

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

March 15, 2005

3:11 p.m.

**MEMBERS PRESENT**

Representative Peggy Wilson, Chair  
Representative Paul Seaton, Vice Chair  
Representative Vic Kohring  
Representative Sharon Cissna  
Representative Berta Gardner

**MEMBERS ABSENT**

Representative Tom Anderson  
Representative Lesil McGuire

**COMMITTEE CALENDAR**

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 53

"An Act relating to child-in-need-of-aid proceedings; amending the construction of statutes pertaining to children in need of aid; relating to a duty and standard of care for services to children and families, 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, to immunity regarding disclosure of information in child-in-need-of-aid matters and certain child protection matters, to the retention of certain privileges of a parent in a relinquishment and termination of a parent and child relationship proceeding, to eligibility for permanent fund dividends for certain children in the custody of the state, and to juvenile delinquency proceedings and placements; establishing a right to a trial by jury in termination of parental rights proceedings; reestablishing and relating to state citizens' review panels for certain child protection and custody matters; amending the duty to disclose information pertaining to a child in need of aid; authorizing additional family members to consent to disclosure of confidential or privileged information about children and families involved with children's services within the Department of Health and Social Services to officials for review or use in official capacities; relating to reports of harm and to adoptions and foster care; mandating reporting of the medication of children in state custody; prescribing the rights of grandparents related to child-in-need-of-aid cases and establishing a grandparent priority for adoption in certain

child-in-need-of-aid cases; modifying adoption and placement procedures in certain child-in-need-of-aid cases; amending treatment service requirements for parents involved in child-in-need-of-aid proceedings; amending Rules 9 and 13, Alaska Adoption Rules; amending Rules 3, 18, and 22, Alaska Child in Need of Aid Rules of Procedure; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 193

"An Act relating to the licensing, regulation, enforcement, and appeal rights of ambulatory surgical centers, assisted living homes, child care facilities, child placement agencies, foster homes, free-standing birth centers, home health agencies, hospices or agencies providing hospice services, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, and rural health clinics; relating to criminal history requirements, and a registry, regarding certain licenses, certifications, approvals, and authorizations by the Department of Health and Social Services; making conforming amendments; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 13

"An Act relating to reimbursement of municipal bonds for school construction; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 53

SHORT TITLE: CHILDREN IN NEED OF AID/REVIEW PANELS

SPONSOR(S): REPRESENTATIVE(S) COGHILL

01/10/05	(H)	PREFILE RELEASED 1/7/05
01/10/05	(H)	READ THE FIRST TIME - REFERRALS
01/10/05	(H)	HES, JUD, FIN
03/02/05	(H)	SPONSOR SUBSTITUTE INTRODUCED
03/02/05	(H)	READ THE FIRST TIME - REFERRALS
03/02/05	(H)	HES, JUD, FIN
03/15/05	(H)	HES AT 3:00 PM CAPITOL 106

BILL: HB 193

SHORT TITLE: LICENSING MEDICAL OR CARE FACILITIES

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

03/02/05 (H) READ THE FIRST TIME - REFERRALS  
03/02/05 (H) HES, JUD, FIN  
03/15/05 (H) HES AT 3:00 PM CAPITOL 106

BILL: HB 13

SHORT TITLE: SCHOOL CONSTRUCTION BOND REIMBURSEMENT

SPONSOR(S): REPRESENTATIVE(S) GATTO, GRUENBERG

01/10/05 (H) PREFILE RELEASED 12/30/04  
01/10/05 (H) READ THE FIRST TIME - REFERRALS  
01/10/05 (H) EDU, HES, FIN  
01/25/05 (H) EDU AT 11:00 AM CAPITOL 106  
01/25/05 (H) -- Meeting Canceled --  
02/01/05 (H) EDU AT 11:00 AM CAPITOL 106  
02/01/05 (H) Heard & Held  
02/01/05 (H) MINUTE(EDU)  
02/22/05 (H) EDU AT 11:00 AM CAPITOL 106  
02/22/05 (H) -- Meeting Canceled --  
03/03/05 (H) EDU AT 11:00 AM CAPITOL 106  
03/03/05 (H) Moved Out of Committee  
03/03/05 (H) MINUTE(EDU)  
03/04/05 (H) EDU RPT 5DP  
03/04/05 (H) DP: GARA, GATTO, WILSON, THOMAS, NEUMAN  
03/15/05 (H) HES AT 3:00 PM CAPITOL 106

**WITNESS REGISTER**

REPRESENTATIVE JOHN COGHILL

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 53.

RYNNIEVA MOSS, Staff

to Representative John Coghill

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 53.

