

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

March 1, 2005

3:36 p.m.

MEMBERS PRESENT

Senator Gene Therriault, Chair
Senator Thomas Wagoner, Vice Chair
Senator Charlie Huggins
Senator Kim Elton

MEMBERS ABSENT

Senator Bettye Davis

COMMITTEE CALENDAR

SENATE BILL NO. 101

"An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

MOVED CSSB 101(STA) OUT OF COMMITTEE

SENATE BILL NO. 20

"An Act relating to offenses against unborn children."

HEARD AND HELD

SENATE BILL NO. 75

"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."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 101

SHORT TITLE: REVISOR'S BILL

SPONSOR(S): RULES BY REQUEST OF LEGISLATIVE COUNCIL

02/14/05	(S)	READ THE FIRST TIME - REFERRALS
02/14/05	(S)	STA, JUD

02/24/05 (S) STA AT 3:30 PM BELTZ 211
02/24/05 (S) Heard & Held
02/24/05 (S) MINUTE(STA)
03/01/05 (S) STA AT 3:30 PM BELTZ 211

BILL: SB 20

SHORT TITLE: OFFENSES AGAINST UNBORN CHILDREN
SPONSOR(s): SENATOR(s) DYSON

01/11/05 (S) PREFILE RELEASED 12/30/04
01/11/05 (S) READ THE FIRST TIME - REFERRALS
01/11/05 (S) STA, JUD
03/01/05 (S) STA AT 3:30 PM BELTZ 211

BILL: SB 75

SHORT TITLE: PUBLIC HEALTH DISASTERS/EMERGENCIES
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/21/05 (S) READ THE FIRST TIME - REFERRALS
01/21/05 (S) HES, STA, JUD
02/09/05 (S) HES AT 1:30 PM BUTROVICH 205
02/09/05 (S) Moved CSSB 75(HES) Out of Committee
02/09/05 (S) MINUTE(HES)
02/14/05 (S) HES RPT CS 4DP SAME TITLE
02/14/05 (S) DP: DYSON, ELTON, WILKEN, OLSON
02/24/05 (S) STA AT 3:30 PM BELTZ 211
02/24/05 (S) Heard & Held
02/24/05 (S) MINUTE(STA)
03/01/05 (S) STA AT 3:30 PM BELTZ 211

WITNESS REGISTER

James Crawford
Assistant Rvisor of Statutes
Legal and Research Services Division
Legislative Affairs Agency
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Explained CSSB 101

Senator Fred Dyson
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of SB 20

Wes Keller
Staff to Senator Dyson

Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Responded to questions on SB 20

Annie Smith
Public Affairs Manager
Planned Parenthood of Alaska
Anchorage, AK 99508

POSITION STATEMENT: Asked that SB 20 be reworked

Richard Mandsager, M.D.
Director, Division of Public Health
Department of Health &
Social Services
PO Box 110601
Juneau, AK 99801-0601

POSITION STATEMENT: Explained proposed amendments to SB 75

Deb Erickson
Deputy Director
Division of Public Health
Department of Health &
Social Services
PO Box 110601
Juneau, AK 99801-0601

POSITION STATEMENT: Commented on proposed changes to SB 75

DAN BRANCH,
Senior Assistant Attorney General
Department of Law
PO Box 110300
Juneau, AK 99811-0300

POSITION STATEMENT: Commented on amendment to SB 75

ACTION NARRATIVE

CHAIR GENE THERRIAULT called the Senate State Affairs Standing Committee meeting to order at [3:36:46 PM](#). Present were Senators Elton, Wagoner and Chair Therriault. Senator Huggins arrived momentarily.

SB 101-REVISOR'S BILL

CHAIR GENE THERRIAULT announced the first order of business to be SB 101 and asked for a motion to adopt the committee substitute (CS).

SENATOR THOMAS WAGONER motioned to adopt \F version CSSB 101 as the working document. There being no objection, it was so ordered.

