

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 7, 2005

1:13 p.m.

MEMBERS PRESENT

Representative Lesil McGuire, Chair
Representative Tom Anderson
Representative John Coghill
Representative Nancy Dahlstrom
Representative Pete Kott
Representative Les Gara
Representative Max Gruenberg

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 95

"An Act relating to public health and public health emergencies and disasters; relating to duties of the public defender and office of public advocacy regarding public health matters; relating to certain claims for public health matters; making conforming amendments; and providing for an effective date."

- MOVED CSHB 95(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 149

"An Act relating to further regulation of the sale, possession, and delivery of certain chemicals and precursors used in the manufacture of methamphetamine."

- HEARD AND HELD

HOUSE BILL NO. 85

"An Act relating to self-administration and documentation of certain types of medication prescribed to a child attending school."

- MOVED CSHB 85(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 148

"An Act relating to trafficking of persons."

- HEARD AND HELD

HOUSE BILL NO. 101

"An Act relating to sex trafficking and tourism."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 95

SHORT TITLE: PUBLIC HEALTH DISASTERS/EMERGENCIES

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/21/05 (H) READ THE FIRST TIME - REFERRALS
01/21/05 (H) HES, JUD
02/10/05 (H) HES AT 3:00 PM CAPITOL 106
02/10/05 (H) Moved CSHB 95(HES) Out of Committee
02/10/05 (H) MINUTE(HES)
02/11/05 (H) HES RPT CS(HES) NT 2DP 2NR 1AM
02/11/05 (H) DP: CISSNA, WILSON;
02/11/05 (H) NR: GARDNER, ANDERSON;
02/11/05 (H) AM: KOHRING
03/04/05 (H) JUD AT 1:00 PM CAPITOL 120
03/04/05 (H) Heard & Held
03/04/05 (H) MINUTE(JUD)
03/07/05 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 149

SHORT TITLE: SALE OF METHAMPHETAMINE AND PRECURSORS

SPONSOR(S): REPRESENTATIVE(S) RAMRAS

02/14/05 (H) READ THE FIRST TIME - REFERRALS
02/14/05 (H) JUD, FIN
03/07/05 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 85

SHORT TITLE: PRESCRIBED MEDICATION FOR STUDENTS

SPONSOR(S): REPRESENTATIVE(S) MEYER

01/19/05 (H) READ THE FIRST TIME - REFERRALS
01/19/05 (H) HES, JUD
02/15/05 (H) HES AT 3:00 PM CAPITOL 106
02/15/05 (H) Moved CSHB 85(HES) Out of Committee
02/15/05 (H) MINUTE(HES)
02/18/05 (H) HES RPT CS 6DP
02/18/05 (H) DP: CISSNA, GARDNER, ANDERSON, MCGUIRE,
SEATON, WILSON

02/18/05 (H) FIN REFERRAL ADDED AFTER JUD
03/07/05 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 148

SHORT TITLE: TRAFFICKING OF PERSONS
SPONSOR(S): REPRESENTATIVE(S) KERTTULA

02/14/05 (H) READ THE FIRST TIME - REFERRALS
02/14/05 (H) JUD, FIN
03/07/05 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 101

SHORT TITLE: SEX TRAFFICKING AND TOURISM
SPONSOR(S): REPRESENTATIVE(S) CROFT

01/21/05 (H) READ THE FIRST TIME - REFERRALS
01/21/05 (H) JUD, FIN
03/07/05 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

MICHAEL "WES" MACLEOD-BALL, Executive Director
Alaska Civil Liberties Union (AkCLU)
Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 95, provided comments, expressed concerns, and referenced possible amendments.

Beverly Smith
Christian Science Committee on Publication for Alaska
Douglas, Alaska

POSITION STATEMENT: During discussion of HB 95, provided comments, expressed concerns, referenced possible amendments, and responded to a question.

RICHARD MANDSAGER, M.D., Director
Central Office
Division of Public Health
Department of Health and Social Services (DHSS)
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 95, responded to questions posed during the bill's prior hearing, and commented on and responded to questions about the proposed amendments; During discussion of HB 85, provided comments and responded to questions.

DAN BRANCH, Senior Assistant Attorney General

Human Services Section
Civil Division (Juneau)
Department of Law (DOL)
Juneau, Alaska

POSITION STATEMENT: Responded to questions during discussion of HB 95 and proposed amendments.

REPRESENTATIVE JAY RAMRAS
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 149.

RONALD J. WALL, Sergeant
Supervisor
Fairbanks Areawide Narcotics Team
Alaska Bureau of Alcohol & Drug Enforcement
Division of Alaska State Troopers
Department of Public Safety (DPS)
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 149.

LIBBY DANNENBERG, State Relations Counsel
Consumer Healthcare Products Association (CHPA)
Washington, DC

POSITION STATEMENT: During discussion of HB 149, provided comments, expressed a concern about the bill as well as support for the sponsor's goal, and offered suggestions.

REPRESENTATIVE HARRY CRAWFORD
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 149, expressed concerns, but said he is in favor of the bill and urged its passage.

DEAN J. GUANELI, Chief Assistant Attorney General
Legal Services Section-Juneau
Criminal Division
Department of Law (DOL)
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 149, provided comments and responded to questions.

REPRESENTATIVE KEVIN MEYER
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 85.

MARGE LARSON, Director of Programs
American Lung Association;
Steering Committee Member
Alaska Asthma Coalition
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 85.

FRANK TURNEY

Fairbanks, Alaska

POSITION STATEMENT: Testified on HB 85.

MICHAEL PAWLOWSKI, Staff
to Representative Kevin Meyer
House Finance Committee
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During discussion of proposed amendments to HB 85, responded to questions on behalf of the sponsor, Representative Meyer.

REPRESENTATIVE BETH KERTTULA

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 148.

REPRESENTATIVE ERIC CROFT

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 101.

ACTION NARRATIVE

CHAIR LESIL McGUIRE called the House Judiciary Standing Committee meeting to order at [1:13:59 PM](#). Representatives McGuire, Anderson, Kott, Dahlstrom, and Gara were present at the call to order. Representatives Coghill and Gruenberg arrived as the meeting was in progress.

HB 95 - PUBLIC HEALTH DISASTERS/EMERGENCIES

[1:15:26 PM](#)

CHAIR McGUIRE- announced that the first order of business would be HOUSE BILL NO. 95, "An Act relating to public health and public health emergencies and disasters; relating to duties of the public defender and office of public advocacy regarding

public health matters; relating to certain claims for public health matters; making conforming amendments; and providing for an effective date." [Before the committee was CSHB 95(HES).]

[1:15:43 PM](#)

MICHAEL "WES" MACLEOD-BALL, Executive Director, Alaska Civil Liberties Union (AkCLU), said he appreciates the efforts Dr. Mandsager, Department of Health and Social Services (DHSS), made to address some of the AkCLU'S concerns with HB 95, and relayed that the AkCLU doesn't have any interest in seeing the bill fail - rather, the AkCLU agrees with Dr. Mandsager that current law is ambiguous and should be clarified. He summarized the AkCLU'S concerns as follows:

We're concerned with three of the items of authority that are granted to the government under this bill. ... In particular, the government is given the authority to isolate or quarantine individuals against their will, and the government's also given the authority to access identifiable, private medical records. So with respect to those three items, we're interested in establishing a separate, higher standard that the government needs to clear before it can do any one of those three actions. ... We have offered some suggestions to the [DHSS] and I believe members of your committee may have seen some of that language that we've suggested; we're not particularly wedded to the language that we have offered as an alternative, and we think there are different ways to accomplish that goal. ...

Our concern is that when somebody's liberty interests are directly restricted by being isolated or quarantined, whether in their own home or elsewhere, ... the government should have to pass a fairly high hurdle. Now, that hurdle may be a varying hurdle, because some diseases are going to be more threatening than others, and we understand and recognize that. We would also ... rely on the expertise of the [DHSS] to try to help us reach a different standard that can accommodate that kind of a varying range of threat. ... The other issues that we have -- there is a provision in here for ex parte hearings; in other words, a hearing before a judge where the [DHSS] would make its case for an isolation or quarantine order without giving access to that proceeding to the

affected individual. As it's described in the original legislation, the individual would already be aware of the [DHSS's] concern on the public health issue, and so therefore we don't see any need for there to be an ex parte hearing that bars the affected individual from participating.

MR. MACLEOD-BALL continued:

To [its] credit, the [DHSS] does have a subsequent proceeding that would allow the individual to participate, but ... there would no reason to exclude that person from the [first] hearing if [he/she wants] to participate. The [DHSS], in some of its proposals, has addressed some of the confidentiality issues we are concerned with, and depending upon how that language actually ends up, we appreciate the step in that direction. In particular, I think one of the proposed amendments calls for the destruction of the confidential information, the identifiable medical information, once the [DHSS's] need for it has passed. We think that is a good step in the right direction.

... And then finally, we are interested in having some additional language added to the bill which would simply protect the affected individual's rights if they've been subject to one of these isolation or quarantine orders. For example, we believe that if somebody is isolated or quarantined against their will - or otherwise, for that matter - ... that should not affect their right to housing, ... their job, ... [or] any pending civil or criminal proceedings adversely. ... The biggest area of concern [pertains to] ... establishing a separate, higher threshold for the government to exercise its authority to isolate or quarantine an individual against his or her will, or to access their private, identifiable medical records.

[1:21:41 PM](#)

Beverly Smith, Christian Science Committee on Publication for Alaska, indicated that her organization had previously submitted information in a letter dated 2/24/05, and relayed that she would be submitting additional information at this time in a letter dated 3/7/05. In part paraphrasing from the letter dated 3/7/05, she said:

I understand and appreciate the complexities of balancing individual rights and the common good. I believe that by hearing and considering all perspectives, the committee will amend the bill as needed to achieve that balance. In my capacity as Christian Science Committee on Publication for Alaska, one of my roles is to watch legislative proposals to ensure that Alaskans have the choice to pursue spiritual means for the prevention and cure of disease, including Christian Science treatment and care.

The choice of spiritual means for treatment is by no means the refusal of treatment. It is a provision of another effective form of treatment. Christian Science is one of the religious non-medical forms of treatment that relies on spiritual means through prayer to heal illness, injuries, and other conditions. Christian Science treatment and care has been systematically practiced, quietly and successfully, in many Alaskan families for a century. It is my experience and the experience of those practicing Christian Science that this spiritual system of healing has both preventative and curative effects.

And we all are trying to find ways to prevent and cure disease, and I wholeheartedly join in that goal. However, I believe that the mode of treatment should not be imposed against an individual's wish, but a competent adult should be able to choose the form of preventive and curative treatment that he or she deems best for his or her health and well being, provided that the individual may be isolated or quarantined.