TAMMY SANDOVOL, Deputy Commissioner

Office of Children's Services, OCS

Department of Health and Social Services

Juneau, Alaska

POSITION STATEMENT: Provided information on behalf OCS, in relation to HB 53.

JOANNE GIBBENS, Program Administrator  
Office of Children's Services  
Department of Health and Social Services  
Juneau, Alaska

POSITION STATEMENT: Provided information on behalf of OCS, in relation to HB 53.

DIANNE OLSEN, Chief Assistant Attorney General  
Human Services Division  
Department of Law  
Juneau, Alaska

POSITION STATEMENT: Provided legal information on behalf of the Department of Law, in relation to HB 53.

JAN RUTHERDALE, Assistant Attorney General  
Human Services Division  
Department of Law  
Juneau, Alaska

POSITION STATEMENT: Provided legal information on behalf of the Department of Law, relating to HB 53.

#### **ACTION NARRATIVE**

**CHAIR PEGGY WILSON** called the House Health, Education and Social Services Standing Committee meeting to order at [3:11:18 PM](#). Representatives Seaton, Kohring, and Gardner were present at the call to order. Representative Cissna arrived as the meeting was in progress.

#### **HB 53-CHILDREN IN NEED OF AID/REVIEW PANELS**

CHAIR WILSON announced that the first order of business would be SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 53 "An Act relating to child-in-need-of-aid proceedings; amending the construction of statutes pertaining to children in need of aid; relating to a duty and standard of care for services to children and families, 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, to immunity regarding disclosure of information in child-in- need-of-aid matters and certain child protection matters, to the retention of certain privileges of a parent in a relinquishment and termination of a parent and child relationship proceeding, to eligibility for permanent fund dividends for certain children in

the custody of the state, and to juvenile delinquency proceedings and placements; establishing a right to a trial by jury in termination of parental rights proceedings; reestablishing and relating to state citizens' review panels for certain child protection and custody matters; amending the duty to disclose information pertaining to a child in need of aid; authorizing additional family members to consent to disclosure of confidential or privileged information about children and families involved with children's services within the Department of Health and Social Services to officials for review or use in official capacities; relating to reports of harm and to adoptions and foster care; mandating reporting of the medication of children in state custody; prescribing the rights of grandparents related to child-in-need-of-aid cases and establishing a grandparent priority for adoption in certain child-in-need-of-aid cases; modifying adoption and placement procedures in certain child-in-need-of-aid cases; amending treatment service requirements for parents involved in child-in-need-of-aid proceedings; amending Rules 9 and 13, Alaska Adoption Rules; amending Rules 3, 18, and 22, Alaska Child in Need of Aid Rules of Procedure; and providing for an effective date."

[3:13:01 PM](#)

REPRESENTATIVE COGHILL, sponsor to HB 53, said that HB 53 is about taking care of children first and protecting families. He explained that he has sponsored other legislation that promotes children and family rights and that HB 53 is a continuation of this. He related that this bill is recognition that we do have children who are not being treated well and that the [Department of Health and Social Services, "Department"] needs tools to be able to put them into protective custody. He explained that this bill is a combination of three different bills, HB 53, HB 114, HB 113, and HB 17; the reason these bills are combined is because they all deal with the title of the children in need of aid under "child title 47 and 12". He said, "I thought it was best if we put them together and then really ask the question ... are we treating families and children and our society in the cleanest possible way."

REPRESENTATIVE COGHILL stated that he has the greatest respect for those who are working directly in the [human] service field as they are witness to some of the toughest emotional and physical abuse issues in life. He pointed out that service workers have a dual role in that they are enforcement officers

for children involved in issues as well as being social service workers or counselors.

REPRESENTATIVE COGHILL introduced the sectional analysis attached to HB 53 and encouraged the committee to read through it and investigate. He added that the attached "subject" sectional addresses the varied topics within all of the bills that comprise HB 53 including family preservation and civil liability issues. He said:

if we can open up court proceedings that will still retain the integrity of the system, and the benefit to the child, make sure that we don't harm that child one more time then I think it will be beneficial to all involved, so that's why I went down through this topic ... the videotaping has a couple things, we already have children's advocacy centers in Alaska that do examinations in videotaping of children who have been sexually assaulted ... it is probably the finest service to children who have been damaged in Alaska and it is proven to be a very good system ... it helps protect those parents who fear the social service worker but it also protects the social service worker ... the accountability measures that come at the last of the bill and there are some applicability languages I know that some of the topics are going to be ... controversial, I have worked with the Department ... Department of Law, ... [Office of Children's Services, "OCS"], I've worked with the Commissioner [of the Department], I've worked with the Governor's office, in trying to meld the different bills together ... it's a rather long bill ... I want to protect children, but I also want to protect families. I believe the government has a responsibility to insure the safety of their children, but I feel very strongly about family preservation ... it gives us the right to get a child out of somebody's home under certain conditions, and protect that child, and then, go through the process.