JAMES CRAWFORD, assistant revisor of statutes, Legislative Legal Services, explained the CS reflects the three suggestions from the previous hearing.

The first change, found on page 9, line 16, is a further correction to the power of attorney form. The language "as I have checked" is deleted and "as indicated" is inserted.

Change two occurs on page 19, line 5 and is a further correction to clarify that AS 16.43.901 and AS 16.43.906 mentioned on line 6 have been repealed. The work "former" is inserted before each reference.

[3:39:01 PM](#)

SENATOR KIM ELTON questioned why the word "recently" wasn't deleted.

MR. CRAWFORD responded the Department of Law (DOL) brought the suggestion forward and the change was made per its recommendation.

[3:39:50 PM](#)

SENATOR ELTON elaborated saying his concern is that the word "recently" wouldn't be accurate in subsequent years and using the word might create a legal problem at some point.

CHAIR THERRIAULT asked whether DOL specifically recommended leaving "recently" in the sentence.

MR. CRAWFORD acknowledged that the drafters weren't given specific direction on that point and he didn't object to removing the adjective.

[3:41:21 PM](#)

SENATOR ELTON motioned to delete the word "recently" from page 19, line 5.

CHAIR THERRIAULT noted conceptual amendment 1 passed with no objection. He asked Mr. Crawford if he would automatically

follow through with the DOL to determine whether or not that creates a problem.

MR. CRAWFORD said he would be happy to do that on behalf of the committee.

CHAIR THERRIAULT noted the third and final change in the CS occurred on page 33.

[3:43:07 PM](#)

SENATOR CHARLIE HUGGINS joined the meeting.

MR. CRAWFORD referenced the discussion from the 2/24/05 hearing regarding the third change and explained that Legislative Legal does not want to "propose estimated solutions to ambiguous intent" so Section 68, relating to AS 45.63.080(a)(11) is deleted from SB 101 entirely

CHAIR THERRIAULT noted that removes about two and one half pages from the bill. He asked Mr. Crawford whether anything else needed highlighting.

MR. CRAWFORD replied revising is an ongoing process but nothing else had come to light since the previous hearing.

CHAIR THERRIAULT noted the one zero fiscal note then asked for a motion.

SENATOR WAGNER motioned to report CSSB 101(STA) from committee with individual recommendations and attached zero fiscal note. There being no objection, it was so ordered.

SB 20-OFFENSES AGAINST UNBORN CHILDREN

CHAIR GENE THERRIAULT announced SB 20 to be up for consideration and asked Senator Dyson to come forward.

SENATOR FRED DYSON, prime sponsor, said he is particularly pleased with this piece of legislation because it reflects what he has learned from similar legislation he worked on in previous years.

In April 2004, Congress passed the Unborn Victims of Violence Act and SB 20 is equivalent to that federal legislation. Because the federal legislation comes into force only when an unborn child is harmed or killed during commission of a federal crime,

it doesn't impact on state law. States are neither forced nor precluded from compliance. SB 20 addresses that and accords the same level of protection to an unborn child when violent acts are prosecuted under state law.

CHAIR THERRIAULT noted that his comments were addressed to the proposed \F version committee substitute (CS) and asked for a motion to adopt that as the working document.

SENATOR THOMAS WAGONER so moved. There being no objection, \F version CSSB 20 was the working document.

SENATOR DYSON explained that SB 20 amends the state criminal code to include not just the killing of an unborn child, but for assault and injury to an unborn child as well. He then noted he had an amendment for the committee to consider.

[3:50:02 PM](#)

SENATOR DYSON stated this legislation would have no implication on abortion, the option of abortion, regular medical proceedings, or anything a woman might do to herself while she is pregnant. He said:

What if a woman is drinking during vulnerable periods of the pregnancy and is causing soft brain injuries? And we've carefully excluded those kind of things from this criminal law section. ... It is my intent to just afford protection of an unborn child on a level that is reasonably equivalent to that protection we afford live born Homo sapiens.

