

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

May 4, 2005

2:16 p.m.

**MEMBERS PRESENT**

Senator Fred Dyson, Chair  
Senator Lyda Green  
Senator Kim Elton  
Senator Donny Olson

**MEMBERS ABSENT**

Senator Gary Wilken, Vice Chair

**COMMITTEE CALENDAR**

CS FOR HOUSE BILL NO. 214 (HES)

"An Act relating to anatomical gifts and the anatomical gift donor registry program."

MOVED SCS CSHB 214 (STA) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 20

Urging the United States Congress and the United States Food and Drug Administration to assist in the prompt approval of new drug applications for the treatment of prostate cancer.

MOVED HJR 20 OUT OF COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 53 (FIN)

"An Act relating to child-in-need-of-aid proceedings; amending the construction of statutes pertaining to children in need of aid; relating to guardianships; relating to the confidentiality of investigations, court hearings, court records, and public agency records and information in child-in-need-of-aid matters and certain child protection matters, to immunity regarding disclosure of information in child-in-need-of-aid matters and certain child protection matters, to proceedings regarding voluntary relinquishment and termination of a parent and child relationship, to eligibility for permanent fund dividends for certain children in the custody of the state, and to juvenile delinquency proceedings and placements; reestablishing and relating to a state citizens' review panel; amending the obligation of a public agency to disclose agency information pertaining to a child in need of aid; relating to disclosure of confidential or privileged information about children and families involved with children's services within the Department

of Health and Social Services to officials for review or use in official capacities; relating to reports of harm and to adoptions and foster care; relating to consent for the medication of children in state custody; prescribing the rights of family members related to child-in-need-of-aid cases and establishing a familial priority for adoption; modifying adoption and placement procedures in certain child-in-need-of-aid cases; amending Rules 9 and 13, Alaska Adoption Rules, Rules 3, 17.2, 18, and 22, Alaska Child in Need of Aid Rules of Procedure, and Rules 14 and 15, Alaska Rules of Probate Procedure; and providing for an effective date."

MOVED SCS CSSSHB 53 (HES) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 214

SHORT TITLE: ANATOMICAL GIFTS & REGISTRY

SPONSOR(S): REPRESENTATIVE(S) MCGUIRE

03/09/05	(H)	READ THE FIRST TIME - REFERRALS
03/09/05	(H)	STA, HES
03/31/05	(H)	STA AT 8:00 AM CAPITOL 106
03/31/05	(H)	Moved Out of Committee
03/31/05	(H)	MINUTE(STA)
04/01/05	(H)	STA RPT 3DP 2AM
04/01/05	(H)	DP: RAMRAS, ELKINS, SEATON;
04/01/05	(H)	AM: LYNN, GATTO
04/05/05	(H)	HES AT 3:00 PM CAPITOL 106
04/05/05	(H)	Moved CSHB 214(HES) Out of Committee
04/05/05	(H)	MINUTE(HES)
04/07/05	(H)	HES RPT CS(HES) 5DP 2NR
04/07/05	(H)	DP: ANDERSON, KOHRING, MCGUIRE, SEATON, WILSON;
04/07/05	(H)	NR: CISSNA, GARDNER
04/12/05	(H)	TRANSMITTED TO (S)
04/12/05	(H)	VERSION: CSHB 214(HES)
04/13/05	(S)	READ THE FIRST TIME - REFERRALS
04/13/05	(S)	STA, HES
04/21/05	(S)	STA AT 3:30 PM BELTZ 211
04/21/05	(S)	Moved SCS CSHB 214(STA) Out of Committee
04/21/05	(S)	MINUTE(STA)
04/22/05	(S)	STA RPT SCS 5DP SAME TITLE
04/22/05	(S)	DP: THERRIAULT, ELTON, WAGONER, HUGGINS, DAVIS
04/29/05	(S)	HES AT 1:30 PM BUTROVICH 205

04/29/05 (S) Bills Previously Heard/Scheduled  
05/02/05 (S) HES AT 2:30 PM BUTROVICH 205  
05/02/05 (S) Heard & Held  
05/02/05 (S) MINUTE(HES)  
05/04/05 (S) HES RPT SCS(STA) 3DP 1NR  
05/04/05 (S) DP: DYSON, ELTON, WILKEN  
05/04/05 (S) NR: OLSON  
05/04/05 (S) HES AT 1:30 PM BUTROVICH 205