[3:25:30 PM](#)

CHAIR WILSON asked Representative Coghill to go through HB 53 section by section, "so that ... we know what this means as far as changes in the current way things are run and why it's going to be better if we make the change."

[3:28:43 PM](#)

REPRESENTATIVE SEATON moved to adopt the proposed committee substitute (CS) for SSHB 53, Version 24-LS0251\L, Mischel, 3/14/05, as a work draft. There being no objection, CSSSHB 53 was before the committee.

[3:29:25 PM](#)

RYNNIEVA MOSS, Staff to Representative John Coghill, said:

Section 1 gives a preference to an adult family member for placement that includes a grandparent and it gives preference for adult members who have cared for their grandchildren or a child for two years or more when it comes to the termination of parental rights and the child is let out for adoption.

REPRESENTATIVE GARDNER inquired as to the reference in HB 53 concerning grandparents [providing care] for grandchildren for two-year periods.

MS. MOSS said that the two-year period could be amended.

REPRESENTATIVE GARDNER stated that one-year could be an adequate timeframe.

MS. MOSS explained that Section 2 deals with the relinquishments of parental rights and that this section is in the process of revision. She said that Section 3 deals with permanent fund dividends and their availability for children receiving mental health treatment out of state. She related that Section 3 of HB 53 supplies an exemption so that children receiving [mental health] treatment out-of-state will still receive their dividend and if they are in state custody, the dividend is held in trust until they are 18, or out of state custody.

REPRESENTATIVE SEATON inquired as to children receiving their dividend if they are placed out of state, but are not receiving treatment.

MS. MOSS said that the aforementioned children would be in state custody, and would still be Alaskan residents. She continued with Section 4, which concerns the intent language of the bill and addresses the duty and standard of care for children in state custody. She said that Section 6 clarifies that OCS does not have to have prior permission to start a [Child in Need of

Aid, "CINA"] investigation or follow a petition for custody. Section 7 is part of Representative Rokeberg's bill which allows for adult family members including grandparents to petition for custody proceedings, she related. She explained that the language is unclear and that the committee substitute will probably provide that the adult family member would petition for custody under [Alaskan Statute] "47.10.110" which is the appointment of a guardian or custodian. Section 8 creates a right to a jury trial for termination of parental rights, she said.

[3:35:47 PM](#)

REPRESENTATIVE COGHILL stated that when the government takes the child away, the parental rights are terminated under a timeline given by the federal government and this is incorporated into Alaskan statute. He offered different ideas concerning how best to deal with situations where the evidence clearly determines that parental rights should be terminated. He added that there are some things a court can do to extend the timeline.

[3:39:21 PM](#)

TAMMY SANDOVOL, Deputy Commissioner, Office of Children's Services, Department of Health and Social Services, said OCS places children in state custody under the most serious of situations and as a last resort. She continued:

we believe that it's important for the committee to consider the decisions that the Department makes to petition for the termination of parental rights are not made lightly. In almost all child protective services cases, the Department's goal is to reunify children with their families and that judges hear termination cases and ... followed the case throughout from beginning to end and so they are well aware of what's happened throughout the life of the case and ... are intimately familiar with all the history that's involved with the family. They've heard the positions of the parties, the level of evidence that must be presented and the state and federal requirements that relate to terminations. Rulings are not always in our favor ... the Department is concerned that scheduling a jury trial will be difficult for the court calendar ... assembling jury trials will delay hearings even further, and cause additional delays in the permanency for children.

Federal law requires that if the child has been in custody of the Department for 15 of the last 22 months, the Department must proceed with permanency for the child, unless there are compelling reasons to extend the deadline ... reunification, adoption or guardianship must be accomplished or in process by that timeline. Additionally, federal review ... has already identified that we haven't done such a great job in meeting the deadlines for holding termination hearings, delays in scheduling court hearings are already delaying permanency for children, currently.

[3:42:02 PM](#)

CHAIR WILSON inquired as to OCS being able to delay the "timeline."

MS. SONDOVAL explained that there is a concept called "compelling reasons" where there would have to be a compelling reason to offer the court to extend the deadline. This is based on what the federal law has determined is compelling.

CHAIR WILSON asked for an example of a compelling reason.