SENATOR DYSON reported that 30 other states have enacted similar legislation. Some 16 or 17 states have enacted legislation to provide protection during any period of gestation and 13 or 14 have passed legislation with old-fashioned language.

[3:52:16 PM](#)

SENATOR KIM ELTON referenced page 2, lines 5,6 and 7 and said he didn't understand the language and asked whether it is defined somewhere.

SENATOR DYSON said he thought so, but that is fairly typical language.

WES KELLER, staff to Senator Dyson, said the drafter simply transferred the language, "extreme indifference to the value of human life" from the first and second-degree murder statutes and the word, "knowingly" is found throughout case law and is specifically defined in statute.

[3:54:10 PM](#)

SENATOR ELTON referenced page 2, lines 16-19 that addresses manslaughter of an unborn child and noted that meeting one or all of the criteria, "intentionally, knowingly, or recklessly" could trigger manslaughter charges. He cited an example of someone driving too fast for conditions and getting into an accident that results in the death of an unborn child. In that circumstance he questioned whether the driver would be charged with manslaughter.

SENATOR DYSON suggested the charge would be negligence that might rise to the level of criminal negligence. Transferable intent is a concept in law that holds the person who committed a crime responsible for harming an innocent bystander.

[3:56:30 PM](#)

SENATOR ELTON referenced exceptions listed on page 3 and noted that if a pregnant woman harms herself and/or her unborn child she wouldn't be charged, but another driver that harms the woman's unborn child could be charged.

SENATOR DYSON responded it isn't his intention to charge a woman for something she does herself.

[3:58:22 PM](#)

SENATOR ELTON commented that this seems to set a disparate sentence requirement. The anomaly occurs because the pregnant woman might know she could harm her unborn child while another person might not even know the woman is pregnant.

CHAIR THERRIault made the point that if a pregnant woman attempts to commit suicide and harms her unborn child in the process, she wouldn't be charged.

SENATOR DYSON said that's correct under this bill.

SENATOR ELTON referenced the analysis in the zero fiscal note from the Department of Corrections and asked the sponsor whether he anticipated a certain caseload.

SENATOR DYSON surmised it would be less than ten cases per year.

[4:01:36 PM](#)

SENATOR ELTON referenced the analysis in the DOA indeterminate fiscal note and asked if it's justified because it's not clear that charges could be brought for cases of inadequate prenatal care.

SENATOR DYSON replied his assumption is that language on page 3, lines 28-29 would cover actions of both omission and commission.

CHAIR THERRIAULT referenced page 3, lines 3-19 and asked for an explanation of the proposed change.

[4:04:09 PM](#)

MR. KELLER explained they compared assault language for a live born person and came up with four degrees of assault against an unborn child that is roughly equivalent to assault on a live born person.

SENATOR DYSON suggested it be considered a conceptual amendment to give the drafters latitude to make the language more conforming.

CHAIR THERRIAULT recapped then questioned why two sections were removed and were added five.

MR. KELLER replied four degrees of assault are addressed rather than two, affirmative defense is added, and finally a statement is included differentiating between assault and murder.

[4:07:03 PM](#)

SENATOR ELTON asked if the amendment is drafted so it would be an affirmative defense if there were an assault instead of murder.

MR. KELLER replied some sections require intent. In crimes against the unborn there is just murder of the unborn child instead of first-degree murder, second-degree murder, manslaughter, and criminally negligent homicide.

SENATOR ELTON asserted there is a distinction between intent and knowing. It's an affirmative defense if it's an assault and you didn't know, regardless of intent. It's not a defense if it's a murder and you didn't know.

[4:10:05 PM](#)

CHAIR THERRIault called on Ms. Smith.

ANNIE SMITH, Public Affairs Manager, Planned Parenthood of Alaska, testified via teleconference to oppose SB 20 as currently written. She said:

We respectfully request that the bill be reworked to focus on domestic violence against women and their unborn children. Committing violence against a pregnant woman is an abhorrent crime and it deserves to be severely punished.... The bill does not address women let alone pregnant women. The bill may be in conflict with current categories of crime or the new sentencing requirements that are being worked on with SB 56.