BILL: HJR 20

SHORT TITLE: PROSTATE CANCER DRUGS  
SPONSOR(S): REPRESENTATIVE(S) GATTO

04/21/05 (H) READ THE FIRST TIME - REFERRALS  
04/21/05 (H) HES  
04/26/05 (H) HES AT 3:00 PM CAPITOL 106  
04/26/05 (H) Moved Out of Committee  
04/26/05 (H) MINUTE(HES)  
04/27/05 (H) HES RPT 4DP  
04/27/05 (H) DP: CISSNA, GARDNER, ANDERSON, WILSON  
04/28/05 (H) TRANSMITTED TO (S)  
04/28/05 (H) VERSION: HJR 20  
05/01/05 (S) READ THE FIRST TIME - REFERRALS  
05/01/05 (S) HES  
05/04/05 (S) HES RPT 4DP  
05/04/05 (S) DP: DYSON, ELTON, WILKEN, OLSON  
05/04/05 (S) HES AT 1:30 PM BUTROVICH 205

BILL: HB 53

SHORT TITLE: CHILDREN IN NEED OF AID/ADOPTION/GUARDIAN  
SPONSOR(S): REPRESENTATIVE(S) COGHILL

01/10/05 (H) PREFILE RELEASED 1/7/05  
01/10/05 (H) READ THE FIRST TIME - REFERRALS  
01/10/05 (H) HES, JUD, FIN  
03/02/05 (H) SPONSOR SUBSTITUTE INTRODUCED  
03/02/05 (H) READ THE FIRST TIME - REFERRALS  
03/02/05 (H) HES, JUD, FIN  
03/15/05 (H) HES AT 3:00 PM CAPITOL 106  
03/15/05 (H) Heard & Held  
03/15/05 (H) MINUTE(HES)  
03/22/05 (H) HES AT 3:00 PM CAPITOL 106  
03/22/05 (H) <subcommittee meeting>  
03/31/05 (H) HES AT 3:00 PM CAPITOL 106  
03/31/05 (H) Moved CSHB 53(HES) Out of Committee  
03/31/05 (H) MINUTE(HES)  
04/04/05 (H) HES RPT CS(HES) NT 5DP

04/04/05 (H) DP: ANDERSON, KOHRING, MCGUIRE, SEATON,  
 WILSON  
 04/11/05 (H) JUD AT 1:00 PM CAPITOL 120  
 04/11/05 (H) <Bill Hearing Rescheduled to 4/12>  
 04/12/05 (H) JUD AT 8:00 AM CAPITOL 120  
 04/12/05 (H) Heard & Held  
 04/12/05 (H) MINUTE(JUD)  
 04/13/05 (H) JUD AT 1:00 PM CAPITOL 120  
 04/13/05 (H) Moved CSSSHB 53(JUD) Out of Committee  
 04/13/05 (H) MINUTE(JUD)  
 04/15/05 (H) JUD RPT CS(JUD) NT 5DP 2NR  
 04/15/05 (H) DP: KOTT, ANDERSON, DAHLSTROM, COGHILL,  
 MCGUIRE;  
 04/15/05 (H) NR: GARA, GRUENBERG  
 04/21/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
 04/21/05 (H) <Bill Hearing Postponed to 4/22>  
 04/22/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
 04/22/05 (H) Heard & Held  
 04/22/05 (H) MINUTE(FIN)  
 04/26/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
 04/26/05 (H) Heard & Held  
 04/26/05 (H) MINUTE(FIN)  
 04/27/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
 04/27/05 (H) Moved CSSSHB 53(FIN) Out of Committee  
 04/27/05 (H) MINUTE(FIN)  
 04/29/05 (H) FIN RPT CS(FIN) NT 4DP 6NR  
 04/29/05 (H) DP: HAWKER, FOSTER, CROFT, CHENAULT;  
 04/29/05 (H) NR: JOULE, MOSES, WEYHRAUCH, HOLM,  
 KELLY, MEYER  
 04/29/05 (H) TRANSMITTED TO (S)  
 04/29/05 (H) VERSION: CSSSHB 53(FIN)  
 05/01/05 (S) READ THE FIRST TIME - REFERRALS  
 05/01/05 (S) HES, JUD, FIN  
 05/02/05 (S) HES AT 2:30 PM BUTROVICH 205  
 05/02/05 (S) Heard & Held  
 05/02/05 (S) MINUTE(HES)  
 05/04/05 (S) HES RPT SCS 4DP 1NR  
 SAME TITLE  
 05/04/05 (S) DP: DYSON, WILKEN, GREEN, OLSON  
 05/04/05 (S) NR: ELTON  
 05/04/05 (S) HES AT 1:30 PM BUTROVICH 205