Now, in the letter I submitted to the Chair dated [2/24/05], the Christian Science Committee on Publication [for Alaska] requested an amendment as follows. In [proposed AS 18.15.375] ... add a new [subsection] (f) to read [original punctuation provided]: "The provisions of this section do not apply to an individual who objects to the testing, examination or screening because of the individual's religious beliefs; provided, such individual may be subject to isolation or quarantine under the provisions of this Act." Attached to the letter were copies of statutes from a number of other states

containing language providing the alternative of isolation or quarantine for those declining medical examination or testing.

MS. SMITH continued:

And last Friday, March 4, in his testimony before the committee, Dr. Mandsager mentioned that the [DHSS] does not feel it is a good idea to exempt individuals from testing, screening, or examination. And we understand that he may feel that this is the position to take but, with all due respect, I'd like point out that there is a precedent for this request of accommodation in at least 11 other states. ... To me, these examples show that you can successfully achieve the balance between individual rights and the common good by providing such an accommodation. We respectfully request that the committee follow these other state legislatures by recognizing that the common good of the state's inhabitants is not lessened by giving accommodation to the right of isolation and quarantine instead of testing and medical examination.

Our request that this language be included is further supported by the fact that the proposed bill does not now mandate testing, if objected to, unless there is a finding that the individual has or may have been exposed to a contagious disease that poses a significant risk to public health. Once there has been such a finding, isolation or quarantine would as fully protect the rights of the public as would testing or examination. Further, with [regard] to treatment of an individual found to have a contagious disease, [Christian Science] Committee on Publication [for Alaska] supports the language of the bill that does not mandate medical treatment. However, we would recommend a new section after [proposed AS 18.15.380] similar to ... AS 18.15.143, [which] ... would be repealed by the passage of HB 95. And I've attached to the ... last page of this [letter] ... a copy of that existing [statute - AS 18.15.143]. ...

MS. SMITH relayed that the Christian Science Committee on Publication for Alaska's proposed new section would read [original punctuation as provided in the letter dated 3/7/05]:

Section 18.15.382. Religious treatment for contagious disease.

(a) A person found to have a contagious disease may utilize spiritual means solely for treatment of the disease. A state medical officer or the court may consider the means of treatment as well as the health of the person in determining whether to order isolation of that person by the least restrictive means which may include the person's home, or other suitable place of the person's choice, in a manner that will protect the public health.

(b) A person with a contagious disease who is or might become subject to an order issued under 18.15.385, at any time may request recognition and consideration of spiritual treatment described in this section.

(c) In this section "spiritual treatment" means prayer, or a substantially similar activity, by a religious practitioner.

MS. SMITH, in conclusion, thanked the committee for considering her suggested changes to HB 95.

[1:28:05 PM](#)

CHAIR MCGUIRE, after ascertaining that no one else wished to testify, closed public testimony on HB 95.

RICHARD MANDSAGER, M.D., Director, Central Office, Division of Public Health, Department of Health and Social Services (DHSS), in response to one of Representative Dahlstrom's questions posed at the bill's last hearing, said that safe water is central to public health and that it is the state's responsibility - and in its best interest - to try to ensure, to the maximum extent possible, safe and clean water for people to drink. That being said, Alaska has chosen to divide the responsibilities for public health between the DHSS and the Department of Environmental Conservation (DEC).

DR. MANDSAGER opined that there are several ways to address the issue of [safe] water, two of which would be either via regulation or via a reporting requirement and private testing. He remarked that there is a "licensing" bill that the DHSS, via the legislature, introduced last week that proposes to reframe the licenses of all the institutions for which the DHSS certifies or licenses. He mentioned that for all the types of water systems that that the DHSS won't be regulating in the near future, the DHSS is considering requiring, via regulation, that

the institutions which have such water systems report back to the DHSS on a periodic basis that they've had their water tested by a private testing company.

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REPRESENTATIVE DAHLSTROM said Dr. Mandsager's comments verify her concern and she wants to ensure that water testing is completed and that entities responsible for water supplies are being regulated.

DR. MANDSAGER, in response to another of Representative Dahlstrom's previously asked questions, said that the state medical examiner has three functions: one is providing forensic services, another is providing public health services, and the third is providing support to families experiencing the unexpected death of a loved one. He offered his belief that the state medical examiner office completes its forensic mission quite well, completes its public health mission somewhat, and completes its support of families mission almost not at all. He noted that the governor's budget requests a small increment [for the state medical examiner's office] and he characterized this as a down payment and relayed that he would be back before the legislature with the goal of slowly building that office up so that missions two and three are fully funded and met.

DR. MANDSAGER, in response to another of Representative Dahlstrom's previously asked questions, said that the bill is silent at the moment with regard to what happens to a business if an employee is quarantined or isolated. The costs associated with isolation and quarantine are assumed to be the responsibility of individual being isolated or quarantined, not the responsibility of the state. With regard to a previously asked question of who will take care of the children in cases where the parents are isolated or quarantined, he said it would be the same as in other situations where a parent or parents are hospitalized - parents would have the opportunity to voluntarily place their children with a relative or friend. The only time the Office of Children's Services (OCS) would get involved would be if the children were abandoned in typical abandonment or neglect circumstances; he said he does not envision that the OCS would be involved in the vast majority of isolation/quarantine situations.

CHAIR MCGUIRE asked whether there is a procedure outlined in the bill.

DR. MANDSAGER said no, adding that the Department of Law (DOL) has researched the issue and believes that the bill would allow parents to deal with the situation in the way they would ordinarily if they had to go into the hospital.

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DAN BRANCH, Senior Assistant Attorney General, Human Services Section, Civil Division (Juneau), Department of Law (DOL), concurred, adding that current law contains a provision allowing a parent to grant a power of attorney to a friend or relative so that that person has the authority to make medical or other decisions for a child.

CHAIR McGUIRE remarked that quarantine/isolation situations can happen quickly and therefore it is the legislature's intent that the subjects of quarantine/isolation would be given a reasonable amount of time to have that power of attorney executed, particularly given that most Alaskans don't already have such details worked out.

MR. BRANCH concurred with Dr. Mandsager that the OCS would not take custody of a child unless he/she were truly abandoned.

[1:36:28 PM](#)

DR. MANDSAGER, mentioning that Representative Gara had expressed concerns at the bill's prior hearing, posited that the DHSS has come up with a couple of proposed amendments that could satisfy members' concerns, and said that one of the proposed amendments by Representative Gara would be acceptable to the DHSS. Dr. Mandsager referred to a proposed amendment to page 11, line 23, which would create another subsection to clarify that isolation and quarantine shall only be used if they are the least restrictive alternative necessary to prevent the spread of [a] contagious or possibly contagious disease. In other words, in the hypothetical example posed at the bill's last hearing regarding someone with acquired immunodeficiency syndrome (AIDS), the DHSS would seek other alternatives first, and would only resort to isolation and quarantine if all alternatives proved unsuccessful. Additionally, if that proposed amendment were to be adopted, he remarked, then a definition of "least restrictive" could be included in the definition section of the bill.

DR. MANDSAGER noted that another proposed amendment by Representative Gara would alter page 11 by adding the caveat

that a person could choose confinement in his/her home absent exceptional circumstances that would jeopardize public health. In response to a question, he said he has not yet had a chance to review the changes suggested by the Alaska Nurses Association (AaNA).

CHAIR MCGUIRE mentioned that one of the AaNA's suggestions would be to add a caveat that person would not have to submit to involuntary treatment if he/she voluntarily takes steps outlined by the state medical director to prevent the spread of a communicable disease.

DR. MANDSAGER relayed that in response to a concern expressed by the AaNA regarding the isolation/quarantine of a person exposed to hazardous materials that could cause serious illness or injury via transmission, one of the DHSS's proposed amendments - which would alter page 15 by adding a subsection (m) - would allow the DHSS to isolate or quarantine such a person. He predicted that such a provision would only apply in situations involving irradiation or chemical toxins that could potentially be hazardous to others.

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REPRESENTATIVE GARA said he still has a major concern regarding the possibility that the bill, perhaps even with the DHSS's proposed amendment, would allow a person with AIDS - which could be considered a substantial risk to public health because of its contagious nature - to be isolated, sent through an ex parte hearing, and then quarantined. So although the proposed amendment would allow someone with AIDS to be quarantined at home, the determination regarding whether that is appropriate would happen only after the person is isolated, sent through an ex parte hearing, and been issued a quarantine order. He said he doesn't ever want to allow the state to bother individuals who are dealing with AIDS responsibly. He opined, therefore, that the bill should only address diseases that don't include things like AIDS or other diseases that aren't of concern.

DR. MANDSAGER remarked:

The problem as a public health practitioner is, we start into these journeys with "a suspicion or probable and not knowing." If I was God and knew what the cause was going to be, this would be a much simpler bill to write, because then it would be much easier to write exclusions as Representative Gara is

suggesting. We start into an outbreak investigation or we start out with concerns, and then, over the next few hours to days, it becomes clear whether those concerns were real or not. And as time goes by, it becomes more and more clear [what] the appropriate next steps [are], how [long] a time limit [there] should be, and so on.

One of the [AkCLU's] concerns initially ... is, we ought to time limit this, and I pushed back against that saying, again, for the same reason, it's more appropriate, in our view, that we end quarantine or isolation as soon as possible rather than put a time limit on it, because of the uncertainty on the front end. Now, I concur 100 percent with what Representative Gara is saying, ... we don't want to put people into quarantine and isolation unless they're a risk to public health - their individual medical problems are not a cause for quarantine or isolation or any of the other tools that this bill ... [provides]. ...

So we're only talking about this in situations in which there is a risk. So the situation you described, in which somebody is dealing responsibly with [his/her] illness, [he/she] is not a risk to public health. Now ... somehow we have to find a way that we can all be comfortable, that we allow for uncertainty on the front end but yet we don't end up "where you want to be" on the back end. Now, the only other thing I would say is ... this [has] been our practice, here, for 50 years, and it's not been abused.

DR. MANDSAGER assured the committee that the bill will not expand or limit the practices the DHSS has been using to deal with concerns to public health, and suggested that the committee keep in mind that the DHSS has historically used its authority responsibly.