JOANNE GIBBENS, Program Administrator, Office of Children's Services, Department of Health and Social Services, stated that parental rights would not be terminated if a parent was in a successful treatment program and was making progress towards recovery.

MS. SONDOVAL said:

we've looked at our termination trials and we believe that there'd be a possibility of an additional 90-jury trials per year ... and in consultation with the Department of Law and other agencies, that was a conservative estimate. ... we believe that it would take an additional 3 days to the current process and the additional days would be necessary for jury selection, jury education, jury deliberation, and the changes in practice and procedures that would occur with a jury trial. The time that social workers spend preparing for a termination ... is 5-7 days.

[3:45:02 PM](#)

REPRESENTATIVE GARDNER pointed out that the jury trial is an attempt to safeguard the termination of parental rights when there is not adequate cause. She advocated for the inspection of CINA rules under which children come in state custody and are kept in custody.

REPRESENTATIVE COGHILL said that Representative Gardner's comments are correct. He explained that in Section 9 of the [sectional analysis] the opening of court proceedings is discussed, as well as the use of a citizen review panel. He offered that if he were a struggling individual, dealing with many problems, he would want extra care taken with the assessment of his parental rights and the possibility of termination of those rights.

CHAIR WILSON inquired as to the selections of families for jury trials [regarding parental termination]. She asked who would choose the families that get a trial.

REPRESENTATIVE COGHILL said that he has not yet found [in statute] other examples of who might make this decision.

[3:48:11 PM](#)

REPRESENTATIVE CISSNA said:

in a perfect world, the report harm would come in, and we would be contacting relatives ... and there would be services available to help the people ... what does appear to exist, is that kids come into the system, they have a hard time ... it's hard to find extended family members that might be the best people to take those children ... the services often times are not available or people have two jobs and they are trying to juggle that while trying to meet the needs that the Department has set to get their kids back or they have perhaps a drug problem, and they're on a waiting list for drug treatment ... there's a whole long list of things that will force the system to have the child for one or two years ... meanwhile, the child's bonding capability, especially if they move from home to home to home, is literally destroyed. The psychological glue that keeps a child able to love, able to feel empathy and caring and be a good social member ... can be destroyed in that kind of process. It's the highest level of abuse that you can put a child through, and that's the system ... I think that

this is a horrible situation that has developed over many, many years, but I am wondering why ... there wouldn't be a looking at standards of care earlier ...

[3:52:16 PM](#)

REPRESENTATIVE COGHILL related that he and Representative Cissna agree on family preservation. He expressed his concern that at the jury trial level, the patterns [of a particular family] have been discovered, the life of the family has become very well known and sometimes the termination of the parental right is pushed because of time. He said that in these complex situations, the timelines dictated by the system can be limiting, and the unfortunate product can be the absolute termination of parental rights. He commented, "I've seen places where I was just devastated when the parents had their child taken away, and even more devastated when they lost the right to be that child's parent, and that is just like giving the death penalty to somebody and I think we need a good due process to make sure that we're not messing up here ... the vast majority of those children taken into custody, there's good, compelling reasons for doing that, so, I want to make sure that our system has a place where somebody can look over their shoulder and say, that was the right decision."

[3:55:08 PM](#)

REPRESENTATIVE GARDNER pointed out that parents [who are on trial] have an attorney to use as their advocate, and it's that attorney's role to make sure that the parent's rights are met.

REPRESENTATIVE COGHILL responded that there are many sections in [HB 53] that the language will be improved upon.

[3:56:37 PM](#)

MS. MOSS said that Section 9 opens CINA hearings to the public, and Section 10 addresses that there may be instances where the hearing needs to be closed. She explained that Section 11 includes clean-up language that was implemented for jury trials, and that Section 12 instructs OCS to make every attempt for visitation by parents and families when children are in state custody. She added that this is addressed in Representative Rokeberg's HB 17, where if OCS denies visitations they must notify the parents or the family members of the reasons for denying visitation.

CHAIR WILSON clarified that when parents are notified [of the reasons for denied visitation], OCS will inform the parents also of their right to request a review hearing.

MS. MOSS stated that is correct.

REPRESENTATIVE CISSNA inquired as to the issues of space for the Department and the time and cost involved in finding rooms for visitation.

MS. MOSS stated that part of OCS's request for increased funding takes care of family preservation and, most likely, includes visitation facilities.

MS. SONDOVAL clarified that family preservation is more about keeping families intact rather than a visitation monitoring service. She said that she will get more information from OCS regarding the allocation of funds for visitation.

REPRESENTATIVE COGHILL offered that the right to request a review hearing might put tension on time and money.

