

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

March 21, 2006

3:04 p.m.

**MEMBERS PRESENT**

Representative Peggy Wilson, Chair  
Representative Paul Seaton, Vice Chair  
Representative Tom Anderson  
Representative Carl Gatto  
Representative Vic Kohring  
Representative Sharon Cissna  
Representative Berta Gardner

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 426

"An Act relating to medical assistance eligibility and coverage for persons under 21 years of age."

- HEARD AND HELD

HOUSE BILL NO. 258

"An Act relating to aggravating factors at sentencing."

- MOVED CSHB 258(HES) OUT OF COMMITTEE

HOUSE BILL NO. 412

"An Act relating to the waiver of undergraduate expenses for a spouse or dependent of a deceased resident peace officer or member of the armed services or fire department."

- MOVED CSHB 412(HES) OUT OF COMMITTEE

HOUSE BILL NO. 356

"An Act relating to consent for medical and dental services, including bone marrow donation, for a minor."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 426

SHORT TITLE: MEDICAL ASSISTANCE FOR PERSONS UNDER 21

SPONSOR(s): REPRESENTATIVE(s) COGHILL

02/06/06 (H) READ THE FIRST TIME - REFERRALS  
02/06/06 (H) HES, FIN  
02/23/06 (H) HES AT 3:00 PM CAPITOL 106  
02/23/06 (H) <Bill Hearing Rescheduled to 2/28/06>  
02/28/06 (H) HES AT 3:00 PM CAPITOL 106  
02/28/06 (H) Scheduled But Not Heard  
03/16/06 (H) HES AT 3:00 PM CAPITOL 106  
03/16/06 (H) -- Meeting Canceled --  
03/21/06 (H) HES AT 3:00 PM CAPITOL 106

BILL: HB 258

SHORT TITLE: SEXUAL ASSAULT BY PERSON WITH HIV/AIDS

SPONSOR(s): REPRESENTATIVE(s) LYNN

04/06/05 (H) READ THE FIRST TIME - REFERRALS  
04/06/05 (H) HES, JUD  
02/23/06 (H) HES AT 3:00 PM CAPITOL 106  
02/23/06 (H) <Bill Hearing Rescheduled to 2/28/06>  
02/28/06 (H) HES AT 3:00 PM CAPITOL 106  
02/28/06 (H) Scheduled But Not Heard  
03/21/06 (H) HES AT 3:00 PM CAPITOL 106

BILL: HB 412

SHORT TITLE: TUITION WAIVERS:MILITARY/POLICE/FIRE

SPONSOR(s): REPRESENTATIVE(s) RAMRAS

01/30/06 (H) READ THE FIRST TIME - REFERRALS  
01/30/06 (H) EDU, HES, FIN  
02/14/06 (H) EDU AT 11:00 AM CAPITOL 106  
02/14/06 (H) Moved Out of Committee  
02/14/06 (H) MINUTE(EDU)  
02/15/06 (H) EDU RPT 6DP  
02/15/06 (H) DP: GATTO, GARA, WILSON, THOMAS, LYNN,  
NEUMAN  
02/23/06 (H) HES AT 3:00 PM CAPITOL 106  
02/23/06 (H) <Bill Hearing Rescheduled to 2/28/06>  
02/28/06 (H) HES AT 3:00 PM CAPITOL 106  
02/28/06 (H) Scheduled But Not Heard  
03/16/06 (H) HES AT 3:00 PM CAPITOL 106  
03/16/06 (H) -- Meeting Canceled --  
03/21/06 (H) HES AT 3:00 PM CAPITOL 106

**WITNESS REGISTER**

REPRESENTATIVE JOHN COGHILL

Alaska Legislature

Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of HB 426.

RYNNIEVA MOSS, Staff

To Representative John Coghill

Alaska Legislature

Juneau, Alaska

POSITION STATEMENT: Testified on CSHB 426, Version I.

KEVIN HENDERSON, Medical Assistant

Administrative Manager

Division of Public Assistance

Department of Health and Social Services (DHSS)

Juneau, Alaska

POSITION STATEMENT: Testified on CSHB 426, Version I.

DWAYNE PEEPLES, Director

Division of Health Care Services

Department of Health and Social Services (DHSS)

Juneau, Alaska

POSITION STATEMENT: Testified on CSHB 426, Version I.

STACIE KRALY, Chief Assistant attorney General

Statewide Section Supervisor;

Human Services Section

Civil Division (Juneau)

Department of Law (DOL)

Juneau, Alaska

POSITION STATEMENT: Testified on CSHB 426, Version I.

JANET CLARKE, Assistant Commissioner

Finance and Management Services

Department of Health and Social Services (DHSS)

Juneau, Alaska

POSITION STATEMENT: Testified on CSHB 426, Version I.

REPRESENTATIVE BOB LYNN

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Spoke as prime sponsor of HB 258.

MIKE SICA, Staff

to Representative Bob Lynn

Alaska Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 258 on behalf of Representative Lynn, sponsor.

TREVOR STORRS, Executive Director  
Alaska Aids Assistance Association (Four A's)  
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 258.

ROBERT BASSETT, Jr., Master Family Therapy (MFT)  
Certified HIV/AIDS Counselor and Educator  
State of Connecticut  
Washington D.C.

POSITION STATEMENT: Testified in support of HB 258.

BARBARA BRINK, Vice President  
Alaskan AIDS Assistance Association  
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 258.

JON BENORDEN  
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 258.

ELIZABETH SCHENK SALTONSTALL, MD  
Medical Director  
Ryan-White Title Three Program  
Alaska Native Tribal Health Consortium (ANTHC)  
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 258.

JOHN CYR, Business Manager  
Public Safety Employees Association (PSEA)  
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 258.

BARBARA MASON, Executive Director  
Council on Domestic Violence and Sexual Assault  
Department of Public Safety (DPS)  
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 258.

BRENDA STENFILL, Executive Director  
Interior Alaska Center for Non-Violent Living;  
Chair, Alaska Network on Domestic Violence and Sexual Assault  
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 258.

REPRESENTATIVE JAY RAMRAS  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Presented HB 412 as prime sponsor.

**ACTION NARRATIVE**

**CHAIR PEGGY WILSON** called the House Health, Education and Social Services Standing Committee meeting to order at [3:04:11 PM](#). Cissna, Seaton, Gardner, and Wilson were present at the call to order. Representatives Gatto, Kohring, and Anderson arrived as the meeting was in progress.

HB 426-MEDICAL ASSISTANCE FOR PERSONS UNDER 21

[3:05:16 PM](#)

CHAIR WILSON announced that the first order of business would be HOUSE BILL NO. 426, "An Act relating to medical assistance eligibility and coverage for persons under 21 years of age."

REPRESENTATIVE SEATON moved to adopt CSHB 426, Version 224-LS1602\I, Mischel, 3/14/06. There being no objection, Version I was before the committee.

[3:05:55 PM](#)

REPRESENTATIVE JOHN COGHILL, Alaska Legislature, testified as sponsor of HB 426, and paraphrased from the following written statement [original punctuation provided]:

In times when federal dollars are diminishing, the legislature will have to review policies for providing for the public health. To better provide medical assistance to the truly needy, some eligibility requirements need to be changed.

As the department has put it, we are trying to address the "low hanging apples" that drain millions of dollars a year from a program that is growing in astounding increments.

HB 426 puts best practices to use by increasing third-party reimbursement, reducing Medicaid abuse and fraud, setting home equity limits, and implementing new federal requirements on the State for asset

transfers and treating annuities like a Miller's Trust.