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MR. BRANCH suggested that there needn't be concern that the DHSS would isolate a person just for having AIDS, and noted that proposed subsection (d) of the quarantine/isolation provision - located on page 12, line 15 - says in part: "Before quarantining or isolating an individual, the department shall

obtain a written order from the superior court". He also noted, though, that subsection (e) of that same provision gives the department extraordinary authority to quarantine or isolate somebody, but pointed out that a very high standard is required - there has to be a clear and immediate threat to public health for the department to isolate or quarantine an individual without a court order. He said that according to his understanding, the DHSS will be working in incremental steps, and so isolation and quarantine would be the last steps in a long process wherein the DHSS tries to examine an individual but may then have to reject lesser restrictive alternatives. The aforementioned proposed amendment is designed to "kick in at the superior court level," adding a new burden of proof that isolation and quarantine is necessary in order to [prevent] the spread of contagion.

REPRESENTATIVE GARA indicated that that possibly addresses his concern, but opined that a lesser standard of proof is required if isolation and quarantine via a court order is the alternative chosen. The bill doesn't currently specify that the goal is to address diseases that are communicable through airborne means, through touch, or through casual contact with someone's sweat, he remarked, adding that he would be much more comfortable if the bill did specify that goal, if it were narrowed to only those diseases the DHSS really wants to address. He opined that under the parameter currently proposed in the bill - a disease that poses a substantial risk to public health - one could argue that AIDS qualifies as such.

MR. BRANCH offered his belief that Dr. Mandsager already addressed most of those points, and predicted that with regard to people with AIDS, it will be unnecessary, most of the time, to use isolation or quarantine because most people are dealing with that disease responsibly. However, there may still be times when a person with AIDS will choose not to act responsibly and thus place other people at risk; such circumstances would warrant isolation or quarantine.

CHAIR McGUIRE suggested that perhaps the language being proposed as an addition to page 11 - regarding the use of isolation and quarantine only if they are the least restrictive alternative - could also be added to the aforementioned subsection (e) located on page 13, so that the caveat would apply in situations where a court order is bypassed, thus requiring the DHSS to perform one more step in proving that isolation or quarantine is warranted. She acknowledged the difficulty of defining things that might pose a threat to public health, since it is hard to predict what

types of diseases they will face in the future, and indicated that the proposed amendments give her some comfort.

MR. BRANCH said he didn't believe the administration would object to Chair McGuire's suggested additional change.

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DR. MANDSAGER, referring to a question asked at the bill's prior hearing regarding civil penalties for an employee, said that the DHSS's preference would be to leave [the bill] as is, that being that the state already has immunity for quarantine and the bill would extend immunity to instances of isolation. However, if the committee prefers to change the provision such that it becomes similar to changes recently made to the statutes pertaining to the OCS, then the DHSS would consider that.

CHAIR MCGUIRE asked what the "OCS penalty" is.

DR. MANDSAGER said, "It's a fine [and] a class B misdemeanor, I think, and it uses language like 'willful misconduct.'"

[1:51:12 PM](#)

REPRESENTATIVE GARA said that the language on page 12, lines 28-29, does comfort him somewhat; that language says that a petition for isolation or quarantine must include an allegation that "the individual is unable or unwilling to behave so as not to expose other individuals to danger of infection". He asked whether it will be mandatory that the state prove such an allegation.

MR. BRANCH offered his belief that it would be mandatory.

CHAIR MCGUIRE noted that the bill uses the term "must".

REPRESENTATIVE GARA pointed out, however, that in the bill, the term "must" applies to the term "allege".

MR. BRANCH opined that such would be interpreted to mean that the allegation must be proven.

REPRESENTATIVE GARA asked whether all of the stipulations outlined in proposed subsection (d) must be proven before an order authorizing isolation or quarantine is granted. If such is the case, he remarked, then perhaps the language on page 12,

line 19, should be changed to say, "(1) allege and prove" or "(1) allege and establish".

MR. BRANCH noted that page 14, lines 16-29, stipulates that a clear and convincing evidence standard must be used by the court when issuing a finding that committing an individual to isolation or quarantine is warranted. He opined that the court would be given the flexibility to make a finding that isolation or quarantine is necessary and appropriate after considering all the factors set out in the petition. He offered his belief that amending the bill as Representative Gara just suggested could prevent the court from issuing an order for isolation or quarantine in cases where such an order would actually be warranted to protect the public health if the DHSS wasn't able to allege and prove all of the factors outlined in proposed subsection (d).

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CHAIR McGUIRE said she doesn't see a single factor in proposed subsection (d) that she wouldn't want addressed by the court; the factors include:

- (A) the identity of each individual proposed to be quarantined or isolated;
- (B) the premises subject to isolation or quarantine;
- (C) the date and time the isolation or quarantine is to begin;
- (D) the suspected contagious disease;
- (E) that the individual poses a substantial risk to public health;
- (F) whether testing, screening, examination, treatment, or related procedures are necessary;
- (G) that the individual is unable or unwilling to behave so as not to expose other individuals to danger of infection; and
- (H) that the department is complying or will comply with (b) of this section

CHAIR McGUIRE opined that although discretion by the court is desirable, the court ought to find all of the factors in proposed subsection (d) before granting the DHSS the authority to isolate or quarantine someone.

MR. BRANCH, acknowledging Chair McGuire's point that all of the aforementioned factors are important, said his concern is that the public health will be endangered just because one of the

factors outlined is not proven. For example, he noted, proposed subsection (d)(1)(D) - which says, "the suspected contagious disease" - does not constitute a factual finding strictly speaking; instead, the DHSS would merely have the burden of saying what it thinks the disease is. Upon further review, he acknowledged that perhaps changing page 12, line 19, to say, "(1) allege and prove" would not really be a problem.

CHAIR McGUIRE suggested that perhaps the language on line 19 of page 12 could be altered say, "(1) must allege these set of factors" or "(1) allege those factors listed". She posited that there are two separate questions, one being, should the allegation include all the factors, and the next being, should the factors have to be proven, not just alleged. She said she doesn't see the danger in requiring the allegation to include all of the factors.

MR. BRANCH concurred and noted that language in proposed subsection (d)(2), which starts at the top of page 13, stipulates that the allegations must be accompanied by an affidavit attesting to the facts asserted in the petition.

[1:57:47 PM](#)

REPRESENTATIVE GARA said that in looking at the factors stipulated in proposed subsection (d), he doesn't see a one that the DHSS wouldn't be able to establish if it were seeking to isolate or quarantine a citizen.

MR. BRANCH agreed. However, he added, the problem for him is that proposed subsection (d)(1)(F) - "whether testing, screening, examination, treatment, or related procedures are necessary" - for example, "is not a standard of proof"; instead it is a question the court would like to know the answer to - in other words, is the DHSS also seeking an order for treatment or examination.

CHAIR McGUIRE noted that clear and convincing evidence, as required via proposed subsection (h), located on page 14, is a high standard of evidence. She posited that the Alaska State Constitution's right of privacy will also be taken into consideration by the courts in determining whether to issue authorization for isolation or quarantine.

[2:00:48 PM](#)

REPRESENTATIVE KOTT asked Dr. Mandsager to comment on the suggested change regarding an exemption from testing, examination, or screening because of religious beliefs; this suggestion was offered by Ms. Smith, Christian Science Committee on Publication for Alaska.

DR. MANDSAGER noted that the bill already allows a person to exempt himself/herself from medical treatment, but pointed out that in certain situations, such as those involving TB, it could be difficult for the DHSS to determine whether a person is really infected if it cannot perform screening or testing.

[2:02:36 PM](#)

CHAIR McGUIRE indicated that the committee would now be focusing on proposed amendments. She turned the committee's attention to Amendment 1, which read [original punctuation provided]:

Page 11, following Line 23, insert:

"Isolation and quarantine shall only be used if they are the least restrictive alternative necessary to prevent the spread of a contagious or possibly contagious disease to others;

Page 20, following line 22, insert

"(17) "least restrictive" means the policy or practice that least infringes on the rights or interests of individuals.

[RENUMBER Following definitions]

CHAIR McGUIRE said that as part of Amendment 1, she would like to include, conceptually, on page 13, line 9, after "individuals", the language in the first part of Amendment 1 - "Isolation and quarantine shall only be used if they are the least restrictive alternative necessary to prevent the spread of a contagious or possibly contagious disease to others". She noted that this additional change would apply to the provision allowing the DHSS to isolate or quarantine someone without a court order.

CHAIR McGUIRE made a motion to adopt Amendment 1, as amended in the aforementioned fashion. There being no objection, Amendment 1, as amended, was adopted.

CHAIR MCGUIRE turned the committee's attention to Amendment 2, a handwritten amendment which, with handwritten corrections, read [original punctuation provided]:

Insert @ p.11 line 29 after "premises"

". Absent exceptional circumstances that would jeopardize public health, a person shall be allowed to choose confinement in their own home."

REPRESENTATIVE GARA made a motion to adopt Amendment 2. There being no objection, Amendment 2 was adopted.

CHAIR MCGUIRE turned the committee's attention to Amendment 3, which read [original punctuation provided]:

Page 15, following line 18, insert

"(m) The department may quarantine or isolate individuals who have been exposed to hazardous materials that can cause serious illness or injury by transmission of the hazardous material to others. The provision of this section concerning isolation and quarantine of individuals to prevent the spread of contagious or possibly contagious diseases shall apply to isolation or quarantine of individuals who have been exposed to hazardous materials."

CHAIR MCGUIRE made a motion to adopt Amendment 3. There being no objection, Amendment 3 was adopted.

[2:05:45 PM](#)

CHAIR MCGUIRE again referred to the AaNA's suggested change that would add the caveat that a person would not have to submit to involuntary treatment if he/she voluntarily takes steps outlined by the state medical director to prevent the spread of a communicable disease.

DR. MANDSAGER indicated that the DHSS would not have a problem with such a change, but noted that the AaNA's suggestion in its entirety is intended to alter language that would first be altered via another of the DHSS's proposed amendment that has not yet been addressed.

[2:06:54 PM](#)

CHAIR McGUIRE turned the committee's attention to Amendment 4, labeled 24-GH1002\G.1, Mischel, 3/3/05, which read:

Page 8, line 29, following "information":
Insert "under this section"

Page 8, following line 31:

Insert a new section to read:

"Sec. 18.15.362. Acquisition and use of identifiable health information; public health purpose. The department may acquire and use identifiable health information collected under AS 18.15.355 - 18.15.390 only if the

(1) acquisition and use of the information relates directly to a public health purpose;

(2) acquisition and use of the information is reasonably likely to contribute to the achievement of a public health purpose; and

(3) public health purpose cannot otherwise be achieved at least as well with nonidentifiable health information."

Page 20, following line 24:

Insert a new paragraph to read:

"(18) "public health purpose" means the prevention, control, or amelioration of a condition of public health importance, including an analysis or evaluation of a condition of public health importance and an evaluation of a public health program;"

Renumber the following paragraphs accordingly.

CHAIR McGUIRE made a motion to adopt Amendment 4.