**WITNESS REGISTER**

VANESSA TONDINI  
 Staff to Representative McGuire  
 Alaska State Capitol

Juneau, AK 99801-1182

**POSITION STATEMENT:** Introduced HB 214 for the sponsor.

BRUCE ZALNERAITIS, Executive Director  
Life Alaska

Box 231809

Anchorage, Alaska 99523-1809

**POSITION STATEMENT:** Supported HB 214.

CODY RICE

Staff to Representative Gatto

Alaska State Capitol

Juneau, AK 99801-1182

**POSITION STATEMENT:** Introduced HJR 20 for the sponsor.

RENNIEVA MOSS

Staff to Representative Coghill

Alaska State Capitol

Juneau, AK 99801-1182

**POSITION STATEMENT:** Introduced HB 53 for the sponsor.

TAMMY SANDOVAL

Office of Children's Services

Department of Health & Social Services

PO Box 110601

Juneau, AK 99801-0601

**POSITION STATEMENT:** Supported HB 53.

STACIE KRALY, Assistant Attorney General

Department of Law

PO Box 110300

Juneau, AK 99811-0300

**POSITION STATEMENT:** Commented on HB 53.

JAN RUTHERDALE

Department of Law

PO Box 110300

Juneau, AK 99811-0300

**POSITION STATEMENT:** Supported HB 53.

GAIL VOIGHTLANDER

Department of Law

PO Box 110300

Juneau, AK 99811-0300

**POSITION STATEMENT:** Supported HB 53.

#### **ACTION NARRATIVE**

**CHAIR FRED DYSON** called the Senate Health, Education and Social Services Standing Committee meeting to order at [2:16:49 PM](#). Present were Senators Olson, Elton, Green and Chair Dyson.

[2:17:36 PM](#)

**CSHB 214 (HES) -ANATOMICAL GIFTS & REGISTRY**

CHAIR DYSON announced that HB 214 was up for consideration.

VANESSA TONDINI, staff to Representative McGuire, sponsor of HB 214, said:

Last year Representative McGuire passed the Anatomical Gifts Registry Bill that created a central registry so that when you go to DMV and you can request to be an organ donor. That information would be put into a central database where it would actually make a difference. So, if and when something did happen to you, this information could get linked up then to the organ recipient.

And since that bill has passed, it has come to Representative McGuire's attention that there were a few definitions that needed to be corrected, which this bill does. One is the definition of "organ procurement organization" and we changed that to be more inclusive to allow Life Alaska, which is our in-state donation program, to have access to the database. Also, it expands the definition of "technician" to accurately reflect that not all technicians that would be harvesting this material are necessarily licensed by the State Medical Board.

Also, it expands the notification requirements and we also worked with the EMTs to insure that they were happy and comfortable with what's being asked of them.

Then it just clears up some inconsistencies between federal regulations and state laws.

SENATOR OLSON asked why technicians who are harvesting organs don't have to be licensed.

BRUCE ZALNERAITIS, Executive Director, Life Alaska, said that while organs must be harvested by transplant surgeons or teams

in transplant facilities, skin grafts, retinal tissue, bone grafts and tissues of that sort can be harvested by technicians who are not physicians.

SENATOR ELTON moved to report SCS CSSB 214(STA) out of committee with individual recommendations and attached fiscal notes. There were no objections it was so ordered.

[2:22:13 PM](#)

**HJR 20-PROSTATE CANCER DRUGS**

CHAIR DYSON announced HJR 20 to be up for consideration.

CODY RICE, staff to Representative Carl Gatto, sponsor, said:

HJR 20 essentially recognizes the fact that there are currently no targeted, as they are called, therapies for prostate cancer. There are specifically targeted drug therapies - that is for other specific types of cancer. And this resolution would urge Congress and the FDA to expedite where possible the approval of such targeted therapies.

CHAIR DYSON asked if the FDA and Congress are currently failing to expedite the approval of these drugs.

MR. RICE replied that there are currently no approved drugs for prostate cancer, although some such drugs that are in the later stages of approval for what is called "end of life care" or "compassionate use" and drugs have been approved for the end-of-life-care of patients with AIDS and some forms of cancer.