[4:00:32 PM](#)

MS. MOSS said that in Section 12, there will be a language change in using the term "interested party"; the clarification will be that an interested person is not necessarily a party to a case, so the language will read "interested person." Section 13, she related, adds three provisions to judgments and orders, and states that the court may not terminate parental rights solely on the basis that the parent did not get treatment, especially if the treatment was not available and OCS did not provide the treatment.

CHAIR WILSON asked for clarification, and said that the availability of treatment [in Alaska] could be variable.

MS. MOSS pointed out that there need to be other reasons [besides not receiving treatment] to constitute the termination of parental rights. She added that foster parents are required to provide regular visitation with the family and are required to be mentors to reunify the family.

REPRESENTATIVE SEATON asked if the foster parents in the system are willing to serve and interact as mentors to other adults. He commented that it might be beneficial to be able to say that every foster parent can become a counselor or a mentor to other

families but it seems questionable to rely on them to take on that responsibility.

MS. SONDOVAL said that OCS has started to think about foster parents as being resource families because they are encouraged in training to become a resource to the child and family, whereby they can mentor the family. She added that OCS believes this could reunify kids with their families.

REPRESENTATIVE COGHILL said that facilitating opportunities for visitation is of structural importance and mentoring then, could be the [future] direction to head in.

REPRESENTATIVE SEATON expressed his concerns that the added requirement of serving as not only a foster parent to a child, but a mentor to parents might deter people from signing up as foster parents.

[4:08:48 PM](#)

MS. MOSS pointed out that there is language [in the sectional analysis] that protects the foster family from any perceived harm or risk with the institution of supervised visitation at OCS.

REPRESENTATIVE SEATON said that not all foster parents are equipped to act as mentors to parents in addition to caring for their foster children.

REPRESENTATIVE CISSNA commented on the different reasons that people become foster parents. She explained a "foster parent model" in British Columbia where in the child welfare system, the caseworker was responsible for the recordkeeping, court related work, and the foster parent was responsible for much of what caseworkers normally do. She explained that the [biological] parents were required to fulfill the regular visitation schedule and the [standard] expectation was moving the child towards reunification.

[4:12:53 PM](#)

MS. MOSS said that Section 13 opens adjudication hearings to the public unless there is an exception that is spelled out in Section 10, for instance, if it would hinder our criminal investigation or would be emotionally damaging to the child. Section 14, she related, provides that OCS cannot approve an adoption by a non-related party if a relative requests approval

of adoption, unless that relative is disqualified for some reason, set out in statute. She continued with Section 15 which sets out three reasons the Department could deny an adoption of a child by a blood relative: placement could result in physical or mental injury, perpetrator in a substantiated report of abuse under child protection laws, or a household member is under arrest for/is charged with/has been convicted of/or has been found guilty by reason of insanity, of a serious offense.

DIANNE OLSEN, Chief Assistant, Attorney General's Office, Department of Law referred to CSSSHB 53, Version 24-LS0251\L, Mischel, 3/14/05, and specifically addressed, Section 15, [subsection (1)], and said:

    this is currently a part of our licensing provisions ... I believe that this section was simply an attempt to bring those licensing provisions into the adoption agreement as well, there previously had been a prohibition on making a preference for blood relatives for adoption although there was a preference for foster care alone, and what this section does is provide for ... adoption as well.

[4:15:35 PM](#)

REPRESENTATIVE GARDNER attempted to clarify by explaining that the requirement standards for foster families and for blood relatives are different.

CHAIR WILSON referred to the sectional analysis and asked when the Department would deny adoption in terms of the possibility of physical or mental injury.

MS. OLSEN stated that the definitions of physical or mental injury are not necessarily intended to apply to this "section." She said she would inform the committee when she finds out.

MS. MOSS said that [Section 15] also requires a criminal background check on household members of an adoptive parent and if the relative is denied an adoption, they are eligible for a public review hearing. Section 16, she related, requires the Department to obtain permission from parents to administer mental health medication to a child in state custody.

REPRESENTATIVE GARDNER mentioned Section 16 and the importance of the maintenance of the parent-child bond as well as efforts directed toward reunification. She said that often the parents

can't be found, or are surfacing periodically, and sometimes, it is necessary for a child to receive treatment. She opined that there should be some way for the Department to administer treatment if the parents cannot be found.

MS. MOSS related that the Department could get a court order administer medication if the parents refuse or are unavailable and the Department feels it is in the best interest of the child.

CHAIR WILSON inquired as to the Department and parents disputing what is in the best interest of a child [in terms of medication].

MS. MOSS restated that the Department would have to go to court and obtain a court order.