REPRESENTATIVE DAHLSTROM objected for the purpose of discussion.

DR. MANDSAGER explained that Amendment 4 defines "public health purpose" and establishes standards that the DHSS would have to achieve before being able to acquire, access, and use identifiable health information for a public health purpose. He referred to another of the AaNA's proposed changes, one that's intended to alter Amendment 4, and said that the DHSS would not agree with that modification because it believes that Amendment 4, as currently written, provides a balance between the privacy of an individual's health information and the DHSS's need to do outbreak investigations.

2:08:53 PM

REPRESENTATIVE COGHILL referred to Amendment 4's proposed paragraph (3) and asked for clarification regarding the term "nonidentifiable health information".

DR. MANDSAGER said that much of the time, the DHSS does work involving nonidentifiable health information, and provided an example of such.

REPRESENTATIVE DAHLSTROM removed her objection.

REPRESENTATIVE GRUENBERG referring to the aforementioned suggestion, by the AaNA, to change Amendment 4, asked why the DHSS wouldn't be willing to locate and receive permission from the persons it wishes to access the records of.

DR. MANDSAGER said he is hesitant to answer that question without further review, but indicated that the DHSS would be locating individuals and obtaining permission to access records in most situations anyway.

CHAIR McGUIRE mentioned that the committee could give further consideration to the AaNA's suggested changes after the DHSS's proposed amendments are addressed.

2:11:06 PM

CHAIR McGUIRE asked whether there were any further objections to Amendment 4. There being none, Amendment 4 was adopted.

CHAIR McGUIRE made a motion to adopt Amendment 5, labeled 24-GH1002\G.2, Mischel, 3/4/05, which read:

Page 9, line 2, following "information":
Insert "collected under AS 18.15.355 - 18.15.390"

REPRESENTATIVE DAHLSTROM objected for the purpose of discussion.

DR. MANDSAGER indicated that Amendment 5 would clarify that the [information security safeguards in the bill apply only to information being collected under Section 8 of the bill].

REPRESENTATIVE DAHLSTROM removed her objection.

CHAIR McGUIRE asked whether there were any further objections to Amendment 5. There being none, Amendment 5 was adopted.

CHAIR McGUIRE [made a motion to adopt] Amendment 6, labeled 24-GH1002\G.3, Mischel, 3/4/05, which read:

Page 9, line 1, following "**safeguards.**":
Insert "(a)"

Page 9, following line 4:
Insert a new subsection to read:
"(b) The department shall expunge, in a confidential manner, identifiable health information collected under AS 18.15.355 - 18.15.390 when the use of the information by the department no longer furthers the public health purpose for which it is required."

REPRESENTATIVE DAHLSTROM objected [for the purpose of discussion].

DR. MANDSAGER indicated that Amendment 6 is intended to address concerns that the DHSS would hold information unnecessarily; Amendment 6 would put in statute a stipulation that information no longer needed for a public health purpose will be confidentially expunged as soon as possible.

[2:12:16 PM](#)

REPRESENTATIVE DAHLSTROM removed her objection.

CHAIR McGUIRE asked whether there were any further objections to Amendment 6. There being none, Amendment 6 was adopted.

CHAIR McGUIRE made a motion to adopt Amendment 7, labeled 24-GH1002\G.4, Mischel, 3/3/05, which read:

Page 14, line 19:
Delete "substantial"
Insert "significant"

Page 15, line 3:
Delete "substantial"
Insert "significant"

REPRESENTATIVE DAHLSTROM objected [for the purpose of discussion].

DR. MANDSAGER explained that Amendment 7 would clarify that the DHSS must prove to the court that a situation poses a "significant" risk to public health.

REPRESENTATIVE DAHLSTROM removed her objection.

CHAIR MCGUIRE asked whether there were any further objections to Amendment 7. There being none, Amendment 7 was adopted.

[2:13:12 PM](#)

CHAIR MCGUIRE made a motion to adopt Amendment 8, labeled 24-GH1002\G.5, Mischel, 3/3/05, which read:

Page 11, line 20, following "treatment.":

Insert "However, an individual who exercises the right to refuse treatment under this subsection is responsible for paying all costs incurred by the state in seeking and implementing a quarantine or isolation order made necessary by a refusal of treatment by the individual. The department shall notify an individual who refuses treatment under this subsection that the refusal may result in an indefinite period of quarantine or isolation and that the individual will be responsible for payment of the costs of the quarantine or isolation."

REPRESENTATIVE DAHLSTROM objected [for the purpose of discussion].

DR. MANDSAGER indicated that the change proposed by Amendment 8 has been suggested in previous committees, and would provide that if someone refuses treatment in favor of quarantine or isolation, then he/she is responsible for the costs incurred. He mentioned that this is the language that one of the aforementioned changes suggested by the AaNA proposes to alter.

REPRESENTATIVE DAHLSTROM removed her objection.

CHAIR MCGUIRE, in response to comments and questions, clarified that the question of whether to adopt Amendment 8 - labeled 24-GH1002\G.5, Mischel, 3/3/05 - was before the committee.

REPRESENTATIVE GARA objected [for the purpose of further discussion]. Mentioning that a person might refuse treatment for a variety of reasons, he said that Amendment 8 appears to not be drafted narrowly enough.

DR. MANDSAGER relayed that the language of Amendment 8 was adopted in the Senate. Acknowledging that one could refuse treatment for a number of reasons, he offered his understanding that Amendment 8 merely says that if one does refuse treatment, regardless of the reason, that one is responsible for the costs incurred.

REPRESENTATIVE GRUENBERG said he is concerned about the impact Amendment 8 could have on those who live a subsistence lifestyle and may not have the cash to pay for quarantine or isolation; Amendment 8 could have devastating consequences if that lack of funds results in people [being subjected to treatment unwillingly]. He opined that there should be some discretion to waive the costs of isolation and quarantine.

DR. MANDSAGER offered his interpretation of Representative Gruenberg's concern.

REPRESENTATIVE GRUENBERG made a motion to adopt a conceptual amendment to Amendment 8, "to allow the department to waive that cost requirement if ... there are sufficient equities to requirement."

[2:17:49 PM](#)

REPRESENTATIVE KOTT suggested instead that they simply alter Amendment 8 in two places so that it says in part: "an individual who exercises the right to refuse treatment under this subsection may be responsible for paying all costs incurred" and "that the individual may be responsible for payment".

CHAIR McGUIRE opined that such a change would be a better way to accomplish Representative Gruenberg's goal.

REPRESENTATIVE GRUENBERG, in response to a question, withdrew his previous amendment to Amendment 8, and [made a motion to adopt Representative Kott's suggestion as] a new amendment to Amendment 8.

CHAIR McGUIRE asked whether there were any objections to the amendment to Amendment 8. There being no objection, Amendment 8 was amended.

CHAIR MCGUIRE asked whether there [were any further objections] to Amendment 8, as amended. There being none, Amendment 8 as amended, was adopted.

CHAIR MCGUIRE made a motion to adopt Amendment 9, labeled 24-GH1002\G.6, Mischel, 3/4/05, which read:

Page 11, lines 27 - 28:

Delete "or hazardous material"

Insert "that poses a significant risk to public health"

REPRESENTATIVE DAHLSTROM objected [for the purpose of discussion].

DR. MANDSAGER indicated that Amendment 9 is in order because the issue of hazardous material is now addressed by the new subsection (m) inserted via Amendment 3, and that Amendment 9 also attempts to elevate the standard for isolation or quarantine.

REPRESENTATIVE DAHLSTROM removed her objection.

CHAIR MCGUIRE asked whether there were any further objections to Amendment 9. There being none, Amendment 9 was adopted.

CHAIR MCGUIRE made a motion to adopt Amendment 10, labeled 24-GH1002\G.7, Mischel, 3/3/05, which read:

Page 11, following line 15:

Insert a new subsection to read:

"(b) A state medical officer may direct an individual who has or may have been exposed to a contagious disease that poses a significant risk or danger to others or to the public health to complete an appropriate prescribed course of treatment for the contagious disease, including medication and directly observed therapy, if appropriate, and to follow measures to prevent the spread of disease."

Reletter the following subsections accordingly.

REPRESENTATIVE DAHLSTROM objected [for the purpose of discussion].

REPRESENTATIVE GARA objected.

DR. MANDSAGER indicated that Amendment 10 addresses a problem that the DHSS has had internally with current tuberculosis statutes, specifically regarding what the role of the state medical examiner is in directing someone to get treatment. Amendment 10 would clarify in statute that giving notice to someone that he/she should be treated is just a step in the journey, and recognizes that the individual can always refuse treatment.

CHAIR McGUIRE noted that Amendment 10 does specify "may".

REPRESENTATIVE GARA offered his understanding that Amendment 10 would allow a state medical officer to tell somebody that he/she has to take the state medical officer's "appropriate prescribed course of treatment". He said his concern with this is that for some diseases - for example, AIDS - there are some experimental drugs that are appropriate, some that are "likely" appropriate, some that may not be safe at all, and some that have unwanted side effects. Amendment 10, as currently written, he opined, would allow the state to tell someone to take what it considers to be a prescribed course of treatment even if the person is unwilling to do so.

CHAIR McGUIRE, referring to proposed AS 18.15.380(a) - located on page 11, lines 12-15 - posited that this language already addresses the DHSS's concerns; thus amendment 10 is not needed.

[2:22:47 PM](#)

DR. MANDSAGER concurred.

CHAIR McGUIRE suggested that Amendment 10 would create more problems than it solves, and mentioned that she agrees with Representative Gara's comments on this issue.

CHAIR McGUIRE withdrew Amendment 10.

[2:23:53 PM](#)

CHAIR McGUIRE - indicating that the next amendment would be called Amendment 11 - referred to the AaNA's suggested changes, one of which recommends the following language [original punctuation provided] for proposed AS 18.15.380(c), which has already been amended via Amendment 8, as amended:

Sec. 18.15.380(c) shall read: An individual has the right to refuse treatment and may not be required to

submit to involuntary treatment so long as they are voluntarily willing to take steps outlined by the state medical director to prevent the spread of a communicable disease to others. An individual who exercises the right to refuse treatment under this subsection is responsible for paying all costs incurred by the state in seeking and implementing a quarantine or isolation order made necessary by a refusal of treatment by the individual. The department shall notify an individual who refuses treatment under this subsection that the refusal may result in an indefinite period of quarantine or isolation and that the individual will be responsible for payment of the costs of the quarantine or isolation.

DR. MANDSAGER opined that this recommended change is a good one.

CHAIR McGUIRE made a motion to adopt the foregoing as Amendment 11.

REPRESENTATIVE DAHLSTROM objected [for the purpose of discussion].