... We would support a bill that charged offenders with a felony for harming women and that charged additional aggravators should the outcome of harming a woman lead to a miscarriage or stillbirth. Moving the language of unborn child and murder of a fetus eliminates the pro-choice debate surrounding this bill.

We all agree that domestic violence against women needs to stop. We all know the statistics that domestic violence is elevated when a woman is pregnant. In fact, the number one cause of death to a pregnant woman is homicide.

Planned Parenthood urges you to amend the bill to focus on women and to allow us all the time to work on legislation that we can all agree on, legislation that makes pregnant women safer.

CHAIR THERRIault noted that Ms. Smith focused on domestic violence, and made the point that it's not domestic violence if someone breaks into a woman's home and harms her. He asked if she was suggesting that the committee exclusively focus on

behavior that would fall under the umbrella of domestic violence.

MS. SMITH replied they aren't suggesting that other assault isn't included; they are simply focusing on a situation that is most likely to occur within a household.

CHAIR THERRIAULT asked the will of the committee with regard to the sponsor's proposed conceptual amendment.

SENATOR THOMAS WAGNER motioned to adopt conceptual Amendment 1.

SENATOR ELTON said he wouldn't object to a conceptual amendment, but he would prefer to review the CS before moving the bill from committee.

[4:15:49 PM.](#)

CHAIR GENE THERRIAULT stated that without objection SB 20 would be held in committee to provide the drafters and staff time to incorporate the proposed amendment. Furthermore, at Senator Elton's suggestion, a Department of Law representative would be available for questions at the next hearing.

SB 75-PUBLIC HEALTH DISASTERS/EMERGENCIES

[4:16:33 PM](#)

CHAIR GENE THERRIAULT announced SB 75 to be up for consideration and asked Dr. Mandsager to come forward. He reviewed the testimony from the previous hearing then noted that the proposed amendment had been broken into eight separate pieces for consideration. He highlighted the proposed changes and the drafter's comments then asked Dr. Mandsager to proceed.

[4:18:32 PM](#)

DR. RICHARD MANDSAGER, Director, Division of Public Health, Department of Health and Social Services (DHSS), said he would begin where the discussion stopped the previous week. He acknowledged that some suggestions weren't included in the list of proposed amendments and he wanted it to be clear why all suggestions weren't included.

He emphasized that the governmental part of public health only works if the public trusts the government. If the system is to work, there must be voluntary agreement between providers,

individuals and governmental staff and if the people lose trust in government it's very difficult to reclaim. We have decades of experience in this state of practices that have had almost complete agreement about voluntary reporting and this bill codifies rather than expands those current practices, he said.

DR. MANDSAGER said the foregoing explanation is important when discussing the details of the balance point between protecting public health and the due process and individual rights. That being said, he noted that DHSS did not bring an amendment to expand religious exemptions to include screening and treatment. The reasoning is that most emergency situations are short-term and if a few people claim a religious exemption it wouldn't make a great deal of difference.

However, if someone were to claim a religious exemption from screening or testing for a chronic condition such as tuberculosis, the state public health system would be faced with the dilemma of deciding whether or not to monitor that individual for the rest of the person's life. That certainly would entail an administrative and medical burden, which is why the department doesn't suggest expanding the exemptions.

[4:22:11 PM](#)

DR. MANDSAGER noted the committee took action on proposed Amendment 1 during the previous hearing.

AMENDMENT 1 --- CSSB75 ()

A M E N D M E N T

OFFERED IN THE SENATE STATE BY _____

AFFAIRS COMMITTEE

TO: CSSB 75(HES)

Page 15, line 13-14

Delete "minor; however, parents or guardians of the minor do not have party status in the proceedings under this section"

Insert "minor"

DR. MANDSAGER said that with regard to proposed Amendment 2 he would first comment on striking any reference to the particular statutes. DHSS suggested that it should be clear that this part of the bill is talking about the subjects of information, protection, and identifiable health information. The constraints the department proposes to follow on when identifiable health information could be collected applies to this type of activity. He explained that identifiable health information is collected when kids are taken into custody at the Office of Children's Services (OCS) and public assistance and Medicaid also have identifiable public health information.

