MR. AL STOREY, Lieutenant, Division of Alaska State Troopers, Department of Public Safety (DPS), added that DPS has talked repeatedly with Ms. Ware about this topic and supports her position. He mentioned that there is a firm commitment from DPS to provide training and training materials so that troopers understand limitations. DPS is also working with the local police department, furthering an understanding of the requirements for compliance. He said for the most part, business is already conducted as required. There have been some violations, as articulated by Ms. Ware, and he doesn't know if those violations were done by the local police department or the troopers, but DPS and DJJ are working towards resolving those issues to properly manage juvenile Title 47 people and to be in compliance with the federal requirements that already exist.

CHAIR DYSON asked what his specific assignment or responsibility is.

LIEUTENANT STOREY replied that he works on the director's staff for the state troopers and was the legislative liaison.

CHAIR DYSON asked if Lieutenant Storey has had personal experience working with young people who would be affected by this action.

LIEUTENANT STOREY said he hasn't worked in the uniformed section for several years; the bulk of his career has been in the drug and alcohol portion. The last uniformed patrol he worked was in the Palmer area, and he did have some intoxicated juveniles to deal with and also some mental health situations. He said he has discussed this issue with Captain [John] Glick, Commander of the C Detachment (covering most of western rural Alaska), who has assured him that the state strives to comply with these

federal requirements. He said DPS works closely with OCS [Office of Children's Services] and DJJ to ensure proper management of the juvenile processes. There are a fair number of intoxicated juveniles to deal with in the Bethel area, certainly in Kotzebue, Dillingham, as well as mental health issues in those areas.

SENATOR LYDA GREEN asked if essentially this bill would fulfill federal requirement, to comport with re-authorization.

CHAIR DYSON commented, "And [it] brings our law into conformity with our practice. Is that right?"

MS. WARE said this was correct.

SENATOR GREEN commented that this did not provide for new facilities or hospital beds.

MS. WARE confirmed this was also correct.

CHAIR DYSON said, as an aside, he was responsible for starting an audit about a year ago "on the kingdom over which you now preside" and said he would like to have a conversation with Ms. Ware at her convenience - perhaps during the middle of this month - about the problems, audit responses, and the department's response. CHAIR DYSON asked for the wish of the committee.

SENATOR GREEN moved to report SB 340 out of committee with individual recommendations and [attached] fiscal notes.

CHAIR DYSON asked if there was any objection. There being none, it was so ordered.

1:50 p.m.

#### **HB 282-UNIVERSITY EMPLOYEE RESEARCH CONTRACTS**

MR. JIM POUND, Chief of Staff for Representative Hugh Fate, provided the following sponsor statement on behalf of the bill's sponsor:

HB 282 is language that will allow our university to compete in the research and development area. Across the nation, universities have moved toward a research role as a way of supplementing the high cost of education. This valuable research has been

responsible for inventions and innovations that have moved into the private sector and ultimately made a profit. Our university system is involved in research but seldom development because of a lack of financial incentives based on Alaska's Executive Branch Ethics Act.

In particular:

AS 39.52.010. Declaration of policy, [(a)(2)](A) discourage those officers from acting upon personal or financial interests in the performance of their public responsibilities;

AS 39.52.170. Outside employment restricted. (a) A public employee may not render services to benefit a personal or financial interest or engage in or accept employment outside the agency, which the employee serves...

HB 282 will give the president of the university a recruiting tool that he currently does not have. He, or in the future, she will be able to negotiate an intellectual property agreement with a researcher who could then develop a product that is commercially viable. Based on those negotiations, the researcher and the university could both financially benefit from that commercial enterprise through sale, entrepreneurial activities - or better yet - the development of a new industry in the state.

The agreement would allow the researcher to continue advancing the work, which helps maintain staff stability at the university. With the passage of HB 282 we will be able to open a new door, one that could mean a quality staff working on projects that could bring new ideas, industry and additional non-general fund dollars to the University of Alaska.

CHAIR DYSON asked how this might negatively or positively affect education. He referenced paragraph two of the sponsor statement that states, "Nearly 57 percent of all research conducted in Alaska is on one of the University's campuses." He wondered, "How the heck would you know that?"

MR. POUND responded that these numbers were from the University [of Alaska]; this was from a recent audit done on the university - from the web page.

CHAIR DYSON said he questions how "all the research going on" is known, particularly research that is not government-related.

SENATOR GREEN commented that she wasn't terribly comfortable and suggested that perhaps this was because of the open language regarding contracts, or that "the development of intellectual property" had a meaning that she didn't know about, or perhaps it had to do with the product, or the use of university facilities. She commented that a person has the ability to use university facilities for personal gain without the university being the beneficiary.

CHAIR DYSON explained what he thought this accomplishes. He said in the engineering profession, it's very common for the terms of an employer to indicate that "any patents or copyrights that you come up with during the term of your employment that are in any way related to your job, become the property of your employer."

SENATOR GREEN said she was working from that premise.

CHAIR DYSON continued that he suspected that if the university wanted to recruit someone very talented in a particular area, the person would say, "I'd like to be working in your facility and I'd like to be teaching at your campus, but here's the deal. A whole bunch of what I've been working on and thinking about is liable to result in something that would be very valuable to either publish or develop commercially. Can we work out a deal so that I can do research and conduct a teaching that will be valuable to education and the university's mission and still not preclude myself from making money off of stuff I've already been working on and would probably be continuing to work around." He said this legislation allows the administration to then say, "All right. Let's pre-agree on something here in the form of a contract to do that." He asked if this was correct.

MR. POUND responded this was correct. He said the other side of this is that there is research and development at university campuses and it gets to a point where there's a better deal at another university or somewhere else and a person takes his/her research, goes to another university, and negotiates a contract for intellectual property. That has happened.

CHAIR DYSON asked if under existing law, the University [of Alaska] and faculty members are currently unable to work out a mutually acceptable agreement.

MR. POUND said this was correct because the university's faculty and researchers are under the [Alaska Executive Branch] Ethics Act.

SENATOR GREEN commented that currently there is no prohibition for the individual to leave with the information and the property of the university.

MR. POUND said he understood that this is how it currently works. An individual has the ability to take that information with him/her.

SENATOR GREEN said, "I think they would still have that, even with this."

MR. POUND offered that there would be an incentive to remain and continue to publish, copyright, and patent at the university as opposed to going somewhere else. He added that this was fairly common even at state schools. He referred to information in the committee packet and noted that "intellectual property is now being used."

SENATOR GREEN asked if anybody else would be testifying today.

CHAIR DYSON indicated that there was no further testimony. He said he would hold the bill over if she'd like.

SENATOR GREEN said she'd appreciate that.

CHAIR DYSON commented that the back-up materials on HB 282 were good. He said the bill would be scheduled for Monday [3/8/04] unless Senator Green needed additional time.

There being no further business to come before the committee, CHAIR DYSON adjourned the Senate Health, Education and Social Services Standing committee meeting at 1:59 p.m.