CHAIR McGUIRE recapped the AaNA's comments from the bill's previous hearing regarding wanting individuals to accept responsibility for taking steps to prevent the spread of a communicable disease.

REPRESENTATIVE DAHLSTROM removed her objection.

CHAIR McGUIRE asked whether there were any further objections to Amendment 11. There being none, Amendment 11 was adopted.

CHAIR McGUIRE offered her belief that the other changes suggested by the AaNA have either been addressed via other amendments already adopted or are objected to by the DHSS, such as the one that proposes to alter the language added via Amendment 4, and which pertains to locating and receiving permission from persons it wishes to access the records of.

REPRESENTATIVE GRUENBERG opined that if there isn't an eminent threat of an emergency, the DHSS should make a reasonable effort to contact the individuals whose records it wishes to access.

DR. MANDSAGER said his only concern pertains to those reportable conditions that fall under other parts of the public health law,

such as those included in reports from hospitals and for which individuals are not ordinarily notified.

CHAIR McGUIRE suggested that Representative Gruenberg consider researching this issue more after the bill moves from committee but before it is heard on the House floor.

REPRESENTATIVE GRUENBERG agreed to do so.

[2:27:40 PM](#)

REPRESENTATIVE GARA made a motion to adopt Amendment 12, which read [original punctuation provided]:

At Page 15, Line 19

Insert a new section:

"18.15.386 Penalty for Violation. Notwithstanding AS 09.50.250, a person who knowingly violates a provision of 18.15.365, 18.15.375, 18.15.380 or 18.15.385, is liable in a civil action for compensatory damages and is liable for a fine of up to \$1000 per violation."

At Page 2, line 31

After "18.55.390" insert ", except in the circumstances provided in AS 18.15.386."

REPRESENTATIVE DAHLSTROM objected.

REPRESENTATIVE GARA made a motion to amend Amendment 12, to delete the reference to AS 18.15.375. There being no objection, Amendment 12 was amended.

REPRESENTATIVE GARA offered his belief that Amendment 12, as amended, would impose a necessary safeguard. He relayed that it has been explained to him that Alaska is currently the only state that does not have a comprehensive quarantine law, and that this is due to the state's history of forced and improper quarantines of its Native population during pre-statehood years. He opined that [HB 95] will be an appropriate law only if [agency personnel] do not purposely violate it in order to quarantine people. He said that Amendment 12, as amended, will say that if [agency personnel] knowingly violate proposed AS 18.15.365, which pertains to information security safeguards; 18.15.380, which pertains to allowing someone to refuse medical

treatment; or 18.15.385, which pertains to the standards that allow for isolation and quarantine, then the violator "and the state" will be liable for any damages that result.

CHAIR MCGUIRE asked whether the penalty proposed via Amendment 12, as amended, mirrors that of Representative Coghill's "CINA [child in need of aid] bill."

REPRESENTATIVE COGHILL indicated that some of the language regarding civil liability is similar but it doesn't specify a particular penalty.

CHAIR MCGUIRE indicated that she wants to know what the mental intent is in Representative Coghill's bill.

[The response was inaudible.]

CHAIR MCGUIRE raised the issue of "wilful misconduct" and asked Dr. Mandsager to comment.

DR. MANDSAGER said he'd originally thought that perhaps the Senate had adopted some language regarding that issue, but now he is not sure that such is the case.

[2:31:55 PM](#)

CHAIR MCGUIRE asked him to comment [on Amendment 12, as amended].

DR. MANDSAGER replied:

On one hand, I'm kind of personally ambivalent because I think we ought to hold our employees to a high standard, and I think that's what you're after, Representative Gara, is that employees should know that they can't do something wrong. On the other hand, if it opens up [employee] actions to a whole series of legal actions in the which the state's sued -- we're trying to find a balance point in there, and I can only speak personally here because I don't think we in the department have taken a position on this.

REPRESENTATIVE COGHILL surmised that certain of the aforementioned violations would occur before a quarantine order is sought from a judge, and suggested that this might provide a safeguard against any violation of proposed AS 18.15.380. He mentioned aspects of his aforementioned CINA bill.

CHAIR McGUIRE asked why Amendment 12, as amended, provides for a mental state of knowingly as opposed to intentionally.

REPRESENTATIVE GARA said he would be amenable to having Amendment 12, as amended, say "intentionally" rather than "knowingly". He remarked that his thought was that "knowingly" is the term used with regard to criminal law, and that it would provide for a very high burden before one could be held civilly liable under Amendment 12, as amended.

[2:34:04 PM](#)

MR. BRANCH offered his belief that anyone [adversely] impacted by quarantine, isolation, or medical treatment already has recourse under the bill, even in cases involving emergency orders. He surmised that the main concern pertains to violating the provision regarding confidentiality of information, and opined that such a violation would more appropriately be addressed as a criminal offense rather than as a cause for civil action.

REPRESENTATIVE COGHILL asked what a person's recourse is under the bill if his/her confidentiality is knowingly violated.

MR. BRANCH relayed that [Section 2 of] the bill amends the waiver of liability provision in Title 9, and that such insulates the department from liability.

REPRESENTATIVE COGHILL said that is a concern, adding that he is interested in ensuring that the state be held liable for misuse of information. He asked at what point can an individual get satisfaction for such a violation.

CHAIR McGUIRE noted that the bill pertaining to the collection of deoxyribonucleic acid (DNA) samples provides for a criminal penalty if a person's confidentiality is violated.

[2:38:34 PM](#)

DR. MANDSAGER mentioned that "the model Act" suggests a standard of gross negligence or wilful misconduct.

CHAIR McGUIRE made a motion to amend Amendment 12, as amended, to say "intentional". There being no objection, Amendment 12, as amended, was again amended.

CHAIR McGUIRE expressed disfavor with using a standard of "gross negligence."

REPRESENTATIVE GARA said he did not want to use a standard of gross negligence. He offered his belief that "this whole system" is predicated upon an honest affidavit from a state employee, and he did not want a [state employee] to make something up in an affidavit.

CHAIR McGUIRE agreed.

REPRESENTATIVE DAHLSTROM withdrew her objection to Amendment 12 [as amended].

CHAIR McGUIRE asked whether there were any further objections to amendment 12, as amended. There being none, Amendment 12, as amended was adopted.

REPRESENTATIVE GARA made a motion to adopt Amendment 13, a handwritten amendment which, with handwritten corrections, read [original punctuation provided]:

Insert at p. 13 line 2
after "in the petition"
as follows:
"including specific facts supporting the
allegations required by AS 18.15.385(d)(1)(D) & (G)."

CHAIR McGUIRE objected for the purpose of discussion.

REPRESENTATIVE GARA relayed that Amendment 13 provides that the affidavit required by proposed AS 18.15.385(d)(2) cannot just include general allegations but must specifically state facts pertaining to the suspected contagious disease and to whether someone is unable or unwilling to behave so as to not expose other individuals to danger of infection.

CHAIR McGUIRE withdrew her objection.

CHAIR McGUIRE asked whether there were any further objections to Amendment 13. There being none, Amendment 13 was adopted.

REPRESENTATIVE GRUENBERG referred to the aforementioned Christian Science Committee on Publication for Alaska's proposed new section, AS 18.15.382 [text provided previously], and made a motion to adopt it as Amendment 14.

DR. MANDSAGER characterized Amendment 14 as simply further clarification "about the treatment side."

REPRESENTATIVE DAHLSTROM objected [for the purpose of discussion].

REPRESENTATIVE GRUENBERG said that Amendment 14 "allows these people to practice their religion without particularly impinging on the public health, and I think it's important to a number of Alaskans."

REPRESENTATIVE DAHLSTROM indicated that she was maintaining her objection to Amendment 14.

[2:44:55 PM](#)

A role call vote was started but interrupted for the purpose of further discussion.

MS. SMITH, in response to a question, said that the concern of the Christian Science Committee on Publication for Alaska is that the existing statute addressing treatment by spiritual means in cases involving tuberculosis, AS 18.15.143, will be repealed via passage of HB 95, and Amendment 14 simply proposes to reinsert a similar accommodation regarding treatment of a contagious disease by spiritual means.

DR. MANDSAGER opined that adoption of Amendment 14 will not make a practical difference because provisions in the bill already allow someone to exempt himself/herself from treatment, regardless of the reason. Amendment 14 just clarifies that a person can exempt themselves from treatment for religious reasons.

REPRESENTATIVE GRUENBERG again made a motion to adopt Amendment 14.

REPRESENTATIVE GARA objected. He said it seems that Amendment 14 provides that one has the absolute right to treatment by spiritual means even if the accepted science is that such treatment won't keep one from becoming contagious. That being the case, he remarked, he understands the conflict between those who, for religious reasons, don't accept western science and those who do, but opined that state law should go with one or the other.

REPRESENTATIVE GRUENBERG pointed out, though, that Amendment 14 says that although a person may utilize solely spiritual means for the treatment of disease, the state may order isolation of that person. So the person has the right to do with his/her own body as he/she wishes, and the state may order isolation to protect society. Amendment 14 stipulates that a person has the right to control his/her own body, he opined.

DR. MANDSAGER reiterated his belief that Amendment 14 is no different than provisions already in the bill, but will create a separate section. He surmised that Representative Gara's concern is that doing so may create an absolute right.

[2:50:15 PM](#)

A roll call vote was taken. Representatives Kott and Gruenberg voted in favor of Amendment 14. Representatives McGuire, Anderson, Coghill, Dahlstrom, and Gara voted against it. Therefore, Amendment 14 failed by a vote of 2-5.

[2:50:54 PM](#)

REPRESENTATIVE GARA indicated that he wanted to offer a conceptual amendment that would address the AkCLU's points regarding the ex parte hearing issue.

REPRESENTATIVE GARA made a motion to adopt Amendment 15, which "would say that you can't make your decision ex parte, that is without any participation by the person who you want to isolate, ... if participation by the person is feasible". He said he is not sure whether [the bill's] language already provides protection, but characterized ex parte decisions as very dangerous because only one side gets to present its story. "I don't think you want to have an ex parte hearing, where you get to quarantine somebody, unless its impossible to ... [let] that person participate," he concluded.

MR. BRANCH offered his belief that the AkCLU misspoke, because the ex parte provision only applies to testing, not quarantine or isolation. He noted that in unusual situations, the department can act on its own, but would then still have to bring the person before the court for a hearing. Referring to language on proposed 18.15.375(d) - beginning on page 10, line 29 - he offered that the key point of this provision is that it allows the department to get a search warrant and test someone, but if the person refuses to be tested, then testing won't occur until he/she has gone before the court, though the department

can isolate the person meanwhile to prevent the spread of disease. He characterized this as a timesaving device, allowing the department to act quickly to protect the public health.