[2:23:32 PM](#)

CHAIR DYSON asked if it is fair to say that Xinlay, on page 2, line 6, is an explicit request in the midst of a general request.

MR. RICE replied:

Yes, Xinlay, astrasentan, is the only drug that we're aware of that is specifically targeted for prostate cancer that has, then, reached the later series of trials through the FDA. It's my understanding that there may be one other drug out there and that is why we left the final be-it-resolved more general....

[2:25:11 PM](#)

SENATOR ELTON said that he supports the bill, but he is somewhat uncomfortable with including the name of a specific drug within the resolution because he does not want his support of this resolution to be an endorsement of a drug that he does not understand or to indicate that he believes there are not other drugs that should be considered.

[2:26:44 PM](#)

SENATOR WILKEN moved to report HJR 20 from committee with individual recommendations and zero fiscal notes. There were no objections and it was so ordered.

[2:27:35 PM](#)

**CSSSHB 53 (FIN) -CHILDREN IN NEED OF AID/ADOPTION/GUARDIAN**

CHAIR DYSON announced HB 53 to be up for consideration.

RYNNIEVA MOSS, staff to Representative Coghill, sponsor, explained that HB 17, HB 113, HB 114 and HB 53 were all consolidated into HB 53 to prevent any overlap or conflict between them. She said this bill eliminates the no-duty language in As.47.10.960, which states that there is no duty or standard of care for children in state custody. She said that while the intent of this language was to ensure that the state wouldn't be held liable for failing to meet a timeline that was introduced with HB 375, parents took offence, because they understood it to mean that there was a duty and standard of care for parents, but not for the state. This bill ensures that if timelines are not met, the state has no civil liability.

SENATOR GREEN joined the committee at [2:28:00 PM](#).

[2:31:07 PM](#)

MS. MOSS said a State Supreme Court case established that the state does have a duty and standard for children it has taken into custody.

CHAIR DYSON said:

I assumed that 'standard of care' meant that you had to keep the kid warm, clothed and reasonable medical care. What if the birth parent or the custodial parent thinks that the child who is in state custody

isn't being cared for in a way that fits the court's definition? Where do you go to look to see what that is?

MS. MOSS answered that it is not written in law, but rather is a determination that is made out of common sense. The parents have a standard and duty of care and the state determines whether or not they are competent to keep their children based upon whether or not they have met it. The state should be held to that same standard of care.

[2:33:02 PM](#)

CHAIR DYSON asked if the standard of care is defined by an explicit set of conditions.

[2:33:47 PM](#)

MS. MOSS replied that it is not and said that a provision in this bill gives priority to an adult relative who has taken care of a child for 12 consecutive months. They would also have priority for adoption preference if the state terminates the parental rights of the child's parents. This bill also establishes a hierarchy of preferential placement that starts with family members, followed by a family member's friend, a licensed foster home and finally a licensed institution.

CHAIR DYSON asked if a family member's friend would have to go through the foster care licensing process before a child could be placed with them.

MS. MOSS replied that the family friend would have to be licensed, but a family member would not.

[2:36:03 PM](#)

SENATOR ELTON said one of the criteria to help with reunification is close proximity to the parents and asked what the priority is if a family member is in Fairbanks and the child and his parents are in Anchorage.

MS. MOSS replied that the department should answer that, but reunification is a priority, so the proximity to the parents would probably be that priority.

TAMMY SANDOVAL, Deputy Commissioner, Office of Children's Services (OCS), Department of Health and Social Services (DHSS), responded:

Therein lies the struggle with this business of doing this kind of work. The balance of proximity, who is the best placement and the best resource for the child and keeping kids in close enough area. So, we would balance all those things in a decision-making process with supervisors and staff that we have that would help us decide that along with inviting the parents and the extended family members to the table - so that family members are included in what's the best plan for the child.

CHAIR DYSON asked if the courts get involved with placement if the placement decision is challenged.

MS. MOSS replied that there is now a grievance process and the right of a family member to request a hearing if he disagrees with what the department is doing. HB 53 has transparency and a clear process that the adult family members and friends will be able to follow. This has not been the case in the past.

CHAIR DYSON asked if parents are provided with information that informs them of their rights.

MS. MOSS replied that parents are provided with that information. She said that HB 53 directs the OCS to do everything that it can to provide visitations to a child's family and relatives. This bill requires the OCS to advise a child's family and relatives that they have a right to request a hearing if they are denied their visitation rights and it requires the OCS to tell them why these rights were denied.