This bill also requires a person applying for medical assistance for a minor to be that person's parent or legal guardian, unless the parent or legal guardian is a minor. If a child is in state custody, an employee of the department can apply for coverage.

Currently, the unmarried father's income and resources are not considered in determining the eligibility of a pregnant woman for Medicaid. In this bill, we would count the income and resources of the unmarried father of an unborn child when determining the eligibility of the pregnant woman. Neither the resources nor the income of the unmarried father can exceed \$50,000 a year.

Lastly, this bill directs the department to report back to the legislature no later than the first day of the Twenty-Fifth Legislature on ways to reduce medical assistance expenditures for services received in residential psychiatric treatment centers by enhancing parental financial responsibilities and maximizing third-party resources available. Under current law a child could be placed in residential treatment and qualify for medical assistance after being out of the family home for thirty days, even though one or both parents have medical insurance.

[3:09:03 PM](#)

RYNNIEVA MOSS, Staff to Representative John Coghill, Alaska Legislature, explained that current law allows other public assistance can garnish the permanent fund dividend (PFD) for reimbursement. This bill provides language allowing the [Department of Health and Social Services (DHSS)] to garnish a PFD to reimburse for medical assistance. Ms. Moss, in response to a question, indicated that the PFD garnishment language is located in Section 5.

[3:11:23 PM](#)

CHAIR WILSON inquired as to when the PFD garnishment would be applied.

[3:11:27 PM](#)

KEVIN HENDERSON, Medical Assistant, Administrative Manager, Division of Public Assistance, Department of Health and Social Services (DHSS), explained that the current law allows the department to garnish the PFD of individuals who, as recipients of public assistance programs, owe money to the state for reasons provided in statute. This bill adds medical assistance to that statute.

[3:12:40 PM](#)

CHAIR WILSON posed a scenario:

I've had people come to me where ... maybe the ex-husband is making [support] payments and then something came up ... [and he] didn't make the payment ... so social services made the payment; ...[thus] he got behind on his payments [but] now he's making payments. I just want to make sure that this isn't added on to what he owes.

[3:13:16 PM](#)

MR. HENDERSON responded that this is limited in scope for two reasons. Current regulations state that when a recipient of medical assistance abuses the program or is found guilty of fraud, they have an obligation to repay the state for those services. Also, a recipient awaiting a fair hearing for the previously indicated reason may request continued benefits while awaiting that hearing. However, if the recipient is not successful in his/her hearing, he/she is subject to repay the state for the cost of medical assistance paid during the extended benefits period. He said:

Sometimes it's like getting blood out of a turnip. ... The PFD is really the most efficient way for the state to get reimbursement in those cases. We just want to add Medicaid to that list.

[3:14:57 PM](#)

REPRESENTATIVE CISSNA asked whether a garnishment would apply to a parent's or a child's PFD.

MR. HENDERSON responded that if a parent filed for a fair hearing on behalf of his/her child's case and lost the case, the

department could seek from the parents any medical assistance paid to the child.

[3:15:44 PM](#)

REPRESENTATIVE SEATON stated that [Version I] appears to encompass more than fair hearing situations. He asked whether it would provide for retroactive collection of funds when someone is reassessed and determined to no longer be waiver eligible.

MR. HENDERSON said that the fair hearing situation is one example when the department could seek reimbursement. Program abuse or fraud would be other examples, he offered.

[3:16:52 PM](#)

REPRESENTATIVE SEATON reiterated his concern that this bill language appears to cover any benefit considered an overpayment, including a recipient of medical assistance, who upon review, is found to be ineligible and determined to have been ineligible for some time prior to the reassessment, and has his/her PFD subject to garnishment.

MR. HENDERSON offered the specific departmental regulations, 7 AAC 43.1800 and 7 AAC 43.1810, to clarify the criteria applied to seek reimbursement. He explained that the department does not seek reimbursement for services provided in good faith, only when the applicant has sought services inappropriately.

[3:19:08 PM](#)

REPRESENTATIVE SEATON cautioned that in creating statute for reimbursement of benefit overpayment, the committee's obligation is to be clear regarding the scope of the bill versus relying on regulatory language for specifications.

[3:19:39 PM](#)

MS. MOSS offered to present the bill sections individually and in numerical order.

[3:20:45 PM](#)

DWAYNE PEEPLES, Director, Division of Health Care Services, Department of Health and Social Services (DHSS), explained that Sections 1-4 focus on support activities, which the Division of

Health Care Services and DHSS are conducting to "tighten up and control and coordinate ... other third-party benefits, and reduce Medicaid expenditures." Under the Reimbursable Services Agreement, the Department of Law assigns attorney generals to DHSS to pursue subrogation and estate recoveries. Section 1 addresses eligibility and coordination of benefits, such that during the process of applying for Medicaid other potential third-party payers would be identified. Approximately 22 percent of people [receiving] Medicaid have other resources for health insurance. He noted that part of this is mandating 36 months during which the department can coordinate claims payments with other third-party payers, which meets federal statutes. Section 2 strengthens the department's ability to recover funds when there are legal actions on a subrogation. For instance, in an accident in which an insurance party will pay against a claim for settlement, the department has sometimes lost out on full recovery on its Medicaid payments for hospitalization physician services.

[3:23:07 PM](#)

CHAIR WILSON surmised then that Section 2 makes it such that the department is one of the entities in line [to receive funds].

[3:23:14 PM](#)

STACIE KRALY, Chief Assistant Attorney General, Statewide Section Supervisor, Human Services Section, Civil Division (Juneau), Department of Law (DOL), confirmed that Sections 2-4 all enhance the department's ability to participate in third-party recoveries with Medicaid recipients when litigating through civil litigation or negotiating with insurance companies for payment for services that the state Medicaid program has paid. Therefore, Ms. Kraly specified that the language enhances the department's ability to gather information, coordinate services, and ensure that the department receives its third-party recovery to the fullest extent possible.

CHAIR WILSON emphasized that such allows for more money to help someone else.

[3:23:54 PM](#)

REPRESENTATIVE GARDNER turned attention to page 3, lines 26-27, and inquired as to how an attorney would know that he/she has a duty to notify the attorney general's office in such a case.

MS. KRALY answered that the duty is a statutory duty requiring plaintiff and defense attorneys to understand the third-party recovery process. With regard to the general practice, Ms. Kraly said that if an individual seeks representation, there would be a duty to gather all of the information on the part of the attorney in order to determine whether the individual was a Medicaid recipient. The aforementioned duty exists now in a certain sense because the state has an ongoing subrogation and lien interest in these recoveries. Therefore, the aforementioned language further clarifies the attorney's responsibility so that as the attorney takes on representation of Medicaid clients, the department is aware of it and not left out during the negotiation process.

[3:25:49 PM](#)

REPRESENTATIVE CISSNA inquired as to how many cases of this kind are performed every year.

MS. KRALY answered that the attorney currently doing the subrogation cases has an open case load of almost 500 cases. Those are cases that have, through a review process, been determined to be meritorious to pursue in relation to the resources that are available, one attorney and one paralegal. Ms. Kraly opined that the department believes that with more resources more cases could be sought for recovery. Furthermore, [more resources] would address the state recovery issues mandated by federal law as well as the audit process required under AS 47.05.200.