MR. BRANCH, in response to a question, noted that proposed AS 18.15.375(e) - beginning on page 11, line 6 - says in part that an individual subject to an ex parte hearing must be given a form to request a hearing to vacate the ex parte order.

REPRESENTATIVE GARA withdrew Amendment 15, adding that he would research the issue further before the bill is heard on the House floor.

REPRESENTATIVE ANDERSON moved to report CSHB 95(HES), as amended, out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHB 95(JUD) was reported from the House Judiciary Standing Committee.

HB 149 - SALE OF METHAMPHETAMINE AND PRECURSORS

[2:54:22 PM](#)

CHAIR McGUIRE announced that the next order of business would be HOUSE BILL NO. 149, "An Act relating to further regulation of the sale, possession, and delivery of certain chemicals and precursors used in the manufacture of methamphetamine."

REPRESENTATIVE ANDERSON moved to adopt the proposed committee substitute (CS) for HB 149, Version 24-LS0596\L, Luckhaupt, 3/4/05, as the work draft. There being no objection, Version L was before the committee.

[2:55:04 PM](#)

REPRESENTATIVE JAY RAMRAS, Alaska State Legislature, sponsor, characterized methamphetamine as a scourge on society, noting that it is very prominent in today's world. House Bill 149 will increase criminal penalties for manufacturing and delivering methamphetamine; it will make it a crime of manslaughter if a person manufactures or delivers a controlled substance to another person who then dies from the controlled substance; and it will make the manufacture of methamphetamine in a building where one or more minor children under the age of 18 resides or stays a class A felony. He noted that the manufacture of methamphetamine involves and creates toxic chemicals, which contaminate the building or structure in which it is

manufactured; such buildings and structures can include homes, apartment complexes, campers, vehicles, and hotel rooms, to name a few. Many such locations are where children live - sleeping, eating, breathing, and drinking while being exposed to these toxic environments.

REPRESENTATIVE RAMRAS mentioned that every pound of methamphetamine manufactured creates seven pounds of [toxic] waste. He relayed that he is very interested in reducing the exposure of children to these substances by creating deterrents. The bill also addresses the issue of supply by limiting the amount of drugs containing [ephedrine, pseudoephedrine, or phenylpropanolamine], or the amount of iodine or iodine crystals that can be purchased or possessed by an individual. Noting that he did not want to disturb commerce, he relayed that the bill would require that a logbook be signed and that identification be provided by those purchasing the aforementioned substances. He opined that such a requirement will inhibit manufacturers of methamphetamine and those that purchase methamphetamine ingredients for them.

REPRESENTATIVE RAMRAS mentioned that Oklahoma has seen nearly an 80 percent drop in methamphetamine laboratories ("labs") - and other states have similar statistics - because of efforts to "choke down" the supply of methamphetamine ingredients. He also indicated that the bill will add certain anabolic steroids to the list of schedule VA controlled substances. He relayed that an article from Oklahoma relayed that Pfizer Inc. - a manufacturer of Sudafed - has stated it does not oppose restrictions on "the medication," and that a spokesman for the company is quoted as saying, "Every state has got to get the balance right between access to legitimate consumers and preventing access to criminals." Representative Ramras offered the following which he indicated was a quote by [a representative from the National Association of Chain Drug Stores (NACDS)]:

The National Association of Chain Drug Stores does not necessarily believe the Okalahoma law is the way to go. ... Customers miss out on hundreds of pseudoephedrine products that cannot be displayed behind a pharmacy counter, and the group believes the law's apparent success may have more to do with impeding backdoor sales of cases of pseudoephedrine by rogue retailers.

REPRESENTATIVE RAMRAS offered his belief that in Alaska, small groups of people are buying, for example, \$20 worth of ingredients, which are then used to produce several hundred dollars' worth of "street-valued" drugs. He opined that Alaska is suffering from small methamphetamine labs everywhere, including rural areas. He characterized methamphetamine as insidious because small amounts of it can be sold to generate just enough money to create more. He mentioned that the commissioner of the Department of Public Safety (DPS) relayed to him that just a few weeks ago, a methamphetamine lab was "busted" right above the district attorney's office in Fairbanks.

3:03:57 PM

RONALD J. WALL, Sergeant, Supervisor, Fairbanks Areawide Narcotics Team, Alaska Bureau of Alcohol & Drug Enforcement, Division of Alaska State Troopers, Department of Public Safety (DPS), relayed that the DPS is very supportive of HB 149, believing that the restrictions regarding ephedrine and pseudoephedrine, as well as iodine, will provide a dramatic step forward in reducing methamphetamine labs. The DPS also feels that controlling and documenting sales of the aforementioned methamphetamine ingredients will enhance the ability of law enforcement to locate and limit methamphetamine labs. He mentioned that the DPS has worked with the Department of Law (DOL) in providing support and guidance [to the sponsor] on the issues of selling and restricting amounts of necessary methamphetamine precursors, as well as on the issue of requiring the identification of those purchasing such ingredients. He added, "We also believe that by requiring these items to be stored behind counters, it will prohibit the theft [of such items]."

3:05:27 PM

LIBBY DANNENBERG, State Relations Counsel, Consumer Healthcare Products Association (CHPA), after noting that the CHPA represents manufacturers of over-the-counter medicines and nutritional supplements, relayed that the CHPA is supportive of the sponsor's goal of attempting to find solutions to the problem of methamphetamine labs, but does have a concern with the bill in that it would place all pseudoephedrine products "behind the counter." She went on to say:

[The] CHPA understands the scope and complexity of the methamphetamine problem [and supports the] need for

comprehensive, multi-disciplinary legislation. We believe such legislation should include a mix of the following. A retail sales limit of six grams for products that contain pseudoephedrine - and that would be per transaction. Rather than placing [pseudoephedrine products] behind a counter, we believe in-store placement options for retailers would be a better solution; that allows retailers to monitor ... their pseudoephedrine drug products and know what's coming in and out of their store, and do it in a way that doesn't place a burden on them. There should also be a "notice of intent to sell pseudoephedrine" requirement, and that would just be a simple notice that says you're going to sell that product.

There should be increased criminal penalties for [methamphetamine] traffickers; authorization and funding for community "Meth Watch" programs; funding for environmental cleanup, law enforcement, education, and training; community demand reduction programs; as well as strong laws protecting drug-endangered children. As Representative Ramras mentioned, a lot of states have taken ... different approaches. I'm happy to hear that you're not interested in going to the [schedule VA controlled substances], which we believe is very restrictive and reduces access. We believe that there are other ways than placing things behind the counter, as well.

MS. DANNENBERG added:

I wanted to highlight just a couple of states quickly that have taken less restrictive measures and have seen significant drops in their number of [methamphetamine] lab incidents. California is one example. In 2002, [California] law enforcement reported 1,769 [methamphetamine] lab incidents, and by 2004, they were down to 639 [methamphetamine] lab incidents. California places a three-package or nine-gram limit on each retail transaction, and they also take significant steps toward tracking the supply chain of pseudoephedrine - and that is tracking through manufacturers, wholesalers, and distributors so that law enforcement in the state, [the] state pharmacy board in particular, can be aware of what

products are coming in and out of their state and be aware of any discrepancies in numbers.

Washington State has also taken a similar approach. They adopted [anti-methamphetamine] legislation [in] 2001; they've seen a very (indisc.) reduction in the number of [methamphetamine] lab incidents. In 2002, they recorded 1,409 [methamphetamine] lab incidents; by the end of 2004, they were down to 687. Like California, ... [Washington places] restrictions on sales - and that's a three-package or nine-gram limit per retail transaction, and they prohibit an individual from purchasing more than nine grams in a 24 hour period.

MS. DANNENBERG continued:

Washington also has done quite a bit in tracing the path of pseudoephedrine into their state. Reports must be submitted to the state board of pharmacy by manufacturers, wholesalers, and retailers on the sales and transfers and ... receipt of pseudoephedrine products from out of state sources. ... Washington also requires manufacturers and wholesalers to report suspicious transactions in writing to the board of pharmacy, and are required to maintain records of their pseudoephedrine sales. They use a number of different approaches without placing the products behind a counter.

Additionally, we believe demand reduction and education are essential towards ... trying to prevent [methamphetamine] labs from occurring and then reoccurring. [The] CHPA has been working on a number of programs - one is a voluntary program with retailers and law enforcement, called "Meth Watch" - and [the] CHPA helps provide grants to the state to set up training programs and distribute materials - those are materials that would go in stores and on the shelves by ingredients that are used to make [methamphetamine], not just pseudoephedrine, but actually any of the ingredients - so that if the retailer or clerk is working in the store and they've had the training, their going to know what to watch for, for suspicious transactions ... - [for example], a high volume of pseudoephedrine purchase or other

items - and know how to safely report that to law enforcement to follow up on it.

[The CHPA] also works with the Partnership for a Drug Free America and the American Academy of Pediatrics on a program that right now is in [the] early stages - it's been test-marketed in Phoenix, Arizona, and St. Louis - that tries to get at the education of both parents and young people, to learn more about [methamphetamine] and what the dangers are. We've been successful in that program; the Partnership for a Drug Free America and the American Academy of Pediatrics both feel it's been successful and have asked [the CHPA] ... as well as [the U.S. Drug Enforcement Administration (DEA)] to help them expand that program into a lot of other major markets in the U.S.

MS. DANNENBERG concluded:

We certainly understand and support your efforts in trying to find a way to contain the [methamphetamine] problem within your state, but we also believe that the legislature should balance the need to restrict access to these [methamphetamine] precursor chemicals against a family caregiver's need to purchase cost-effective, over-the-counter cough and cold medicines. Certainly there's no quick fix to [the] problem, but we look forward to working with this committee to try [to] hopefully find a reasonable balance. Thank you.

CHAIR McGUIRE mentioned that the committee is in receipt of the CHPA's written remarks.

[3:12:07 PM](#)

REPRESENTATIVE HARRY CRAWFORD, Alaska State Legislature, said he is very much in favor of HB 149, and relayed that he has sponsored a very similar bill. However, he remarked, HB 149 still lacks a reporting requirement with a centralized database, and so therefore lacks the teeth with which to accomplish its goal of addressing the "scourge" of [methamphetamine labs]. He added:

We need a place for all of this information to come to, and when we first started working on this bill, the [DPS] was telling us that we're already going

after [methamphetamine and methamphetamine] labs and so it shouldn't cost any extra, that it would, in fact, give them a tool to work with to try to stop this methamphetamine craze that's going across the state.