The proposal is that the department may acquire identifiable health information only if it meets the three standards listed in proposed Amendment 2. It must be clear that the proposed constraints only apply to this public health activity of the department and not that someone might later construe that the department has a limitation on collection of identifiable health information in other departmental activities. That is why DHSS suggested that the statutes be clearly identified in the bill. He suggested that further conversation with legislative legal is warranted.

Because legislative legal pointed out that public health purpose isn't defined in the bill, DHSS suggests including a definition in the definitions section and striking the (a)(1) reference to public health importance on page 8, line 7 [CSSB 75(HES)].

AMENDMENT 2 --- CSSB75 ()

A M E N D M E N T

OFFERED IN THE SENATE STATE BY _____

AFFAIRS COMMITTEE

TO: CSSB 75(HES)

Page 8, line 26, following "information":

Insert "under this section"

Page 8, line 29, following "**safeguards.**":

Insert the following new material:

"(a) The department [under AS 18.15.355 18.15.390,] may acquire and use identifiable health information only if the

(1) acquisition and use relates directly to a **public health purpose**, including analysis and evaluation of conditions of public health importance and evaluation of public health programs;

(2) acquisition and use 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.

(b)"

CHAIR THERRIAULT asked for clarification

DR. MANDSAGER responded lines 9 and 10 could be dropped from proposed Amendment 2. It would say the conditions under which the department could collect identifiable health information would have to satisfy these the following tests: (1) acquisition and use directly relates to a public health purpose; (2) acquisition and use 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 as non-identifiable health information.

After many conversations with the ACLU and other parties that are concerned that the department had an overly broad authority to collect identifiable health information, DHSS suggests it be limited by having to meet those three tests.

SENATOR KIM ELTON asked if he should ask questions as they came up or wait until the presentation was finished.

CHAIR THERRIAULT explained that DHSS asked that the committee discuss the proposed amendment packet, but take no action. He noted that the House is working on the same issue and this committee might address that vehicle. He said he was simply taking notes on the suggestions that were presented.

4:26:46 PM

SENATOR ELTON recalled that the ACLU and others cautioned that the definition that governs the access of private health information is too broad. Considering the definition that was just distributed, he said he tends to agree with that assessment. For instance, if obesity were defined in such a way that it is given public importance, then DHSS would have the authority to look at obese persons' private records.

DR. MANDSAGER said there is a distinction between dealing with identifiable health information and looking at records but keeping no individual identifiers. There are projects or surveillance systems where DHSS may look at records of some sort, but unless the three tests are met, the information couldn't be kept in an identifiable format.

SENATOR ELTON said he doesn't see anything about looking at the information in an aggregated manner with no personal identifiers.

4:29:07 PM

DR. MANDSAGER said if that's correct then the wording needs additional work because they are attempting to say that the department may acquire and use identifiable health information only if it meets the three tests. He asked if he is saying that the three tests are still too broad.

SENATOR ELTON said that's accurate.

DR. MANDSAGER respectfully disagreed and said this would simply codify present practice. He turned to Ms. Erickson and commented they have discussed the implications of using the phrase, "a significant risk to public health " but that caused him some concern and he would have to think about it further. He asked Ms. Erickson if the phrase would cause trouble.

DEB ERICKSON, Deputy Director, Division of Public Health, said she would like to give that consideration.

4:31:07 PM

DR. MANDSAGER introduced Ms. Erickson as the national chair of the Turning Point Project, which is looking at model public

health acts for the country. He said he frequently looks to her as the in-house expert.

DR. MANDSAGER asked if determining the standard for collecting identifiable public health information would help define the term they suggested.