[3:27:14 PM](#)

MR. PEEPLES pointed out that Sections 4 and 5 are tied together and would allow the Division of Health Care Services to pursue PFD recoveries in those cases of fraud, waste, et cetera. Section 4 specifies the order in which a PFD would be garnished following tax liens and settlement costs for attorneys.

MS. KRALY interjected that [Section 4] further clarifies the statutory lien for subrogation rights in regard to the Medicaid lien. The language specifies the order of priority of the Medicaid lien, which allows [the state] to recovery before other entities.

[3:29:12 PM](#)

REPRESENTATIVE SEATON, referring to Section 5, asked if statutory language to the effect that the benefit overpayment is collected where fraud, waste, and abuse were present is included or is that "our" interpretation.

MR. PEEPLES specified that [the language] refers to a benefit overpayment that has been determined to have been used fraudulently.

REPRESENTATIVE SEATON asked if the language, "where fraud, waste, or abuse has occurred" could be inserted without "troubling the statute." He mentioned that the question could be answered later.

[3:30:31 PM](#)

MR. HENDERSON, referring to Sections 6-8, related that DHSS is supportive of the general effort, although it has concerns with regard to Section 6.

[3:31:07 PM](#)

MS. MOSS, in response to Representative Gatto, explained that originally the intent [of Section 6] was to include the income of the stepfather in the household income. She related a case in Anchorage in which a physician at Providence Hospital is the stepfather of children who received Denali KidCare benefits. However, the language to make it work hasn't been developed and thus the compromise was to seek the unmarried father and make him personally responsible for some of the medical bills. Ms. Moss opined that part of the concern of the department is that the woman could lie about who the father is, which would result in paternity tests. She related that the sponsor feels strongly that if [the desire] is to preserve family units, they should be made personally responsible for the upbringing of their children. The aforementioned is the background of Section 6, which she characterized as a starting point.

[3:33:17 PM](#)

REPRESENTATIVE GATTO then referred to page 7, lines 9-12, which refers to [the father's] household income and resources that don't exceed \$50,000 annually. He asked if it would be possible for an individual to have an annual income of less than \$50,000, but have \$1 million worth of resources in a house.

MS. MOSS said that's covered on page 8, line 9, which specifies that the equity in the house can't exceed \$500,000.

[3:34:22 PM](#)

REPRESENTATIVE GATTO posed a scenario in which the individual has an annual income of less than \$50,000, but \$1 million worth of resources in stocks and negotiable securities.

MR. HENDERSON commented that Medicaid eligibility rules "get dicey." He related his understanding that the intent of the \$50,000 was that it refers to income or resources. If that's not specified in the bill, then the department would consider [a change to remedy that]. In further response to Representative Gatto, he related his belief that the intent was to refer to either the income or resources in the amount that exceed \$50,000.

MS. MOSS agreed with Mr. Henderson that the intent was to refer to situations in which either the resources or the income of the individual exceed \$50,000.

[3:36:10 PM](#)

REPRESENTATIVE GATTO moved Conceptual Amendment 1, as follows:

Page 7, line 10:  
Delete "each do"  
Insert "either does"

[3:36:33 PM](#)

MS. MOSS opined that if the word "and" isn't replaced, then the individuals resources and income would be limited to \$50,000.

REPRESENTATIVE GATTO agreed, that on page 7, line 9, the word "and" should be replaced with "or". He characterized it as a friendly addition to Conceptual Amendment 1. Therefore, Conceptual Amendment 1, as amended, would read as follows:

Page 7, line 9:  
Delete "and"  
Insert "or"

Page 7, line 10:  
Delete "each do"  
Insert "either does"

[3:37:43 PM](#)

CHAIR WILSON objected for discussion purposes.

REPRESENTATIVE GARDNER asked if the intention is that the household income can't exceed \$50,000 and the resources can't exceed \$50,000 or rather that the household income and resources combined can't exceed \$50,000.

MS. MOSS clarified that the intent is that either the household income or the resources can't exceed \$50,000. In further response to Representative Gardner, if the individual has household income of \$25,000 and resources of \$25,000, this provision wouldn't be triggered.

[3:38:33 PM](#)

MR. HENDERSON, in response to Representative Cissna, specified that except for a provision later in the bill, a person's home is almost always an exempt resource and thus isn't included in this discussion. He specified that the term "resources" refers to additional property such as a [second property] or a mutual fund.

[3:39:31 PM](#)

REPRESENTATIVE ANDERSON inquired as to what will ultimately be denied of the putative father.

MR. HENDERSON answered that the pregnant women's Medicaid eligibility would be denied. The department has a reservation about [Section 6], he related. The intent has always been to have a liberal eligibility group to encourage pregnant women to obtain prenatal care such that healthy children are born, which in the long-term results in less expenditures for Medicaid or any health insurance.

[3:41:06 PM](#)

CHAIR WILSON related her understanding that 50 percent of all children born in the state are paid for by the state.

[3:41:17 PM](#)

MR. HENDERSON opined that [Section 6] adds a layer of bureaucracy. Furthermore, the legislation refers to the

"putative father", although there is no proviso for a paternity test to uphold this aspect. However, he suggested that federal law would result in the state's inability to enforce the provision unless the individual was the documented and tested father of the child. For some of the special Medicaid only groups such as Denali KidCare and this pregnant woman eligibility group, the income and resources of someone can't be counted when determining eligibility unless he/she is the spouse or the child. He related that the state will have to obtain a state plan amendment to implement this provision. He further related that the department is fairly certain that the federal government wouldn't approve it in its current state.

[3:43:00 PM](#)

REPRESENTATIVE ANDERSON expressed concern with the lack of a paternity test in determining the father and the amalgamation of the father's resources to determine the mother's eligibility for Medicaid. He inquired as to when the mother would receive coverage.

MR. HENDERSON posed a situation in which a putative father, after being identified as the father, refuses to cooperate with verifying his income and resources. In such a situation, the department can't do anything to the uncooperative father. Mr. Henderson specified that the only action available to the department is to deny eligibility for the pregnant woman.

REPRESENTATIVE ANDERSON opined that the aforementioned is the case 50 percent of the time and thus the woman pays the penalty.

CHAIR WILSON said she, too, is concerned with the aforementioned. She related that one of her constituents took a paternity test and was found not to be the father. However, he was still asked to pay. Chair Wilson opined that there needs to be a way to be sure that the right person is held responsible.

[3:46:05 PM](#)

MS. MOSS interjected that she didn't want this provision to slow the progress of this legislation because the sponsor acknowledges that the legislation isn't exactly where it should be. Therefore, if the committee chooses to delete [Section 6], the sponsor can continue to work on this aspect. In response to Chair Wilson, Ms. Moss said that the next committee of referral for HB 426 is the House Finance Committee.

[3:46:36 PM](#)

CHAIR WILSON said that she liked [Section 6] if there was a determination as to the identity of the father.

MS. MOSS suggested that Chair Wilson could request a referral to the House Judiciary Standing Committee in order that it address [Section 6].

REPRESENTATIVE ANDERSON agreed with the need to determine who is the father. He then expressed the need to address a situation in which the father refuses to pay and the mother is left ineligible during the years it takes to garnish the father.

CHAIR WILSON said that she would like to have a House Judiciary Standing Committee referral added before the House Finance Committee referral.

MS. MOSS said that the sponsor wouldn't have a problem with that because he wants the legislation to be correct when it makes it to the floor.

[3:47:22 PM](#)

REPRESENTATIVE SEATON related his preference to delete [Section 6] and have it reinserted in the House Judiciary Standing Committee if determined [to be appropriate]. From this committee's standpoint, the child is not going to receive prenatal care because there's an identified person who might have resources that may not pay the bills.

