

HOUSE JOURNAL

ALASKA STATE LEGISLATURE

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

Juneau, Alaska

Wednesday

January 26, 2005

Seventeenth Day

Pursuant to adjournment the House was called to order by Speaker Harris at 10:06 a.m.

Roll call showed 36 members present. Representatives Crawford, Gatto, and Kohring had been previously excused from a call of the House today. Representative Weyhrauch was absent and his presence was noted later. (Representative-elect Moses was later administered the Oath of Office).

The invocation was offered by the Chaplain, Pastor Tom Matthews of Douglas Island Bible Church. Representative Coghill moved and asked unanimous consent that the invocation be spread on the journal. There being no objection, it was so ordered.

Respecting the differences represented here today, I would ask you please to join with me in prayer.

Dear Lord:

Thank You that we can have confidence as we come before Your throne of grace today. It is Your desire that we lift our petitions before You. You care about our lives, in fact, You loved us enough to provide Your Son to be the mediator between God and man. Thank You for the pattern Christ left us of love, mercy, and compassion. Thank You that we can be confident of Your care about our joys, our pain, and sufferings because Christ was indeed touched by the feeling of our infirmities.

Lord, as I think about the affairs of this state, I again lift up these representatives before You. They are a long ways from home and have been given the task of evaluating proposals and making plans for our future. Bless them, Lord, give them clarity and focus as they make their determinations.

Your word tells us in James, chapter one, that if there is anyone who lacks wisdom all they need to do is ask You for it and You will provide it. I ask for that today for each person in this room. As You provided wisdom for King Solomon and blessed the nation of Israel through him, we ask that You would provide wisdom here as well and in turn bless our great state of Alaska.

I lift these requests before You in the name of Your Son. Amen.

The Pledge of Allegiance was led by Representative Kelly.

CERTIFICATION OF THE JOURNAL

Representative Coghill moved and asked unanimous consent that the journal for the 15th and 16th legislative days be approved as certified by the Chief Clerk. There being no objection, it was so ordered.

OATH OF OFFICE

Speaker Harris appointed Representatives Foster and Salmon to escort Carl Moses to the rostrum.

Speaker Harris administered the oath of office to Carl Moses, District 37.

INTRODUCTION OF CITATIONS

The following citations were introduced and referred to the Rules Committee for placement on the calendar:

Honoring - YWCA 2004 Women of Achievement Award Winner,
Susan Churchill
By Senator Ellis

Honoring - St. Mary's Episcopal Church
By Senators Ellis, Guess

In Memoriam - Marguerite Mead
By Representative Meyer

In Memoriam - Sadie Neakok
By Representative Joule

In Memoriam - Ronald Wilson Reagan
By Representatives Kohring, Gatto, Neuman, Stoltze; Senators Green,
Huggins

In Memoriam - Florence Orr
By Senator Ellis

In Memoriam - Mrs. Joan Elva Corliss
By Senator Ellis

In Memoriam - Gordon Jensen
By Senator Stedman; Representative Wilson

INTRODUCTION, FIRST READING, AND REFERENCE OF HOUSE BILLS

HB 108

HOUSE BILL NO. 108 by the House Labor & Commerce Committee,
entitled:

"An Act relating to the regulation of water and sewer utilities of
political subdivisions that are not in competition with other water
and sewer utilities."

was read the first time and referred to the Community & Regional
Affairs and Labor & Commerce Committees.

HB 109

HOUSE BILL NO. 109 by Representatives Ramras, Gara, Elkins, Wilson, and Gruenberg, entitled:

"An Act relating to establishing a screening, tracking, and intervention program related to the hearing ability of newborns and infants; providing an exemption to licensure as an audiologist for certain persons performing hearing screening tests; relating to insurance coverage for newborn and infant hearing screening; and providing for an effective date."

was read the first time and referred to the Labor & Commerce, Health, Education & Social Services, and Finance Committees.

HB 110

HOUSE BILL NO. 110 by Representative Holm, entitled:

"An Act relating to 911 systems."

was read the first time and referred to the Labor & Commerce and Judiciary Committees.

HB 111

HOUSE BILL NO. 111 by Representatives Crawford and Gara, entitled:

"An Act adding birthing centers to the list of health facilities eligible for payment of medical assistance for needy persons."

was read the first time and referred to the Health, Education & Social Services and Finance Committees.

HB 112

HOUSE BILL NO. 112 by the House Rules Committee by request of the Governor, entitled:

"An Act relating to child protection, including forensic interviews and transportation of children; and providing for an effective date."

was read the first time and referred to the Health, Education & Social Services and Judiciary Committees.

The following fiscal note(s) apply:

1. Zero, Dept. of Health & Social Services

The Governor's transmittal letter dated January 25, 2005, follows:

"Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to child protection, including forensic interviews and transportation of children.