CHAIR DYSON asked:

If indeed the parent is being investigated for either neglect or crimes against the child, the court decision will be always what is in the best interests of the child and the offending parent may be denied visitation for cause.

MS. MOSS replied that that is correct.

CHAIR DYSON asked if that decision is made by a judge.

MS. MOSS replied that initially the decision is made by OCS, but if the parents disagree with its decision they can have a hearing in which a judge will either confirm or override the OCS decision. This bill has a provision that says parental rights cannot be terminated solely because they did not receive treatment that was required by the department. She said that this is because sometimes that treatment is not available.

CHAIR DYSON queried:

Suppose the problem is that the parent is a drunk? It's a CINA [child in need of aid] case and a kid is being left lying on the floor with dirty diapers for 20 hours at a time and the department says that part of the reunification plan is, 'You gotta get dry.' And the treatment is not available. So then, the department has some responsibility to ascertain that the parent is no longer incompetent because of alcohol? How does that work?

[2:41:46 PM](#)

MS. MOSS replied:

Mr. Chairman, no that is not what I am saying. If a parent has an alcohol problem, first of all you have to determine whether they could afford to do it themselves and if that was available....

If the treatment is available and they can pay for it and if they don't, then that is clearly a sign that they don't want to get any better. But there is a shortness of alcohol treatment in this state.... And if they can't afford it, instead of just throwing them out to the wolves and saying we're going to take their children away, more of an effort is going to be made to see that that treatment is made available to the parent. If they choose to not take the treatment when it's available, then that is clearly another sign that they don't want to change.

CHAIR DYSON asked if there is an alternative way for such a person to demonstrate their recovery besides graduating from an alcohol treatment program.

MS. SANDOVAL replied:

Absolutely. If a person can get clean or they can get in control of whatever is going on in their lives in order to safely care for their own children, we'll welcome and entertain any ideas people have to do that.

[2:43:58 PM](#)

MS. MOSS continued saying that this bill encourages the OCS to provide training for foster parents to become mentors to parents of CINA children. It is not mandatory since the OCS has the right to say that a parent is a risk to expose to foster parents and it can require supervised visitations, but it does say that OCS should attempt to work with the Department of Public Safety and schools to train teachers and foster parents to be mentors. Children have sometimes been placed into foster homes that become adoptive homes. Some foster parents who want to be adoptive parents discourage visitation with parents, because their goal is to adopt the child.

[2:45:15 PM](#)

She said that there has been significant concern about a lack of parental involvement in decisions regarding the administration of psychotropic drugs to children and that the bill redefines "major medical treatment" to include medication used to treat diagnosed mental health disorders. The bill says that parents will participate in decisions regarding major medical treatments, which includes psychotropic drugs.

CHAIR DYSON asked if the term "major medical treatment" is defined in law.

STACIE KRALY, Assistant Attorney General, Department of Law, said that the term "major medical treatment" is not defined.

[2:47:05 PM](#)

CHAIR DYSON said that in a recent case, the department could not release information to defend itself because of the stringency of the confidentiality requirements that surrounds CINA cases. He said that there are provisions in this bill that allow the OCS to release some information to protect itself while still protecting the child.

MS. MOSS explained that the bill provides some sideboards to public hearings. The hearings are open, but the judge can close

the hearing if he feels that the child could be stigmatized or emotionally damaged, if it could interfere with a criminal investigation or if disclosure would violate state or federal law. She said that this bill allows a judge to bar a person in violating a court order in a CINA case from participating in any future CINA proceedings. It also creates a grievance process for parents who disagree with what OCS is doing with their child. A department supervisor would review the case. Once his decision was made and the parent still disagreed, he could file a complaint with the State Review Panel that this bill creates. That panel would review policies and procedures of the department, suggest changes as well as sit as a panel for an appeal of a grievance. It would be subject to the Open Meetings Act so it could meet in executive session.

[2:49:11 PM](#)

CHAIR DYSON asked if the information that this bill allows OCS to release would be free of any reference to the name of the child.

[2:51:10 PM](#)

MS. MOSS replied that it must be free of all identifying information. She said that this legislation recognizes that videotaping is the best way to interview a child. She said that this bill requires videotaping in all cases involving sexual abuse and it requires audio-taping when video taping is not available.

CHAIR DYSON said that years ago many people said that there were serious technical difficulties involved in conducting video recordings. He asked if anyone has mentioned this difficulty today.