[3:48:13 PM](#)

CHAIR WILSON reminded the committee that it has a motion before it. She then removed her objection to Conceptual Amendment 1, as amended. There being no further objection, Conceptual Amendment 1, as amended, was adopted.

[3:48:46 PM](#)

REPRESENTATIVE SEATON moved Amendment 2, as follows:

Page 7, lines 7-12:  
Delete all material.

REPRESENTATIVE GARDNER objected for discussion purposes. She then inquired from where these income figures come.

MS. MOSS responded that the income figures already exist in statute.

[3:49:30 PM](#)

REPRESENTATIVE SEATON said that he doesn't object to the concept [of the language being deleted by Amendment 2]. However, he opined that this provision needs more work and he preferred having the work done in the House Judiciary Standing Committee.

[3:50:03 PM](#)

REPRESENTATIVE GARDNER agreed with Representative Seaton, and opined that one of the large problems in society is that fathers are undervalued. She said that valuing fathers includes holding them responsible for their paternity, although not to the extent of denying or limiting medical care to a pregnant woman.

[3:50:56 PM](#)

CHAIR WILSON announced that she will request that HB 426 be referred to the House Judiciary Standing Committee in order to address this provision.

[3:51:34 PM](#)

REPRESENTATIVE GARDNER removed her objection to Amendment 2. There being no further objection, Amendment 2 was adopted.

[3:52:27 PM](#)

REPRESENTATIVE ANDERSON turned the committee's attention to Section 8 on page 7, lines 24-26. He posed a situation in which a 17-year-old woman has a one-year-old, and related his understanding that the woman would be able to apply per this language.

MS. MOSS related her understanding that once a child is born, the parent is considered the legal guardian of that child.

[3:53:19 PM](#)

REPRESENTATIVE SEATON agreed with Ms. Moss, but pointed out that the language in Section 8 specifies that the individual must be an adult and the legal guardian or parent.

MS. MOSS said that could be changed.

REPRESENTATIVE ANDERSON said that [on page 7, line 26, the "and"] should be replaced with "or".

[3:53:38 PM](#)

CHAIR WILSON announced that the aforementioned is Amendment 3.

MS. MOSS interjected that the committee may want a different amendment because Amendment 3 may give any adult permission to apply for the child.

[3:54:02 PM](#)

CHAIR WILSON asked if the language could merely refer to "the parent or legal guardian of the child". Therefore, New Amendment 3 would read as follows:

Page 7, line 26:  
Delete "an adult and"

[3:54:52 PM](#)

REPRESENTATIVE GARDNER said that she's trying to determine what problem is being addressed with this section. She surmised that under this legislation, if a 15-year-old runaway lives with a friend's family, the friend's family can't obtain Medicaid for the runaway 15-year-old.

MS. MOSS said that is correct. She related that the sponsor believes that the parents of an unemancipated child that's under 18 years of age should have a voice in that child's life, regardless of whether the child has runaway or not. If the child is in the state's custody, the department would have the authority to apply for Medicaid. Further, if the child is living with a relative, the adult caretaker who is the relative would be able to apply for Medicaid.

[3:56:15 PM](#)

REPRESENTATIVE GARDNER asked if, under current law, adults housing a runaway child can obtain [medical] care.

MS. MOSS answered that under current law, anyone 18 years of age or older can apply for a child under 18 years of age to have Medicaid.

REPRESENTATIVE GARDNER posed a situation in which a child is a runaway living at Covenant House with his/her parents living out of state and uninvolved, and asked how such a child would obtain medical care.

MS. MOSS related her assumption that the child would have to apply for a legal guardian with the assistance of the Office of Children's Services.

MR. HENDERSON highlighted that under current law there isn't anything that prevents a person from applying for themselves. He related his understanding that [Section 8] attempts to address the situation when someone applies on behalf of someone else.

3:58:03 PM

REPRESENTATIVE GARDNER asked whether the state would seek reimbursement from the parent of the 17-year-old in the aforementioned situation.

MS. MOSS replied, yes. She then related an example of a teenager in Utah receiving residential treatment. Although both parents worked for the state and had state insurance, because the child hadn't lived in the home for 30 days the child qualified for Medicaid. Section 11 addresses this issue, which is a complicated matter. She informed the committee that the [department] has been asked to prepare a report with possible legislation that would clarify parental financial responsibility and maximize any third-party payers.

4:00:09 PM

REPRESENTATIVE SEATON asked if the addition of the new subsection would mean that a 17-year-old could not apply for him/herself.

MR. HENDERSON related his understanding that it's not intended to do so.

MS. MOSS said she didn't believe that the sponsor has a problem with an individual filing for Medicaid. However, the sponsor does have a problem with a runaway who gets an adult to sign up him/her for Medicaid without the parent's knowledge. Again, the sponsor believes that the parents of a runaway should be involved with decisions for their child under 18 years of age.

4:01:23 PM

REPRESENTATIVE SEATON expressed his desire to word subsection (j) on page 7, lines 24-25, such that it captures the sponsor's intent.

MS. MOSS said that the opportune language is "for a child", which means that a person is applying for Medicaid for a child.

4:02:29 PM

MS. KRALY stated that Ms. Moss is correct, but stated that [subsection (j)] would be less ambiguous if language "on behalf of a child" was included. She then pointed out the statutory provision in AS 18.25 that deals with the ability of an unemancipated minor who is estranged from his/her family that allows him/her to obtain medical care on his/her own behalf. She said that the aforementioned needs to play into this determination also. Again, it's important not to penalize a child for an estranged relationship with his/her family.

REPRESENTATIVE GARDNER said that at the same time if the parent is expected to pay for something, the parent should have some input. Therefore, if a minor child can obtain his/her own medical care and that child wants to do something that the parent disapproves of, the parent shouldn't be held responsible, she opined.

MS. KRALY clarified that she highlighted the conflicting statutory authority in order to be sure that there is no inherent conflict between the ability to apply for Medicaid and the services for minors as opposed to the ability of a minor, under that express statutory grant, to obtain medical care on his/her behalf in certain circumstances. Ms. Kraly said that she didn't disagree with Representative Gardner's point, but the language needs to be reviewed and cleaned up.

4:05:03 PM

REPRESENTATIVE CISSNA opined that often a large problem is obtaining medical help for teenagers who are not at home and whose parents cannot be found. She then stressed the importance of getting teenagers medical help.

4:05:55 PM

CHAIR WILSON inquired as to the language that would be utilized in a paragraph (4) relating that there had been attempts to contact the parents.

MS. KRALY indicated that such language would probably specify that the department has exhausted all attempts to contact the parents. She referred to such a provision as a notice provision.

CHAIR WILSON opined that she would feel better knowing that is part of the process.

[4:07:29 PM](#)

REPRESENTATIVE SEATON related his understanding that [Section 8] restricts who can apply for medical assistance on behalf of someone else.

CHAIR WILSON opined that one wouldn't want the child to apply for such unless the parents had been contacted.

[4:08:00 PM](#)

MS. MOSS asked if a child under age 18 who is estranged from his/her parents and the location of the parents isn't known would be considered a child in need of aid (CINA).

MS. KRALY said that she wasn't sure she could answer that as an absolute, but it would be a question that would require review.