[4:19:35 PM](#)

MS. OLSEN stated that if the parents are not present, a representative from the Department would go to court and if the parents refuse to provide what is major, medical treatment the Department would also go to court and have the court resolve that. She related that currently, when a child is in state custody the parent still has a right to make decisions of major medical significance.

REPRESENTATIVE COGHILL offered that the residual parental rights are found in [Alaskan Statute] "47.10.084."

MS. OLSEN said:

Section 18 is part of one of the Governor's bills and the intention behind this is that the current law does not allow the Department to provide photographs or identifying information to the public to identify a child as being a child who is in state custody. This provision would allow ... after parental rights have been terminated, to be able to provide that information specifically for purposes of adoption ...

MS. MOSS said that Section 19, currently, allows adult family members to disclose or request confidential information be provided to certain state officials such as the governor, lieutenant governor, legislators, and the ombudsman office. The Department sees some conflicts here where family members could be usurping parental rights by disclosing confidential

information that only parents should be disclosing, and the language may have to be changes in order to address that, she said.

[4:23:23 PM](#)

REPRESENTATIVE CISSNA mentioned the issue of confidentiality when information is sent or brought to legislators. She opined that confidential documents should be destroyed in a conscientious manner.

MS. MOSS said:

In Representative Coghill's office, if we get a call from a relative who is not a parent ... we don't take second hand information ... if they are requesting assistance, they need to contact the parent and have the parent sign a release disclosure form that we have prepared. We've ... tried to coordinate with the representative of that constituent, so we find out what district they're in, and then, we talk to the legislators from that district, the senator and the representative, if they don't show an interest in assisting that person, then we will even though they are not a constituent, help them.

REPRESENTATIVE COGHILL expressed his belief that the language in [HB 53] is narrow enough to protect the constituents and is open for suggestions to amend the legislation.

[4:28:28 PM](#)

REPRESENTATIVE SEATON said that he does not advocate preventing anyone from disclosing information and thinks that people should have the right to appeal to the government with their information. He said that he wants to make sure there aren't restrictions for people who are trying to contact legislators.

MS. MOSS addressed Representative Cissna's concern and said that staff that has received confidential information uses a [paper] shredder to destroy it when it is no longer useful. She explained that when family members request information, OCS will not accommodate them until a release form has been signed [by the parent]. The section in discussion [Section 19] extends that two family members can be given confidential information, in addition to the parents.

REPRESENTATIVE COGHILL described the language in Section 19 and opined that it needed to be more effective.

MS. MOSS clarified for Representative Cissna that OCS does not provide copies of their files and if a constituent wants to see the files, then a request to OCS is made, and confidential information is purged. She explained that an individual can make an appointment to read the file and notes can be taken but the files cannot leave the premises.

4:33:07 PM

REPRESENTATIVE GARDNER inquired as to Section 22 [of CSSSHB 53 Version 24-LS0251\L, Mischel, 3/14/05] being amended and advocated for the retention of [subsection (b), paragraph (3), line 30].

MS. MOSS said that Section 20 allows the disclosure requirement to extend past the period by which the parent's rights have been terminated. She related a story where a concerned grandmother [who had been parenting her granddaughter] was not informed when parental rights were terminated [for her son, the parent]. Section 20, she explained, addresses when parental rights are terminated, as long as the child is still in state custody, the disclosure of information is still available for relatives.

MS. MOSS pointed out that Section 21 focuses on disclosure of information and it makes exceptions to supplying confidential information to the perpetrators that have been charged with a crime or when a report of harm has resulted in a death or serious injury. She further clarified that this Section allows OCS to provide confidential information if a parent has already gone to the press and provided that information; it allows OCS to give their side of the story and to go public with information when there is a perpetrator charged with a crime and when a report of harm has resulted in death or serious injury.

4:38:00 PM

MS. OLSEN explained that Section 26 provides information about the kind of information that the Department would be able to disclose pertaining to if there has been a felony offense, if the child has been a subject of a fatality or near fatality or if the parents have gone to the media already. She added that there is further disclosure about the kind of information that the Department can provide and it must be limited so that the

identity of the child would not be disclosed; it simply has to do with what the Department is doing about the situation.

MS. MOSS said that in Section 22, the disclosure of confidential information has been expanded to include a caregiver responsible for insuring the safety of children and the citizens review panel.

REPRESENTATIVE SEATON related a story where important facts were not disclosed concerning a child's behavior to the acting foster parents. He inquired as to this type of scenario being addressed through this section.