REPRESENTATIVE CRAWFORD noted that currently, HB 149 just requires businesses to maintain a logbook that details who is buying which products, and then the DPS would have to go out to each business and get that information from the logbooks. If this information was simply mailed in every six months or once a year, he suggested, the information could be stored in a centralized location. He opined that such a reporting requirement would not place too big a burden on business owners. In conclusion, he characterized HB 149 as a wonderful bill, and urged the committee to pass it.

REPRESENTATIVE GARA thanked Representatives Ramras and Crawford for addressing this issue.

[3:15:01 PM](#)

DEAN J. GUANELI, Chief Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law (DOL), said that the administration supports any efforts to stem the tide of methamphetamine being used and produced in Alaska. He posited that the primary thrust of HB 149 is to place limitations on purchasing and possessing pseudoephedrine, and opined that such limitations will be particularly effective in Alaska; additionally, the DOL considers this limitation to be appropriate. He recapped Representative Ramras's comments regarding the success other states have experienced in lowering the number of methamphetamine labs. He offered the DOL's belief that pseudoephedrine products are the primary source of the ingredients used by Alaska's small methamphetamine labs.

MR. GUANELI relayed that the DOL also believes that the public will support the proposed limitations on pseudoephedrine product sales, and mentioned that a survey conducted in Iowa showed that the majority of people buy only one package of pseudoephedrine products at a time and do so only a few times a year, though a very small percentage of people do buy two packages of pseudoephedrine products at a time - again, only a few times a year. The aforementioned survey also showed that two out of three people thought that limiting the amount of pseudoephedrine products that could be bought at any one time wouldn't pose any inconvenience, and only one out of five people thought that such

a limitation might pose just a slight inconvenience; additionally, there were similar statistics pertaining to how inconvenient people thought it would be if pseudoephedrine products were kept behind the counter. He indicated that the aforementioned study showed that a majority of people at least moderately supported limitations on pseudoephedrine product sales, as well as the maintaining of records pertaining to such sales and requiring purchasers to show ID.

MR. GUANELI opined that the changes the bill proposes will be effective, and reiterated his belief that the public will support such changes. He remarked, however, that it is also fair to say that from the DOL's viewpoint, the bill needs work. One of the issues that needs to be addresses is, what is it, exactly, that is being restricted. Some of the bill's provisions speak to restricting pseudoephedrine, while others speak to also restricting ephedrine and phenylpropanolamine, and still others speak to restricting iodine. There should be more consistency in the various provisions with regard to what exactly is being restricted and what the limitations will be for possession, he opined.

MR. GUANELI indicated that another issue that should be addressed is, are there exceptions in the bill that will result in loopholes; Version L, for example, includes an exception for pediatric products, wherein the recommended dosage is about half that of the adult dosage. He opined that this exception will create a loophole that will be exploited. Other issues that should be addressed further are, how much of the drug can be purchased and how much can be in someone's possession; he opined that the amounts the bill currently allows for purchases - six grams - and for possession - nine grams - is far more than people typically buy [or keep] for personal use, that it is instead the amount that is typically found in a lot of methamphetamine labs, and therefore he thinks that the bill's limitations should specify smaller amounts.

MR. GUANELI relayed that the bill raises questions in his mind regarding what the obligations of retailers and legitimate businesses are; he offered his view that a strict reading of the bill's provisions could cause legitimate businesses some concern. For example, one of the bill's provisions exempts a licensed pharmacist from the proposed six-gram limitation, but no such exemption exists for others who work for that same pharmacy; therefore, he opined, there should be exemptions for employees of pharmacists. He noted that there is also inconsistency with the language pertaining to retailers, and

surmised that perhaps the bill's inconsistencies are a result of the different provisions being taken from laws in other states.

MR. GUANELI said that there is also ambiguity regarding the limitations on iodine, and that a question is raised in his mind regarding whether the provision requiring businesses to register with the DPS is necessary, since businesses involved in pseudoephedrine distribution, wholesaling, and retailing are already required to register with the Board of Pharmacy or some other state agency. He said that from his standpoint, the criminal provisions of the bill that speak to knowingly selling and delivering precursors of methamphetamine and listed chemicals uses too high a standard; instead the standard should be reckless disregard, he opined, because law enforcement is noticing that a lot of manufacturers of methamphetamine are getting their ingredients from those whom they turn around and sell the finished product to.

MR. GUANELI, in conclusion, offered his belief that the bill needs more study and its drafting and inconsistency problems fixed. He also offered his belief that the bill will not pose any constitutional problems. He said he did not think that the governor's bill that addresses this issue should be held up in favor of HB 149, because HB 149 still needs more work.

REPRESENTATIVE GARA noted that Representative Crawford has suggested that information from the aforementioned logbooks be sent into the DPS periodically, while HB 149 requires the DPS to contact business to get that information. He asked whether the DOL has a preference.

MR. GUANELI posited that keeping in mind the state's limited resources, the state must strike a balance between what can be accomplished from a practical standpoint by the DPS and what constitutes a reasonable burden for the retail industry; he suggested that finding this balance is ultimately what the bill must do. He surmised that much of the data collected by retailers will not be [of interest] to the DPS. He predicted that the DPS will probably do spot checks with retailers and focus investigative efforts on suspicious activities, and offered his belief that the DPS favors the approach proposed in the bill.

REPRESENTATIVE GARA asked whether either current statute or the bill as written will allow pharmacists to voluntarily provide information regarding suspicious activity to the DPS.

[3:29:51 PM](#)

MR. GUANELI said the bill doesn't address that issue specifically, but remarked that the DOL's hope is that such cooperative information sharing would occur.

REPRESENTATIVE GARA said he didn't think that businesses would be allowed legally to share customers' healthcare information without there being a specific provision in the bill authorizing such.

MR. GUANELI opined that since the bill requires retailers to maintain a logbook and check ID, it isn't a big leap to ask retailers to volunteer information about suspicious activity to the DPS. Though if the committee thinks the bill should include specific authorization of such, then such a change would be appropriate, he ventured.

CHAIR McGUIRE noted that Washington requires that type of reporting. She offered her hope that the DOL will offer specific suggestions for improving the bill.

CHAIR McGUIRE said that HB 149 [Version L] would be held over.

HB 85 - PRESCRIBED MEDICATION FOR STUDENTS

[3:33:23 PM](#)

CHAIR McGUIRE announced that the next order of business would be HOUSE BILL NO. 85, "An Act relating to self-administration and documentation of certain types of medication prescribed to a child attending school." [Before the committee was CSHB 85(HES).]

REPRESENTATIVE KEVIN MEYER, Alaska State Legislature, sponsor, informed the committee that it's estimated that 9.2 million children have asthma in the United States, and that young people with asthma miss approximately 14 million days of school each year. In fact, according to a national survey of nurses, asthma- or allergy-related absences have a significant impact on school performance and that asthma is more disruptive to school routines than any other chronic condition. However, he opined, being disruptive to school routines is of secondary concern because asthma can be fatal to schoolchildren.

REPRESENTATIVE MEYER said that school children have died in schools due to asthma attacks and schools have been held liable

for millions of dollars because of these deaths. Therefore, Congress passed the Asthmatic Schoolchildren's Treatment and Health Management Act of 2004, which requires that the Secretary of the U.S. Department of Health and Human Services (DHHS) provide preference when awarding grants to those states that allow students to self administer their asthma medication. He highlighted that HB 85 brings Alaska into compliance with the provisions of the aforementioned federal law and provides schools, parents, and children protection from potentially life-threatening conditions and consequences by requiring schools to allow self-administration of medication by a student if the school receives written authorization from the parent or guardian and written certification from the student's healthcare provider that the student has the health condition, has a written treatment plan, has received instruction on how to properly use the medication, and is able to self-administer the medication.

REPRESENTATIVE MEYER said that HB 85 places the decision for self-administration of medication by a student squarely on the shoulders of parents and healthcare [providers]. The student could carry his/her own inhaler so that he/she would have access to treatment without having to go to the nurse. He noted that HB 85 also exempts schools from any liability related to the self-administration of medication. In conclusion, he specified that the real purpose behind HB 85 is to provide parents, doctors, and schools the ability to ensure that children are as safe as possible at school and have medication when necessary.

[3:36:48 PM](#)

REPRESENTATIVE GARA inquired as to why this is not currently the law.

REPRESENTATIVE MEYER informed the committee that there isn't a statewide policy on this matter, and therefore each school's policy seems to be a bit different with regard to asthma medication, though many schools want all medications to be kept with the school nurse.

[3:37:29 PM](#)

MARGE LARSON, Director of Programs, American Lung Association; Steering Committee Member, Alaska Asthma Coalition, informed the committee that she is an asthmatic as well as the parent of an asthmatic child. She further informed the committee that asthma is on the rise and no one knows why or what causes asthma, and

that there is no known cure. Ms. Larson echoed Representative Meyer's testimony regarding the fact that asthma is the leading cause of missed school days, which negatively impacts school performance, and regarding the fact that an asthma attack at any age can be fatal. Ms. Larson relayed that the Centers for Disease Control and Prevention Asthma Control Program recommends that states build and sustain a statewide asthma coalition in order to address this growing public health issue.

MS. LARSON noted that the Alaska Asthma Coalition began work in 2004 and is developing a statewide plan to address asthma, including scientific interventions that are clinically and environmentally based. She relayed that HB 85 is supported by the following organizations: Association of Alaska School Boards; the Alaska Nurses Association; the Allergy and Asthma Network Mothers' of Asthmatics; the National Association of School Nurses; the Alaska Chapter of the American Academy of Pediatrics; the Asthma and Allergy Foundation of America - Alaska Chapter; the American Lung Association - Alaska Chapter; and the Alaska Asthma Coalition. In conclusion, Ms. Larson urged the committee to join all these organizations in supporting this asthma-friendly policy for Alaska's students.

[3:39:41 PM](#)

FRANK TURNEY offered his understanding that HB 85 has no bearing on the Child Medication Safety Act, H.R. 1170, which was passed in U.S. House of Representatives, regarding psychiatric drugs. He noted that Senator Bettye Davis has introduced SB 48 regarding psychiatric drugs as well. Mr. Turney asked if he is correct that HB 85 only applies to a child's ability to self-administer [asthma- and other allergy-related] medication in school.

CHAIR McGUIRE concurred with Mr. Turney's understanding.

REPRESENTATIVE COGHILL specified that the parents must give written permission for a child to self-administrator asthma medication. In further response to Mr. Turney, Representative Coghill confirmed that the aforementioned [receipt of the written permission] will be documented.

MR. TURNEY expressed hope that the House would sponsor legislation similar to that sponsored by Senator Davis. He relayed his concern with the reports that there are an overwhelming number of children on anti-depressant drugs and other drugs such as Ritalin.