Under current AS 47.17.064, the Department of Health and Social Services (department) may take photographs of areas of trauma visible on a child, and have x-rays and medical examinations done, without first notifying the child's parents, if the department has reasonable cause to suspect that the child has suffered physical harm as a result of child abuse or neglect. This bill would amend AS 47.17.064 to permit the department, or certain persons authorized by the department, to conduct, without first notifying the child's parents, a forensic interview of a child suspected of suffering sexual abuse or physical harm as a result of child abuse or neglect.

Implicit in the existing statute is the recognition that the department has the authority to transport a child in order to take the photographs or to have the medical examination or x-rays done. This bill would amend AS 47.17.064 to make it explicit that the department has that authority, as well as the authority to transport a child for purposes of conducting a forensic interview authorized by the bill. The clear authority to transport the child for these procedures is key to ensuring that they can be conducted in an appropriate environment that is not threatening to the child.

The bill also would give the state and the department, its officers, its employees, and its agents certain immunity for certain actions taken related to the transportation of a child under AS 47.17.064.

I urge your prompt and favorable action on this measure.

Sincerely yours,
/s/
Frank H. Murkowski
Governor"

HB 113

HOUSE BILL NO. 113 by the House Rules Committee by request of the Governor, entitled:

"An Act relating to the confidentiality of investigations, court hearings, and public agency records and information in child-in-need-of-aid matters and certain child protection matters; relating to immunity regarding disclosure of information in child-in-need-of-aid matters and certain child protection matters; amending Rules 3 and 22, Alaska Child in Need of Aid Rules of Procedure; and providing for an effective date."

was read the first time and referred to the Health, Education & Social Services, Judiciary, and Finance Committees.

The following fiscal note(s) apply:

1. Fiscal, Dept. of Health & Social Services
2. Fiscal, Dept. of Law

The Governor's transmittal letter dated January 25, 2005, follows:

"Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that will provide greater public access to child-in-need-of-aid (CINA) hearings and records and other information that has been historically closed to the public.

The issues surrounding public disclosure in CINA matters can quickly become complicated, but the goal of this bill is simple: shed more light on the child protection system and the system will improve. I believe that public support of the approach taken in the bill will grow when

the tragic circumstances affecting so many young lives are more fully understood, along with the daily challenges faced by those who work so hard to protect children.

Concerns have been raised during the past several years about the state's confidentiality laws in CINA matters. These confidentiality laws were created to protect the privacy interests of children and their families in CINA matters, but they also have the practical effect of limiting public oversight and understanding of goals and activities of our child protection agencies. This bill seeks to address these issues by increasing public access in the following ways:

Court hearings in CINA cases that are now closed to the public would be open to the public, with limited exceptions. For example, the court may close a CINA hearing to the public when a parent or child has not had an opportunity to obtain legal representation; when a child would otherwise be emotionally damaged by an open hearing or would be inhibited in testifying; or when an open hearing would substantially compromise a criminal investigation.

Information from state agency CINA records would be made available to the public in three situations: when a parent or guardian in a CINA case makes a public disclosure concerning the Department of Health and Social Services' involvement with the family; when the alleged perpetrator named in a report of harm under AS 47.17 has been charged with a crime arising from the harm; or when there is a report of harm under AS 47.17 that has resulted in a fatality or near fatality of a child. In such instances, the bill would allow the Department of Health and Social Services to release information about its response to the report of harm.

Other provisions of the bill would allow for the release of information to agencies or individuals when necessary to locate permanent placements for children in CINA cases, protect the safety of children, or enhance agency review of CINA cases. Also included is a provision for immunity for the state and municipalities, and their agencies, officers, and employees, relating to the disclosure or nondisclosure of information in CINA cases and certain child protection matters.

If enacted into law, the substantive changes in the bill would take effect July 1, 2005. The bill also would require a report to the public and the Legislature by December 1, 2006. The report will assess these new procedures in CINA cases and make recommendations to address any additional statutory changes necessary to improve our CINA confidentiality laws.

I urge your prompt and favorable action on this measure.

Sincerely yours,
/s/
Frank H. Murkowski
Governor"

HB 114

HOUSE BILL NO. 114 by the House Rules Committee by request of the Governor, entitled:

"An Act relating to the retaining of certain privileges of a parent in a relinquishment and termination of a parent and child relationship proceeding; relating to eligibility for permanent fund dividends for certain children in the custody of the state; relating to child in need of aid proceedings and juvenile delinquency proceedings; and providing for an effective date."

was read the first time and referred to the State Affairs, Health, Education & Social Services, and Judiciary Committees.

The following fiscal note(s) apply:

1. Zero, Dept. of Health & Social Services

The Governor's transmittal letter dated January 25, 2005, follows:

"Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the retaining of certain privileges of a parent in a relinquishment and termination of a parent and child relationship proceeding, relating to eligibility for Permanent Fund

dividends for certain children in the custody of the state, and relating to child in need of aid proceedings under AS 47.10 and juvenile delinquency proceedings under AS 47.12.