[4:08:33 PM](#)

REPRESENTATIVE GARDNER related her practical experience in which the division is hesitant to take children into custody against their will when of an age to be noncompliant or resistant to a placement. Once the child is in state custody, then the state is responsible for where the child lives. However, if a 16-year-old says that she is going to live with her older boyfriend, there isn't much point in resources being spent on the state. Still, one would want that 16-year-old to have access to health care.

[4:09:13 PM](#)

CHAIR WILSON suggested that the committee bring up all the questions during this hearing and the legislation could be heard

again in this committee or referred on to the House Judiciary Standing Committee.

[4:09:55 PM](#)

REPRESENTATIVE SEATON moved an amendment to New Amendment 3, as follows:

Page 7, line 24, following "coverage":  
Delete "for"  
Insert "on behalf of"

[4:10:25 PM](#)

There being no objection, the amendment to New Amendment 3 was adopted.

CHAIR WILSON, upon determining there was no objection to New Amendment 3, as amended, announced that New Amendment 3, as amended, was adopted.

[4:11:09 PM](#)

MS. MOSS, addressing Chair Wilson's concern with regard to contacting parents, related her understanding that under CINA the department has to make reasonable efforts to locate relatives. Therefore, Ms. Moss suggested inserting a paragraph (4) specifying that the department has made a reasonable effort to contact the parent or legal guardian.

[4:12:16 PM](#)

REPRESENTATIVE CISSNA related that in her work with teenage females, it was common for sexual abuse to be the reason they ran away from home. In cases such as that, she opined that it may not be appropriate for the parent to know exactly what is occurring.

MS. MOSS relayed that the sponsor believes that in such a case, the state should pursue sexual abuse charges. However, under CINA a civil court controls a criminal act and thus the sponsor is attempting to find ways in which to ensure that more criminal acts are treated as such.

REPRESENTATIVE GARDNER noted that a child who left home due to sexual abuse may have vulnerable siblings at home and not taking action gives the perpetrator free license.

REPRESENTATIVE CISSNA highlighted that the court system as well as other systems are really backed up such that services are not getting to children in time.

MS. MOSS reminded the committee that a child under 18 years of age who has been sexually abused and left home, could apply for Denali KidCare him/herself.

[4:15:01 PM](#)

REPRESENTATIVE SEATON said that rather than inserting the language specifying that the department has made a reasonable effort to contact the parent or legal guardian in a new paragraph in Section 8, it should be inserted as part of paragraph (3) because it's not to be in place of the caregiver, relative, or parent or legal guardian.

[4:15:37 PM](#)

REPRESENTATIVE SEATON moved Conceptual Amendment 4, as follows:

Page 7, line 30, following "department":

Insert "and has made reasonable efforts to contact the parents"

CHAIR WILSON objected for discussion, and pointed out that Section 8(3) refers to a child in the custody of the department.

MS. MOSS explained that paragraph (3) would need to be renumbered as paragraph (4) and the aforementioned language would be the new paragraph (3).

MS. KRALY opined that placing this language in Section 8 is confusing, and therefore she suggested tabling that issue and allowing the House Judiciary Standing Committee address it. She further opined that placing the language in Section 8 mandates a duty on the department to make reasonable efforts to locate parents for individuals who are applying for Medicaid, which is a completely different concept than the CINA provisions. She mentioned that the language may need to be inserted elsewhere within the Medicaid eligibility provisions.

[4:18:11 PM](#)

CHAIR WILSON announced that she would take questions on HB 426, but would ultimately hold it for further work.

[4:18:34 PM](#)

REPRESENTATIVE SEATON withdrew Conceptual Amendment 4.

REPRESENTATIVE ANDERSON recommended that committee members thoroughly review HB 426, have questions answered in advance, and not have lengthy dialogue [at the next meeting].

[4:19:01 PM](#)

REPRESENTATIVE CISSNA expressed her desire to contact those in the field with regard to the ramifications of these substantial changes encompassed in HB 426.

CHAIR WILSON stated that she had already made the decision to "go ahead" because the committee has other legislation to address.

[4:19:34 PM](#)

REPRESENTATIVE GATTO, referring to a February 22, 2006, memorandum from Kevin Henderson, DHSS, pointed out that there is the belief that an individual with \$500,000 in equity should be counted in that individual's assets. However, the legislation allows for the individual to reduce the equity value in the home by selling it or by taking out a loan that affects the equity. He inquired as to why the aforementioned is the case.

MR. HENDERSON explained that the origin of this \$500,000 provision came from the federal Deficit Reduction Act, which applied only to those [seeking] long-term care. This legislation would apply it to everyone else, except family recipients. The federal law also includes the provisions allowing a reverse mortgage or [selling of the house]. Mr. Henderson emphasized that generally a house was totally exempt and thus this language merely places a threshold for eligibility. In further response to Representative Gatto, Mr. Henderson clarified that whatever money was available as a result of taking out a reverse mortgage would be factored in as part of the eligibility calculation as income or resources.

[4:21:57 PM](#)

REPRESENTATIVE GARDNER related her understanding, as per the sectional analysis, that Section 9 is a repealer. She inquired as to what is being repealed.

MR. PEEPLES explained that currently the department has the authority to provide a settlement waiver for medical costs on a subrogation settlement. He then posed a situation of a personal injury settlement in which a Medicaid beneficiary is injured and the state has been paying for medical care. If the attorneys settle between the insurance company and the recipient, the department wants to pick up the cost of that medical claim to reimburse the expenditure out of an insurance settlement. Therefore, the client or whomever else is in the legal action wouldn't reimburse the department for medical services. Section 9 repeals that authority.

[4:23:44 PM](#)

REPRESENTATIVE GARDNER inquired as to why anyone would support the department's ability to waiver efforts to collect.

MR. PEEPLES said he wasn't too sure with regard to the history on that. He informed the committee that during the last two-and-a-half years the department did one waiver [on a subrogation] settlement. By removing it from the authority of the department, it places the onus on the personal injury attorney not to discount the cost of medical services paid for by state and federal funds in that settlement.

[4:24:31 PM](#)

MS. MOSS, in response to Representative Seaton, stated that the department doesn't prepare fiscal notes until committee substitutes (CS) are adopted. However, the department wanted to provide the committee with an idea, without knowing whether the CS would be adopted, of its fiscal impacts.

[4:25:17 PM](#)

JANET CLARKE, Assistant Commissioner, Finance and Management Services, Department of Health and Social Services (DHSS), confirmed that the department hasn't done the fiscal notes. Since the legislation is complicated and fluid, the department has attempted to set out the construct based on assumptions so that the department can try to calculate the fiscal impact by trying to isolate the population that would be impacted. She said that the department knows that it will have to establish some regulations to implement this, and therefore the report specifies full-year costs although for fiscal year 2007 only half-year costs may occur. Ms. Clarke offered to, at the next

committee hearing on HB 426, go through each section of the legislation and identify the assumptions.

[4:26:28 PM](#)

REPRESENTATIVE SEATON noted his interest in information regarding Section 11 and the reports required for the psychiatric treatment facilities and parental financial responsibilities.

MS. CLARKE said that the department could provide that information, but she pointed out that HB 426 wouldn't provide any savings or change but would merely allow the department to report what that might be in the future. Therefore, the department hasn't attempted to cost-out any savings related to a change in that provision. She related that the area in which the most savings are seen has to do with requiring enrollment in dual eligibles in Medicare.

[4:27:35 PM](#)

MS. MOSS, in response to Representative Seaton, related that the sponsor doesn't have a problem waiting until the next meeting to address and adopt the amendment he provided to the committee.