3:43:41 PM

RICHARD MANDSAGER, M.D., Director, Central Office, Division of Public Health, Alaska Department of Health and Social Services (DHSS), remarked that as a pediatrician he believes the legislature would be well advised to pass HB 85. He said that he has been fortunate to practice in Anchorage where the school district is usually cooperative with school nurses, physicians, and parents when children are ready to self-administer medication. This legislation will establish a state law that will protect school districts, he opined, and posited that the threat of litigation is one of the reasons why granting permission to self-administer medication isn't the practice already. This legislation is written such that if the child misuses the medication, he/she will lose the right [to self-administer the medication], he noted, and characterized HB 85 as a huge advance. Dr. Mandsager opined that asthma medicines are so advanced that children shouldn't miss any school because of asthma.

3:44:49 PM

CHAIR McGUIRE after ascertaining that no one else wished to testify, closed public testimony on HB 85.

CHAIR McGUIRE asked about an amendment that she offered in the House Health, Education and Social Services Standing Committee that would allow the school nurse to keep, if the child and parents agreed, autoinjectable epinephrine ["Epi Pen"] or an inhaler in the nurse's office in the event that the child forgets his/her medication.

MICHAEL PAWLOWSKI, Staff to Representative Kevin Meyer, House Finance Committee, Alaska State Legislature, sponsor, offered his understanding that Chair McGuire's suggestion was not offered as a formal amendment in the House Health, Education and Social Services Standing Committee. He mentioned that one of the concerns regarding that suggestion centered on whether certain families could afford two of the same inhaler or two Epi Pens.

CHAIR McGUIRE indicated that she would be offering her suggestion as an amendment in this committee. She said that it would not be mandatory that families keep extra medication with the school nurse; rather, it would be an option.

REPRESENTATIVE GARA asked whether the original bill included "the same rights with regard to insulin for kids who have diabetes."

REPRESENTATIVE MEYER said that after the discussion in the prior committee, he felt that diabetes is such a different disease that it [shouldn't be] incorporated into HB 85.

REPRESENTATIVE GARA asked whether different school districts have different rules with regard to children self administering insulin.

MR. PAWLOWSKI offered his understanding that different school districts do have different rules regarding insulin.

CHAIR McGUIRE mentioned that there was discussion in the prior committee regarding needles and the difficulty in getting an insulin dose just right.

CHAIR McGUIRE made a motion to adopt Conceptual Amendment 1, to say that if the parents and the child agree, they can have an Epi Pen or an inhaler on hand in the nurse's office in case the child forgets his/her medication and needs it.

[3:48:29 PM](#)

REPRESENTATIVE MEYER characterized Conceptual Amendment 1 as an excellent idea.

CHAIR McGUIRE asked whether there were any objections to Conceptual Amendment 1. There being none, Conceptual Amendment 1 was adopted.

CHAIR McGUIRE made a motion to adopt Amendment 2, which read [original punctuation provided]:

To page 2, lines 27

Insert: "pharmacist," following "village health aide,"

REPRESENTATIVE COGHILL objected for purposes of discussion. He asked whether [pharmacists] wouldn't already be covered elsewhere in the bill.

REPRESENTATIVE MEYER said that Amendment 2 was engendered by the discussion that occurred in the House Health, Education and Social Services Standing Committee.

MR. PAWLOWSKI indicated that the explicit list in the healthcare provider provision of the definition section does not yet include pharmacists, and noted that it's often the pharmacist who does most of the training, who shows a child how to use the medication. Therefore, when the bill specifies that a healthcare provider must certify that a child is able and competent to administer a medication, the pharmacist often plays a very important role in that process.

REPRESENTATIVE COGHILL removed his objection.

CHAIR MCGUIRE asked whether there were any further objections to Amendment 2. There being none, Amendment 2 was adopted.

[3:51:18 PM](#)

CHAIR MCGUIRE referred to Amendment 3, which read [original punctuation provided]:

To page 2, lines 20-25

Delete:

"as long as the pupil does not endanger any person through the misuse of the inhaler. Misuse of an inhaler includes exceeding the prescribed dosage of the medication. An inhaler includes metered-dose, breath-activated, and dry powder inhalers, and spacers and holding chambers.

(d) The school may confiscate a self-administered medication if a pupil misuses the medication."

Insert:

".

(d) If a student uses his/her prescribed medication in a manner other than as prescribed, disciplinary action according to school codes may be imposed upon him/her. The imposes disciplinary action cannot limit or restrict the students' immediate access to his/her prescribed medication."

CHAIR MCGUIRE offered her understanding that Amendment 3 is intended to address the concern that the language currently in

the bill regarding confiscation of medication could be "a death sentence for child." She noted that the bill is now limited to Epi Pens and inhalers.

CHAIR McGUIRE made a motion to adopt Amendment 3.

REPRESENTATIVE DAHLSTROM objected [for the purpose of discussion].

MR. PAWLOWSKI relayed that the national organization, Allergy & Asthma Network Mothers of Asthmatics (AANMA) had a concern with the original version of the bill because it made a broad policy statement that confiscation of medication due to misuse could be appropriate. And although the House Health, Education and Social Services Standing Committee limited the bill in that regard, it is believed that there is still an oversight in the bill because action more appropriate than simply confiscating a lifesaving medication can be taken. "Taking the medication away from a child gets to the root of the reason we were offering the bill in the first place," he remarked.

CHAIR McGUIRE clarified that Amendment 3 removes confiscation as a disciplinary action but allows for other disciplinary action to be taken in the case of medication misuse.

REPRESENTATIVE DAHLSTROM removed her objection.

CHAIR McGUIRE asked whether there were any further objections to Amendment 3. There being none, Amendment 3 was adopted.

[3:53:12 PM](#)

REPRESENTATIVE GRUENBERG referred to page 2, lines 27-28, and asked why the bill doesn't just say "licensed nurse" instead of specifying advanced nurse practitioners and public health nurses.

REPRESENTATIVE MEYER remarked that a change to "licensed nurse" sounds logical.

MR. PAWLOWSKI asked that Dr. Mandsager be allowed to comment.

DR. MANDSAGER indicated that using the term "licensed nurse" would be acceptable.

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 4 to strike "advanced nurse practitioner" and "public health nurse"

from page 2, lines 27-28, and insert "licensed nurse". There being no objection, Amendment 4 was adopted.

REPRESENTATIVE GRUENBERG asked whether anything else ought to be included in the definition section, for example, institutions or naturopaths.

[No response was audible.]

[3:55:33 PM](#)

REPRESENTATIVE COGHILL moved to report CSHB 85(HES), as amended, out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection, CSHB 85(JUD) was reported from the House Judiciary Standing Committee.

HB 148 - TRAFFICKING OF PERSONS
HB 101 - SEX TRAFFICKING AND TOURISM

[3:56:22 PM](#)

CHAIR McGUIRE announced that the final order of business would be a hearing on two bills: HOUSE BILL NO. 148, "An Act relating to trafficking of persons."; and HOUSE BILL NO. 101, "An Act relating to sex trafficking and tourism."

REPRESENTATIVE BETH KERTTULA, Alaska State Legislature, sponsor of HB 148, said that both she and Representative Croft have introduced legislation relating to human trafficking, which, at its fundamental root, she opined, is human slavery. She went on to say:

It's a pretty shocking thing to realize that in this day and age, we have slavery, and it's a sad truth. The [U.S. Department of State] estimates that between 600,000 to 800,000 men, women, and children are trafficked across international borders each year, and somewhere in the range of 20,000 to 100,000 are brought into the U.S. We have the first case that was prosecuted under the federal Act here in Alaska: Ukrainian women brought under the pretense of folk dancing and then held at a home in Chugiak and ... brought into the Crazy Horse [Saloon] where they were forced to strip for money. And luckily a really astute [Immigration and Naturalization Service (INS)] agent caught an ad in the newspaper and went and

investigated, and it resulted in the prosecution of [three] men who went to jail. So it's a sad truth. My husband was in Vladivostok last summer, ... [and] people approached him and said it was an increasing problem, ... [that of] Russian women being brought to Alaska.

REPRESENTATIVE KERTTULA relayed that members' packets contain examples [of human trafficking] and that experts will be on hand to testify at the bills' next hearing, and noted that the Department of Law (DOL) has been working with she and Representative Croft, but it has not been a completely easy task to come up with the right language. She indicated that a proposed change [suggested by the DOL] to HB 148 has been handed out. In conclusion, she opined that [human trafficking] is everyone's problem and thus shouldn't necessarily be left solely up to the federal government to address.

REPRESENTATIVE ERIC CROFT, Alaska State Legislature, sponsor of HB 101, offered the following quote from President George W. Bush's address to the UN General Assembly in September 2003:

There's a special evil in the abuse and exploitation of the most innocent and vulnerable. The victims of sex trade see little of life before they see the very worst of life - an underground of brutality and lonely fear. Those who create these victims and profit from their suffering must be severely punished. Those who patronize this industry debase themselves and deepen the misery of others. And governments that tolerate this trade are tolerating a form of slavery.

REPRESENTATIVE CROFT noted that members' packets include a federal report that was the basis of federal legislation, but added that he agrees with Representative Kerttula that this issue is not something that should be left solely to the federal government to address, that there should be appropriate state laws in place as well. He offered his understanding that Representative Kerttula's legislation focuses on the importation of people under fraudulent or threatening pretenses, and explained that although his legislation addresses that issue too, it also - via the latter portion of Section 1, proposed AS 11.66.410 - addresses the issue of organized tours for the purpose of having sex with children in other countries. Although it is not yet known how prevalent or how well advertised this practice is, it is known that it does exist because there have been reports from the "subject" countries

that say that people, mainly men, from industrialized countries enter into [the subject] countries for the purpose of having sex with children.

REPRESENTATIVE GRUENBERG indicated that he has three issues of concern [with the DOL's proposed change]. One, why does it only address situations that involve people coming into the state - shouldn't it also address situations involving people who are already in the state.

REPRESENTATIVE CROFT indicated that his bill does not have the transportation element that the DOL has expressed a preference for including, and surmised that the issue will be addressed further at the bills' next hearing.

REPRESENTATIVE GRUENBERG said the second issue of concern is the language pertaining to labor in the state by a promise. He offered his belief that such language could interfere with legitimate labor disputes. The third issue of concern pertains to the language, "if the person obtains a benefit from the commission". He opined that "benefit" should be defined.

REPRESENTATIVE CROFT suggested to Representative Gruenberg that before the bills' next hearing, he compare Sections 1 of HB 101, HB 148, and the DOL's proposed change.

[HB 148 and HB 101 were held over.]

ADJOURNMENT

[4:04:26 PM](#)

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 4:04 p.m.