SENATOR CHARLIE HUGGINS asked for clarification.

DR. MANDSAGER replied the phrase "conditions of public health importance" is used nationally.

CHAIR THERRIAULT pointed to the definition on page 7, lines 16 through 20 and said that when people talk about public health they think in terms of a disease like the plague, but in the medical community today, the conditions of obesity or high blood pressure would fall under that definition.

[4:33:42 PM](#)

DR. MANDSAGER referenced the partnership with the Anchorage School District to highlight his concern that narrowing the definition too much would preclude partnering opportunities. DHSS partnered with that school district to help analyze individual height and weight data to produce a body mass index (BMI) to indicate how fat students are. The information was given to the school district in aggregate with no individually identifiable data. However, he agreed that if DHSS were to collect identifiable health information, there should be a higher standard.

SENATOR THERRIAULT asked whether identifiable means identifiable to an individual.

DR. MANDSAGER replied it means being able to track data to a particular individual in a particular community. In the bill, identifiable health information is defined on page 19, line 11.

[4:35:14 PM](#)

SENATOR THERRIAULT said his preference is to add the definition to the packet as Amendment 9.

He asked Dr. Mandsager to discuss proposed Amendment 3.

DR. MANDSAGER explained that in this instance legislative legal decided it was acceptable to specifically reference the statute,

but he wasn't clear why it wasn't acceptable to do so on the previous amendment.

CHAIR THERRIault remarked the intent is to have a limiting effect.

DR. MANDSAGER agreed.

AMENDMENT 3 - CSSB75()

A M E N D M E N T

OFFERED IN THE SENATE STATE BY _____

AFFAIRS COMMITTEE

TO: CSSB 75(HES)

Page 8, line 30, following "information":

Insert "collected under AS 18.15.355 - 18.15.390"

DR. MANDSAGER referenced proposed Amendment 4 and explained the ACLU raised the concern that it isn't clear in statute that identifiable health information is destroyed once the government is finished using the information and it's necessary to have a policy and practice for doing so.

CHAIR THERRIault clarified that DHSS suggested inserting the underscored language and Legislative Legal recommended deleting the bracketed language in proposed Amendment 4.

DR. MANDSAGER acknowledged DHSS was agreeable to the changes. He then argued that it should be put into regulation that the public should know when the government is going to collect identifiable health information. The public should know what is collected, how long the data would be kept and when it would be destroyed.

AMENDMENT 4 - CSSB75()

A M E N D M E N T

OFFERED IN THE SENATE STATE BY _____

AFFAIRS COMMITTEE

TO: CSSB 75(HES)

Page 9, following line 1:

Insert the following new material:

"(c) 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 [whose use] by the department no longer furthers the **public health purpose** for which it was acquired. The department shall establish by regulation a retention schedule for records containing identifiable health information."

SENATOR ELTON questioned why the peg is "use of the information" and whether it wouldn't be more straightforward to say "when the information collected by the department no longer furthers".

[4:38:11 PM](#)

DAN BRANCH, Senior Assistant Attorney General, Department Law, said it was written that way because the federal HIPAA privacy regulations recognize and make a distinction between the two stages. The first is the collection of information and the second is protection of the collected information.

DR. MANDSAGER explained that proposed Amendment 5 came about in response to a current tuberculosis case in the state. It is to clarify that there is a stepwise progression to the process.

AMENDMENT 5 --- CSSB75()

A M E N D M E N T

OFFERED IN THE SENATE STATE

BY _____

AFFAIRS COMMITTEE

TO: CSSB 75(HES)

Page 11, following line 12:

Insert the following new material:

"(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's health to complete an appropriate prescribed course of treatment for the contagious disease, including medication and [including through] directly observed therapy where appropriate, and to follow [infection control provisions] measures to prevent the spread of disease [for the disease]."

Page 11, line 13:

Delete "(b)"

Insert "(c)"

Page 11, line 16:

Delete "(c)"

Insert "(d)"

SENATOR ELTON asked for confirmation that there is just one state medical officer.