MS. MOSS stated yes, that Section 22 would address [relaying essential behavioral information to foster parents]. She explained that in Section 23, there were subsections that were repealed and the repealed language was revised and combined into one paragraph. She said that Dianne Olsen discussed Section 24 and 26.

In response to Chair Wilson's request, Ms. Moss elaborated on Section 26 and read from the sectional analysis, "Confidential records can be disclosed to the public when parents have made that information public already, and have discussed the department's involvement with the family or when a perpetrator has been charged with a crime or when the report of harm has resulted in a death or a serious injury." She continued with Section 27 and said that it provides disclosure or non-disclosure of confidential information, in and by itself, does not create a cause for civil liability.

REPRESENTATIVE COGHILL said that this same language was in Senate Bill 84.

REPRESENTATIVE SEATON referred to [CSSSHB 53 Version 24-LS0251\L, Mischel, 3/14/05], Section 26, [subsection (k), paragraph (2)] and clarified that this allows the Department to disclose confidential information when the alleged perpetrator, namely in a report of harm, is charged with a crime. He inquired as to the disclosure of confidential information in the context of being charged with the crime.

REPRESENTATIVE COGHILL offered if somebody is a perpetrator of a crime and is being charged in criminal proceedings, and it somehow is named in a CINA case, they can't disclose that information to a criminal court.

[4:44:52 PM](#)

DIANNE OLSEN, Chief Assistant Attorney, Human Services Division, Department of Law, said that in many cases, the parent's conduct rises to the level of felony and when charges are filed, the Department is allowed to make a disclosure about the parent being charged. She continued:

it's the kind of information that can be provided in a criminal case, but they would need to take steps to keep the identity of the child from the public ... there is still the provision in subsection 2 that the Commissioner or the Department should consult with the prosecuting attorney's office to make sure that any kind of disclosure they are making did not impede the criminal investigation and the criminal case.

REPRESENTATIVE SEATON inquired as to the definition of a crime meaning a felony.

DIANNE OLSEN said the definition may not just be a felony, but a criminal action.

REPRESENTATIVE COGHILL pointed out that, "We're dealing in a civil code ... this is allowing information to be given over to a criminal charge in a criminal code ... 'title 47' is all civil ... we do have serious lockdowns on what information can be shared ..."

JAN RUTHERDALE, Assistant Attorney General, Human Services Division, Department of Law, clarified that this provision and those three subsections are talking about instances when the Department can share information with the public. Without this law, she explained, press inquiries cannot be addressed, but this [provision] allows, "us to say that we did receive a report of harm, we did investigate, these are the actions, this was the outcome ... it allows us to ... assure the public that we did take steps or to say no, we never received a report of harm, we never knew about this and so we couldn't do anything."

[4:48:55 PM](#)

REPRESENTATIVE SEATON said that the report of harm for neglect doesn't have to be a high standard. He continued:

I want to flag this for further investigation ... I can understand if we have a felony, I can understand

if we have certain other things ... I just want to make sure that we don't make something permissive here that is broader for release to newspapers and the public ...

MS. RUTHERDALE agreed that a report of harm is very broad, and is required when a crime has been suspected. She explained:

when someone's been charged with a crime ... this probably will only involve felonies ... those you would probably already have gone through a grand jury inquiry or even in a misdemeanor, a police officer has to make a sworn statement, they have to do an investigation that has to go through the [District Attorney's] office before it actually can be charged as a crime ... secondly, this allows the Department, it may disclose information ... it doesn't have to disclose information ... it can decline to respond especially if it compromised the criminal investigation, but there may be other reasons where it may not want to respond to the press ... maybe the privacy interests of other family members ... or, maybe there is something that is involved that it wouldn't be appropriate to respond.

REPRESENTATIVE SEATON stated his concern that the [language is not clear] and would prefer to see the word "felony" used so that the Department or the state would be under some obligation to the public to release information.

CHAIR WILSON clarified that Representative Seaton's concern is regarding the placement of "abuse" and "neglect" in Section 26, [subsection (k), paragraph (2)] in HB 53. She said that section will be flagged [for future discussion].

[4:53:19 PM](#)

MS. MOSS said that Section 28 sets a grievance procedure into statutory law and would require OCS to inform parents that there is a grievance process. If the grievance process is unsuccessful, she explained, then a grievance can be filed with the review panel that's being created under this legislation so that they can go outside of the agency to get a review of the case. She pointed out that Section 29 was created in 1998 when HB 375 passed and there was concern that with the adoption of federal timelines, there would be an increase of lawsuits for civil liability because the timelines weren't being met. The

language now states that if the timelines are not met, it is not a reason to create a civil liability. She added that the Department objects to taking language out that says that there is no duty or standard of care, in providing services to children in state custody and their parents.