The bill would add language to AS 25.23.180 to permit parents to relinquish their parental rights to a child while retaining certain privileges, such as ongoing communication or visitation with the child. This proposed amendment is in response to a recent Alaska Supreme Court decision holding that current law prohibits a parent from retaining any rights or privileges in a relinquishment. In some cases, ongoing contact with the parent is in the child's best interest, particularly in cases involving adoption by relatives or family acquaintances. Before the Supreme Court's decision, retention of privileges in relinquishments was a common practice. The proposed amendment would authorize retained privileges in appropriate cases.

The bill would add language to AS 43.23.005 to allow children who are placed temporarily by the Department of Health and Social Services (DHSS) outside of the state--in out-of-state treatment facilities, for example--to maintain their eligibility for Permanent Fund dividends. Some children require long-term treatment of a nature that is currently unavailable in this state; such children are at risk of losing their Permanent Fund dividend eligibility if they remain placed out of state for more than a year and are unable to return to the state to meet permanent fund dividend eligibility requirements. These Alaskan children should not lose the privilege of dividend eligibility as a result of being placed by the DHSS in a treatment program that is only available out-of-state.

The bill would add language to AS 47.10.020 to clarify that the court may issue any orders necessary to aid the DHSS in its investigation of an allegation of child abuse or neglect. Orders to aid DHSS are not prohibited by existing law; however, the proposed clarification would resolve any ambiguity regarding the ability of judges to issue such orders.

The bill also would add a new provision to permit courts to dispense with unnecessary and costly expert witness appearances in child in need of aid cases involving parents who cannot be located or identified. Under existing federal law, in order for a court to authorize

the out-of-home placement of, or termination of parental rights to, an Indian child, the court must consider the testimony of a qualified expert witness. In cases involving a parent whose whereabouts remain unknown despite a diligent search, this federal law would appear to require that an expert witness be called solely to support the self-evident finding that placement of a child with the parent who cannot be found is likely to place the child at risk of harm. The proposed addition to AS 47.10 would permit a court to conclude, as a matter of law, that the testimony of a qualified expert witness would support a finding that placing the child with an absent parent would place a child at substantial risk of serious harm. This provision will satisfy federal legal requirements.

Finally, the bill would amend the definition of the term "mental health professional" for purposes of child in need of aid and juvenile delinquency proceedings. In order to authorize placement of children in secure residential psychiatric treatment facilities, courts must hear the testimony of a "mental health professional." The current definition of that term, contained in AS 47.30.915, excludes professionals who may be licensed to practice in other states, but not in Alaska. The testimony of such professionals is often critical in cases involving Alaska children who are already placed out of state by DHSS. Thus, expansion of the existing definition is necessary to ensure that Alaska children who are placed outside of this state receive the psychiatric treatment they need.

Each of the provisions of this bill constitutes a step toward making Alaska's children safer, healthier, and more secure, without unreasonably expanding governmental powers.

I urge your prompt and favorable action on this measure.

Sincerely yours,

/s/

Frank H. Murkowski
Governor"

HB 115

HOUSE BILL NO. 115 by the House Labor & Commerce Committee,
entitled:

"An Act relating to charges paid or collected by users or occupants of an airport facility owned or controlled by the state."

was read the first time and referred to the Transportation and Finance Committees.

**The presence of Representative Weyhrauch was noted.

UNFINISHED BUSINESS

Representative Coghill moved and asked unanimous consent that the following members be excused from a call of the House. There being no objection, the members were excused as noted:

Representative Ramras - from 6:00 a.m., January 27 to 9:30 a.m., plane time, January 31, 2005

Representative LeDoux - from 7:30 a.m., January 27 to 8:00 p.m., plane time, January 31, 2005

Representative Elkins - from 7:00 a.m., January 28 to 7:00 p.m., plane time, January 30, 2005

Representative McGuire - from noon, January 28 to 9:30 a.m., plane time, January 31, 2005

Representative Cissna - from 1:30 p.m., January 28 to 9:30 p.m., plane time, January 31, 2005

Representative Chenault - from 7:30 p.m., January 28 to 9:30 a.m., plane time, January 31, 2005

HB 97

The Office of the Governor submitted the following to correct a fiscal note published on January 21, 2005 (page 130):

1. Fiscal, Office of the Governor

for the following:

HOUSE BILL NO. 97

"An Act relating to the authority to take oaths, affirmations, and acknowledgments in the state, to notarizations, to verifications, to acknowledgments, to fees for issuing certificates with the seal of the state affixed, and to notaries public; and providing for an effective date."

HB 97 is in the State Affairs Committee.

ANNOUNCEMENTS

House committee schedules are published daily under separate cover.

The following meetings today have been changed as indicated:

Judiciary Committee

CANCELED:

1:00 p.m., 1/26

Finance Committee

CHANGED TO:

2:00 p.m., 1/26

ADJOURNMENT

Representative Coghill moved and asked unanimous consent that the House adjourn until 10:00 a.m., January 28, 2005. There being no objection, the House adjourned at 10:45 a.m.

Suzi Lowell
Chief Clerk