CHAIR WILSON announced that HB 426 would be held over.

HB 258-SEXUAL ASSAULT BY PERSON WITH HIV/AIDS

[4:28:03 PM](#)

CHAIR WILSON announced that the next order of business would be HOUSE BILL NO. 258, "An Act relating to aggravating factors at sentencing."

REPRESENTATIVE BOB LYNN, Alaska State Legislature, testified as prime sponsor of HB 258, paraphrasing from the following prepared statement [original punctuation provided]:

The key words here are rape and sexual assault, and the question is whether the court should consider it an aggravating factor if the perpetrator convicted of a rape or sexual assault was previously diagnosed with HIV or AIDS. That's what this bill is all about, and nothing more.

How or why a perpetrator of rape or sexual assault acquired HIV/AIDS is not the issue. The sexual orientation of the perpetrator is not the issue. Any perceived stigma someone associates with this life-threatening disease -by a person guilty or innocent - is not the issue. Those topics are not the issue and have nothing whatsoever to do with this bill.

This bill is only - I repeat only - about whether a convicted rapist or sexual predator previously diagnosed with HIV/AIDS should be subject to an aggravating factor at sentencing for their horrific and life-changing crime. I think it should, and I hope you agree.

Some might ask why include only HIV/AIDS in this bill? What about ... Hepatitis C and other sexually transmitted diseases? Why not include those diseases in this bill as well? The answer is simple. HIV/AIDS is an incurable and potentially fatal disease that is primarily transmitted through sexual behavior - and that sexual behavior sometimes includes rape and sexual assault.

Not only does the victim suffer the horrific consequences of rape or sexual assault, the victim must also suffer the effects of a life-threatening disease that is essentially a delayed death sentence. It's a sobering fact that some HIV/AIDS patients have shorter life spans than some criminals condemned to death row.

We have received tremendous support for this bill from law enforcement officials, agencies for victims of sexual assault and others. Some of the witnesses you should be hearing from include:

Brenda Stanfill in Fairbanks, the executive director of the Interior Alaska Center for Non-Violent Living ...

Juneau resident Bob Bassett, who is certified in Connecticut as an HIV/AIDS counselor and family therapist and is currently in Washington, D.C. ...  
Barbara Mason, who is here, and is the Executive Director of the Alaska Council on Domestic Violence and Sexual Assault ...

Susan Sullivan, the Executive Director of Victims for Justice, planned to testify today but is home sick. So I would like to quote a sentence from her letter:

"We agree that adding months of terror, and possibly years of illness and a shortened life, to the horror of rape, makes an attack by an HIV/AIDS-positive rapist a horrendous assault."

We have received many letters of strong support for HB 258.

Anchorage Police Chief Walt Monegan described a rapist or sexual offender with HIV/AIDS to an assailant with an insidious weapon that can be used to further strike out against victims and the victims' loved ones.

Peggy Brown, the Executive Director for the Alaska Network on Domestic Assault, says a sexual offender with HIV/AIDS puts a victim at even greater risk and emotional distress. "In order to hold the perpetrator fully accountable, the sentences of these sexual predators should be enhanced," she added.

Gerad Godfrey, chairman of the Violent Crimes Compensation Board, urges passage of this bill ... "as a sign of respect, compassion, and understanding of the trauma experienced by victims of serious sexual offenses."

There are other letters you can read in your committee packet, basically stating the same thing - please pass this bill.

My staff has done considerable research on issues relating to this bill. You can see some of the results in your bill package - especially the question and answer paper. Mike Sica, a staffer in my office, has done lion's share of the work, and has become very knowledgeable of the issues involved. I believe you would be well served, and I would request, that you listen to his brief testimony before you ask me any questions.

Again, the narrow focus of this bill is about victims of rape or sexual assault, and whether the fact that the convicted perpetrator was previously diagnosed

with HIV/AIDS should be an aggravating factor at sentencing.

[4:33:38 PM](#)

MIKE SICA, Staff to Representative Bob Lynn, Alaska State Legislature, presented HB 258 on behalf of Representative Lynn paraphrasing from the following prepared statement [original punctuation provided]:

This is a good bill that deals with bad people doing terrible things, and takes us into dark areas ... It has to do with some of society's worst offenders - sexual predators who commit horrible crimes against innocent men, women and children ... It involves unspeakable acts that leave victims devastated, not only by the attack ... but also from the nightmarish anguish and terror of being exposed to HIV and AIDS ...

Just hearing about the crimes and factors involved ... even second hand from law enforcement and victims' agencies ... can keep you up at night. Some witnesses who will testify today have worked directly with victims ... They can do a better job of describing these monstrous acts of rape and sexual assault and the devastating consequences when these attacks expose innocent victims to a terrifying disease that can take up to six months to surface ...

I can't imagine what it's like to be a sexual assault victim ... waiting so long for the test results, worrying about infection, wondering how my family and close friends will react, isolating myself from my spouse or loved one due to fear of transmission ... The Centers for Disease Control sums it up this way:

"Fear and concern about possible HIV infection usually intensify feelings of shock, fear, disbelief, anxiety, depression and helplessness that may occur in victims of sexual assaults."

As Representative Lynn mentioned, there is a Question and Answer Paper included in your committee packet. It addresses many of the issues raised about House Bill 258. Our office has talked with medical, legal and law enforcement officials ... as well as agencies for victims of domestic violence and sexual assault ...

Questions asked, and answered, range from ... How do you know a sexual offender even has HIV or AIDS ... to ... Why did we not include other sexually transmitted diseases in this bill ...

For example, why did we exclude Hepatitis C ... which can also be a life-threatening disease? ... It is because Hepatitis C's main route of transmission is through blood from infected persons, commonly with shared needles when "shooting" illegal drugs.

The Centers for Disease Control does not even recommend testing for people having sex with multiple partners or people having sex with an infected steady partner ... They consider the risk of infection from sexual behavior that low for Hepatitis C.

Another example is the question of aggravators ... Must the court apply them? ... According to state law, the Judge is not required to increase the sentence of a defendant because an aggravator has been found. The judge must consider all circumstances and then may increase the sentence.

One last example is the issue of stigma. There was a concern that a bill that only lists HIV/AIDS can reinforce the stigma for victims of this disease. We have nothing but compassion and concern for persons with HIV or AIDS. If there is a stigma attached to this virus or disease by uneducated or unthinking individuals, that stigma and the additional pain and suffering associated with it, should be an argument for, not against, an aggravator at sentencing for a convicted rapist or sexual offender who has been previously diagnosed with HIV or AIDS.

There are stigmas attached to many things in life. A man crossing a woman's path on a lonely street may be considered a potential rapist. There is a stigma attached to cigarette smoking, yet we pass laws protecting others from smokers in public places. Also, HIV and AIDS are already defined in state law (in Sec. 18.15.310), not as a stigma, or a mark of shame, but as a specific virus and disease as it relates to the testing of defendants of sexual crimes. This bill does nothing to change that.

Twenty-seven states and selected possessions have some type of law that specifically criminalizes exposure or transmission of HIV in their jurisdictions ... It's time Alaska get joins them ... This state has the highest per capita rape rate in the nation ... by far ...

This bill makes it possible to enhance the sentences for convicted rapists and sexual offenders who have been previously diagnosed with HIV and AIDS ...