MS. MOSS answered that no one has recently complained about the technical difficulties associated with video recording.

[2:52:56 PM](#)

MS. MOSS said that this bill defines the term "child advocacy center" and it establishes criteria for schools to follow when they interview a child in a school. Today the OCS is required to respond to a mandatory reporter within 10 days and this bill would require OCS to respond to a voluntary reporter within 20 days.

She said that there is a provision in this bill to allow the legislative office to remain a non-party participant in a case even after parental rights have been terminated. She said that with regards to Senator Elton's earlier question of why these cases were not referred to the Ombudsman's office, the reason is that since the office has been reduced in size, more and more parents have gone to the legislative offices in search of help.

[2:54:32 PM](#)

CHAIR DYSON asked if the department is able take on the responsibilities assigned by this bill.

MS. SANDOVAL replied that the Office of Children's Services completely and wholeheartedly supports HB 53.

JAN RUTHERDALE, Department of Law, said it offers legal support to the Department of Health and Social Services and any concerns that it had with this legislation have been resolved and the department feels that the bill is legally sound.

[2:58:56 PM](#)

CHAIR DYSON announced that three potential amendments were up for consideration.

MS. MOSS explained that Amendment 1 deletes the word "may" on page 18, line 19, and inserts the word "shall", which makes the adoption of regulations to implement provisions of this bill mandatory instead of just making them permissive.

CHAIR DYSON asked if the department supported Amendment 1.

MS. SANDOVAL replied that the OCS is satisfied with this amendment.

SENATOR ELTON moved to adopt Amendment 1. There were no objections and Amendment 1 was adopted.

MS. MOSS explained that conceptual Amendment 2 deletes the words "legal guardian" following the word "uncle" on page 10, lines 20-21 and lines 24-25. She said that legal guardians are already parties to the case and Representative Coghill believes that they should not be given the same status as family members.

MS. SANDOVAL and MS. RUTHERDALE both supported Amendment 2.

CHAIR DYSON moved to adopt Amendment 2 as explained by Ms. Moss. There were no objections and Amendment 2 was adopted.

CHAIR DYSON moved to adopt Amendment 3.

MS. MOSS explained that Amendment 3 adds "or whose safety or welfare may be endangered by public release of information." after "violence" on page 27, line 15. This makes language in section 10 consistent with language in section 52, the court rule that deals with section 10.

MS. SANDOVAL and MS. RUTHERDALE both supported Amendment 3.

SENATOR GREEN moved to adopt Amendment 3. There were no objections and Amendment 3 was adopted.

CHAIR DYSON said that years ago the concern was that establishing a standard of care for children in custody would invite lots of lawsuits. He asked if the Department of Law wanted to comment on that.

GAIL VOIGHTLANDER, Department of Law, responded that the concerns arose when the language in AS 47.10.960 was going to be changed.

You were going to create a cause of action for children, parents, other people who are involved in the CINA proceedings to file litigation against the department and the social workers based upon the statute and the various steps and procedures that are supposed to be followed.... It was for that reason that AS 47.10.960 was put into place which was to say that the intent was to say that failure to comply with the provisions of the title would not be the basis to make a claim for damages.

And over the years, with that AS 47.10.960 there was a way that lay people would read that language and it caused them concern. But the underlying legal reason was that it was not to create a statutory claim to be made by parents or grandparents or others for damages - because this is an entire statutory scheme where if there are problems with placement, if there are problems with resources being provided or not being provided, the appropriate place to bring that is to the court in the CINA proceeding. The court has the ability to address those issues and, in fact, the

parties have the ability to take them to an interlocutory, which means like an interim appeal on those issues if they are unhappy....

What section 29 of this bill achieves is that same result of what [AS] 47.10.960 had intended, but because of the use of language it was causing people concern.

Our Supreme Court has said that in terms of child protection, the department and its employees have a duty that they owe to the child and not a duty that they owe to other parties in the CINA proceeding, because everyone is represented in these proceedings. Everyone advocates for their own particular position. The parent may not want to have their rights terminated, but it may be in the best interests of the child that those parental rights are terminated....

CHAIR DYSON noted that there were no questions or further testimony.

[3:07:01 PM](#)

SENATOR GREEN moved to report SCS CSSSHB 53(HES) out of committee with individual recommendations and zero fiscal notes. There were no objections and it was so ordered.

CHAIR DYSON adjourned the meeting at [3:08:13 PM](#).