MS. MOSS emphasized that to say that there is no duty or standard of care when providing services to children in state custody has been found to be alarming to parents, Representative Coghill, and herself. She added that [she and Representative Coghill] have asked the Department to go back and offer language that will satisfy the aforementioned concerns and still accomplish what is needed.

REPRESENTATIVE COGHILL stated that the language will be amended so that the definition of the standard of care for children and families is clear.

CHAIR WILSON emphasized that this [the definition of standard of care] is an important issue.

REPRESENTATIVE COGHILL explained that in earlier sections of this bill the standard of care was set. He referred to [Alaskan Statute] 47.10.960 and said, "[it] seems to exempt them from that, and it does on a civil liability part, and I would wait until our judiciary chairman is here with us to help us hammer out some of that language ... I will be back with some language that will hopefully give us some comfort there."

[4:57:27 PM](#)

MS. MOSS said that sections 30 and 31 deal with definitions of mental health professionals. Section 32, she explained, takes mental health professionals in the juvenile justice section of the law and extends that to persons licensed in another state. She related that Dianne Olsen has volunteered to revise the language in Section 33 so that a child cannot be placed in a foster home if a family member or a friend has requested placement of the child and it has not been found that it would be in the best interest of the child. She said:

The problem that the Department has here is that it could be that a family member would become a foster home or already is a foster home ... In the original sponsor substitute, "neighbor" was included ... we took neighbor out because that was really a close proximity, it's right next door, which could be a

problem when you have a parent who's abusive ... they want proximity addressed in this section because they also want to keep the child within a sensible distance from the parent so that visitations can occur, so [Dianne Olsen] will be working on that language.

MS. MOSS pointed out that Section 34 provides that if a child is placed in a home other than a home of a relative, the Department must fully disclose to the relative the nature of the placement; there is additional language that provides for if the person has difficulty understanding English, [the nature of the placement] would have to be explained to them in their native language.

CHAIR WILSON inquired as to the reference of "the nature of the placement."

MS. MOSS clarified that "the nature of the placement" refers to the actual location of where the child is. Section 35, she said, creates state's citizens review panel, and Section 36 creates the duties of the panel, which includes examining policies, procedures, and practices of local agencies. She added that it also includes OCS evaluating how [the panel is] operating now, how they'll operate under HB 53, and making recommendations to the governor in an annual report about improvements. She explained that the review panel serves parents so that they can have a grievance hearing, and can review a case outside of the agency with people who are not employees of the agency. She continued with Section 37 which requires that certain departments cooperate with the panel and provide information. Section 38 provides that the [review] panel does not disclose any information, to anyone, whether it be the Department, or whoever, confidential information is kept within the panel, she related. The annual report would not disclose names or pictures or anything that could disclose the identity of the people involved, she related, and Section 39 directs the panel to conduct meetings and to organize a public outreach program where they would travel around the state and have public meetings and take public testimony on issues.

MS. MOSS said that Section 40 directs the Department to prepare the annual report and provide it to the governor, and the Department would provide a written response to the report within six months. Section 41 imposes a civil penalty for exposing confidential information up to \$2500 dollars per violation, and Section 42 creates immunity for state panel members and persons providing support to the panel.

CHAIR WILSON inquired as to whether legislators are able to [view] the annual report.

MS. MOSS said that sections 61 and 40 [of HB 53] will be consolidated so that [the governor] will pass the annual report on to the legislature [to view].

MS. MOSS continued with Section 43 and said that it [establishes] definitions, and Section 44 relates to Representative Rokeberg's bill where when a person notifies OCS with a report of harm, OCS is required to return to them a status report, [if requested], within 20 days, and OCS cannot disclose confidential information but can say whether there is or is not an investigation.

MS. MOSS said:

Section 45 requires that if school officials conduct an interview of a student, they must be qualified to conduct that interview ... Section 46 creates standards for interviewing CINA cases, encouraging the use of child advocacy centers, and encouraging videotaping and audio taping.

CHAIR WILSON pointed out that the sectional analysis uses the word "requiring," while HB 53 uses the word "suggesting."

[5:05:33 PM](#)

MS. MOSS stated that she would make the necessary change [and insert the appropriate word]. She explained that Section 47 has been determined to not be needed and Sections 48 through 58 deal with court rules.

[5:07:51 PM](#)

REPRESENTATIVE COGHILL stated his appreciation of the time spent on the Sectional Analysis in this meeting and will draft [HB 53] as soon as possible.

#### **ADJOURNMENT**

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at [5:08:32 PM](#).