It may not deter many of these criminals ... but it will keep them in jail longer and thereby limit their damage in society ... And it sends a message to the victims ... that we acknowledge their additional pain and suffering caused by exposure and possible transmission of a life-threatening disease from a rapist or sexual offender ... by passing a law that can hold them more accountable.

[4:37:52 PM](#)

REPRESENTATIVE GARDNER asked whether there is any opposition to this bill.

[4:38:03 PM](#)

MR. SICA responded that Trevor Storrs of the Alaska Aids Assistance Association [Four-A's] would be testifying in opposition to bring concerns primarily around the stigma factor.

The committee took a brief at-ease from [4:38:18 PM](#) to [4:39:04 PM](#).

[4:39:04 PM](#)

REPRESENTATIVE GARDNER explained that subsequent to the original drafting of this bill additional subsections have been included. She proposed and moved to adopt Amendment 1, as follows:

Page 1, line 4:  
before **"the"** remove **"(31)"**  
Insert **"(33)"**

There being no objection, Amendment 1 to HB 258 was adopted.

[4:39:59 PM](#)

TREVOR STORRS, Executive Director, Alaska AIDS Assistance Association (Four A's), stated opposition to HB 258, paraphrasing from the following written statement [original punctuation provided]:

The Alaskan AIDS Assistance Association (Four A's) recognizes and empathizes with individuals who have to live with the trauma of a sexual assault. After reviewing House Bill 258 - Sexual Assault of Persons with HIV/AIDS, the Four A's has concerns of the greater consequences of such a bill.

Stigma is the leading cause of the transmission of HIV. Individuals have lost family support, employment, medical care, and their homes because of the fear and hate caused by HIV stigma. HIV stigma causes people to not know their HIV status. If a person is not tested, they usually take on the identity of a person who is HIV negative. If a person learns of their positive status, stigma has prevented them from accessing services. Most HIV positive individuals have concerns regarding disclosure due to knowing the anger, hate and discrimination associated with HIV/AIDS.

It is our opinion that House Bill 258 does not protect the community but fuels to HIV stigma. The purpose of a law is to hold an individual accountable for their actions and to deter individuals from engaging in specific behaviors. Although the bill does hold a person accountable, laws already exist that achieve the same goal. If an individual is sexually assaulted and infected with HIV, the court system (i.e. the judge) has the ability to increase the automatic sentence due to an aggravating factor. Judges also have the authority to require suspected rapists to be screened for HIV/AIDS. From a public health perspective, criminal punishment leads to prevention of only negligible risks of disease transmission and not the disease itself (L.O. Gostin; Studies in Social Medicine).

House Bill 258 will not deter an individual from committing rape. It will only encourage individuals not to know their status. In addition, House Bill 258 will provide a new myth to be added to the already

long list that gives life to HIV stigma. Individuals living with HIV/AIDS will now be seen as rapists versus fellow community members. Such a perception will only discourage anyone from knowing their status, accessing services and taking the necessary steps to help secure the safety of their community.

The supporting information attached to Bill 258 is a perfect example of the stigma that exists today. The quote from Minnesota Court of appeals stating, "If she does become HIV-positive, it's a death sentence." is incorrect. With the advancement of treatment (i.e. medical, medications, social services), the life expectancy of an individuals living with HIV/AIDS is a natural life span. It is these statements and these types of laws that allow HIV/AIDS to continue to spread in our communities.

In addition, House Bill 258 only focuses on one aggravating factor; HIV. However, the chance of getting HIV from a rape is less than 1%. Yet the risk of getting a sexually transmitted disease during a rape is about 5% to 10%. The risk of pregnancy is also disregarded. House Bill 258 is too narrow minded which leaves sexual assault victims unprotected and jeopardizes the elimination of HIV stigma.

It is our opinion that House Bill 258 is not required. The purpose of the bill is already in existence within our legal system. This bill will only add to HIV stigma causing the disease to continue to affect and infect our communities.

[4:48:38 PM](#)

REPRESENTATIVE ANDERSON requested clarity regarding the current aggravated assault laws in relation to the conviction of an HIV/AIDS carrier.

MR. SICA responded that the transmission of HIV/AIDS by the rapist must be proven at the time of sentencing. Because it may take a lengthy time for the HIV/AIDS antibodies to manifest in the victim' system, the rapist could be convicted without the aggravated assault being factored into the sentence. He explained that once convicted, the sentence could not be amended later due to the protective laws of double jeopardy.

[4:50:18 PM](#)

REPRESENTATIVE ANDERSON questioned whether Mr. Storrs was minimizing the negative affects of HIV/AIDS as an aggravating factor in a rape.

MR. STORRS maintained that today HIV/AIDS is a chronic disease not a death sentence and thus does not warrant this type of onus.

[4:52:26 PM](#)

REPRESENTATIVE GARDNER, setting the nomenclature aside, asked whether Mr. Storrs would consider an assault a greater crime if the perpetrator knowingly exposing the victim to a communicable, incurable, and potentially life-changing, if not life-threatening, disease.

MR. STORRS reiterated that this bill is not necessary because of the current statute providing for aggravating factors in an assault.

[4:53:33 PM](#)

REPRESENTATIVE GATTO offered that law holds separately an attack with a deadly weapon versus other forms of attack, and said that rape by an HIV/AIDS carrier is similar to an attack with a deadly weapon.

[4:54:17 PM](#)

ROBERT BASSETT, Jr., Master Family Therapy (MFT), Certified HIV/AIDS Counselor and Educator, State of Connecticut, Washington D.C., stated support for HB 258, saying that it is horrifying when someone with HIV/AIDS knowingly assaults and infects another person.

[4:55:54 PM](#)

BARBARA BRINK, Vice President, Alaskan AIDS Assistance Association, informed the committee that she is a former Director of the Alaska Public Defenders Agency, and stated opposition to HB 258 as unnecessary, unconstitutional, and unfair. She explained that Alaska has a presumptive sentencing scheme whereby factors of aggravation allow a judge to increase a sentence up to the maximum. She cited the two current laws which provide for aggravators that would apply in the sentence

of someone convicted of rape as a carrier of HIV/AIDS. Ms. Brink refuted the example of the 1995 Minnesota case referred to in the sponsor's statement, saying that the aggravator used in that sentencing was due to other factors not HIV/AIDS. She stressed that current law provides maximum sentencing power, and maintained that HB 258 unnecessarily singles out HIV/AIDS from other sexually transmitted diseases, effectively increasing existing social stigmas.

[4:59:21 PM](#)

JON BENORDEN, as a person living with HIV/AIDS, stated opposition to HB 258, echoing that this is no longer a life-threatening disease, but a life-changing event. He related his fear that he will be looked upon as a rapist if this bill passes.

[5:00:37 PM](#)

ELIZABETH SCHENK SALTONSTALL, MD, Medical Director, Ryan-White Title Three Program, Alaska Native Tribal Health Consortium (ANTHC), stated opposition to HB 258, stressing that the data referenced in the bill dates to 1995. Given today's approach, she said that HIV/AIDS is no longer medically considered a life-threatening disease. She explained the post exposure prophylactics can be administered to people who are exposed via any means to the virus. She maintained that this bill is not an appropriate way to approach HIV/AIDS either from a medical, legal, or moral standpoint.

[5:02:02 PM](#)

JOHN CYR, Business Manager, Public Safety Employees Association (PSEA), stated support for HB 258, and quoted the numbers of aggravated rapes committed in Palmer, Glennallen, and Juneau last year, and pointed out that this bill deals with the sentencing of convicted sex offenders.

[5:03:54 PM](#)

BARBARA MASON, Executive Director, Council on Domestic Violence and Sexual Assault, Department of Public Safety (DPS), stated support for HB 258, explaining that a rapist who knowingly transmits this disease creates an additional layer of social, health, and life changes to the anguish experienced by every rape victim.

[5:05:01 PM](#)

BRENDA STENFILL, Executive Director, Interior Alaska Center for Non-Violent Living; Chair, Alaska Network on Domestic Violence and Sexual Assault validated the points made by the previous supporters of HB 258, and added that contracting HIV/AIDS through sexual assault affects the victim in a paralyzing way, incurring life-long trauma.

[5:06:30 PM](#)

MR. SICA said that those opposed to this bill have focused on the stigma of HIV/AIDS sufferers, but rape itself carries a stigma. He stressed that HB 258 is about protecting potential victims from rapists and sexual offenders who would expose other people to this disease.

[5:07:44 PM](#)

REPRESENTATIVE SEATON directed the committee's attention to the fiscal note from the Department of Corrections, which reports that there are five inmates of the 5,001 currently housed, who have been diagnosed with HIV, and none of those are incarcerated for sexual crimes. He pointed out that this data does not support the stigma that HIV sufferers commit sexual crimes, and clarified that the bill is to impose an aggravator for someone who does commit a sexual crime.

[5:08:35 PM](#)

REPRESENTATIVE GARDNER offered support for HB 258, stating that there are other life-changing transmittable diseases that this bill could be broadened to encompass.

[5:10:07 PM](#)

REPRESENTATIVE SEATON moved to report HB 258, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 258(HES) was reported out of the House Health, Education and Social Services Standing Committee.

[5:10:18 PM](#)

HB 412-TUITION WAIVERS:MILITARY/POLICE/FIRE

CHAIR WILSON announced that final order of business would be HOUSE BILL NO. 412, "An Act relating to the waiver of undergraduate expenses for a spouse or dependent of a deceased resident peace officer or member of the armed services or fire department."

[5:11:22 PM](#)

REPRESENTATIVE JAY RAMRAS, Alaska State Legislature, presented HB 412 as prime sponsor paraphrasing from the following sponsor statement [original punctuation provided]:

Everyday, we enjoy the freedoms and security granted to us by our Constitution and laws. These rights, that so many take for granted, are there because men and women work everyday to assure they are protected. Alaskans who put on a uniform and put their life on the line, be it a police officer, a firefighter, or a member of the armed services deserve our respect and support.

When they give the ultimate sacrifice to protect us, we as Alaskans have an obligation to help their families, in more than just the short term. Most families, have not only lost a spouse or a parent, they have lost a major source of income. HB 412 will offer these surviving family members an opportunity to advance their lives by attending the University of Alaska for a very reduced cost.

Existing language in AS.14.43.085 allows a waiver of fees and tuition. HB 412 expands that language to include on-campus room and board. The cost to the State and the University is small when compared to the price of giving ones life in service to our state and country.

By combining these cost reductions with the limited compensation provided by the Federal Government, an Alaskan student could receive a University of Alaska education at little or no expense. HB 412 will show our men and women who selflessly give of themselves that we support them, not only while they serve, but we will also be there should they make the ultimate sacrifice

[5:13:18 PM](#)

REPRESENTATIVE RAMRAS explained that this bill is to add language to existing statute. On page 1, line 8, following "fees" insert ", and on-campus room and board costs". On page 2, line 1, before "who" insert "service, or first responder service", on line 4, following "fighter" add ";or", and on lines 5 and 6 add a new sub-paragraph "(C) duties as an ambulance service or first responder service provider". Expanding on these changes he said, the inclusion of room and board costs is an expansion on the current tuition and fees waiver, and the benefit is extended to policeman, law enforcement, firefighters, and emergency firefighters. He pointed out that the attached fiscal note is difficult to interpret because of the lack of use of this waiver based on the state's safety record. He said he expects that some eligible dependants may not have enjoyed the benefit as it exists, due to the room and board costs not being covered.

[5:14:32 PM](#)

REPRESENTATIVE CISSNA highlighted that other states who provide a similar benefit do not provide room and board, but often include a limit on the number of years for eligibility. She suggested establishing a maximum number of years for this benefit, which represents an additional annual cost to the state of approximately \$1,000 per recipient.

[5:15:45 PM](#)

REPRESENTATIVE RAMRAS responded that it was his understanding that an age limit was stipulated in the bill, and suggested that the House Finance committee could address that situation when the bill appears before it. Regarding the additional cost of the fiscal note, he said, "I would be quite proud to participate" in providing an additional benefit to the dependents of uniformed Alaskans who have sacrificed themselves in the line of service.

[5:17:07 PM](#)

REPRESENTATIVE CISSNA cautioned that providing young adults a benefit without limits is not always helpful, stressing that an age limit might be a reasonable part of this legislation.

REPRESENTATIVE RAMRAS pointed out that this benefits children whose parents will have died in uniformed service of the state

or federal government. Further, he said that at the federal level an age limit of 23 does apply, and, as sponsor, he would find it acceptable to entertain an age limit amendment.

[5:19:28 PM](#)

REPRESENTATIVE SEATON said that the bill also includes spouses, which would make it difficult to impose an age limit. Also he asked who the addition of "first responder" would include.

REPRESENTATIVE RAMRAS answered that first responder would include paramedics and members of the volunteer fire departments. Addressing Representative Cissna, he said that the Iowa War Orphans Education Aid has no income or age limits but provides a maximum of \$3,000 per year, per student.

[5:20:47 PM](#)

REPRESENTATIVE ANDERSON stated his support for HB 412, and expressed opposition to an amendment that would be restrictive. He provided a hypothetical scenario, and suggested that there could be any number of scenarios which are not readily evident.

[5:21:54 PM](#)

CHAIR WILSON indicated that by including ambulance and first responder service providers, it appears to encompass more than uniformed officers of the state or federal government.

[5:22:31 PM](#)

REPRESENTATIVE RAMRAS offered that a uniformed officer is lost on the average of one per decade in Alaska.

[5:22:48 PM](#)

REPRESENTATIVE CISSNA clarified that she does not oppose this bill but is looking for a possible limit on the number of years that this benefit could be received rather than an open door policy. She pointed out that this is a generous benefit equating to \$5,500 per year for a recipient.

[5:23:46 PM](#)

REPRESENTATIVE KOHRING stated his support for HB 412, and asked if this bill covers Village Police Safety Officers (VPSOs).

REPRESENTATIVE RAMRAS offered that he assumed VPSOs would be included, but could not give an absolute answer. To a further question, he confirmed that to remain in good standing for this benefit a student would be required to maintain a 2.0 grade point average.

[5:24:52 PM](#)

REPRESENTATIVE SEATON pointed out that a VPSO does not qualify as a peace officer for definition purposes under existing statute, and requested that this eligibility be firmed up as the bill moves through committee. He stressed that this is a generous benefit, that should be provided to the appropriate and deserving dependants.

[5:26:10 PM](#)

REPRESENTATIVE SEATON offered and moved Amendment 1 on page 1, line 8, following "costs" insert **for a period up to five years**. There being no objection, Amendment 1 was adopted.

[5:27:55 PM](#)

REPRESENTATIVE KOHRING moved to report HB 412, Version 24-LS1553\F, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 412(HES) was reported out of the House Health, Education and Social Services Standing Committee.

#### **ADJOURNMENT**

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at [5:28:17 PM](#).