DR. MANDSAGER replied a state medical officer is a physician employed by the Division of Public Health and that would ordinarily be the state epidemiologist.

SENATOR THERRIAULT noted the department inserted the underlined language and legislative legal recommended deleting the bracketed language.

DR. MANDSAGER said the department is in agreement with the changes legislative legal recommended.

[4:41:33 PM](#)

DR. MANDSAGER informed members that proposed Amendment 6 came from suggestions made during the previous hearing. It is to make

it clear that if someone refuses treatment then they bear the cost of isolation and quarantine

The only change he recommends in proposed Amendment 6 is to change "and" to "or" in the phrase "seeking and implementing" so it is clear that the individual bears the cost and the state does not.

AMENDMENT 6 --- CSSB75 ()

A M E N D M E N T

OFFERED IN THE SENATE STATE BY _____

AFFAIRS COMMITTEE

TO: CSSB 75(HES)

Page 11, line 17, following "treatment.":

Insert "However, an individual exercising the right under this subsection is responsible for paying all costs incurred by the state in seeking and implementing [imposing any] a quarantine or isolation order made necessary by the individual's refusal of treatment. The department shall advise an individual refusing treatment that that refusal may result in an indefinite quarantine or isolation and that the individual will be responsible for payment of all costs of [any] a quarantine or isolation."

CHAIR THERRIAULT clarified that the right an individual would exercise is the right to refuse treatment and go into quarantine instead.

DR. MANDSAGER explained proposed Amendment 7 is an attempt to raise the bar for when an isolation and quarantine order is imposed. The department suggested using the phrase "poses a significant risk to public health" but Legislative Legal recommends going back to "is a condition of public health importance." He maintained that the bar should be raised. The flu is a condition of public health importance, he argued, but

we wouldn't isolate or quarantine for that. However, Avian Flu has a mortality rate of 70 percent and they probably would try to isolate and quarantine because of the significant public health risk that type of flu poses.

AMENDMENT 7 CSSB75()

A M E N D M E N T

OFFERED IN THE SENATE STATE

BY _____

AFFAIRS COMMITTEE

TO: CSSB 75(HES)

Page 11, line 24:

Delete "disease or"

Insert "disease that is a condition of public health importance"

Page 11, line 25:

Delete "hazardous material"

[4:44:06 PM](#)

SENATOR ELTON commented this is the area in which an exception for religious purposes was considered and this proposal would make it possible for any individual to refuse treatment and be placed in quarantine instead. He questioned whether a new fiscal note would be needed because living in quarantine or isolation might be costly and not all individuals would be able to pay for themselves.

DR. MANDSAGER replied instances in which isolation and quarantine are indicated occur about once in ten years so the department doesn't anticipate much increased cost.

[4:46:26 PM](#)

DR. MANDSAGER said the language change on page 11, line 25 proposed in Amendment 7 also came about after the Department of

Law questioned what "hazardous material" might mean. Because of the ambiguous meaning, DHSS elected to drop that reference and keep isolation and quarantine authority limited to contagious and possibly contagious diseases, which is in line with most other states.

SENATOR ELTON asked about medical waste that might need to be controlled.

DR. MANDSAGER thought it would be covered.

CHAIR THERRIAULT asked about proposed Amendment 8.

DR. MANDSAGER explained it is proposed to keep the language consistent with the rest of the bill and goes back to the phrase "significant risk to the public health."

AMENDMENT 8 --- CSSB75 ()

A M E N D M E N T

OFFERED IN THE SENATE STATE BY _____

AFFAIRS COMMITTEE

TO: CSSB 75(HES)

Page 14, line 16:

Delete "substantial"

Insert "significant"

Page 14, line 31:

Delete "substantial"

Insert "significant"

[4:50:41 PM](#)

CHAIR THERRIAULT reported that the court rule changes were just received. They are largely technical and would possibly become

proposed Amendment 10. He asked Dr. Mandsager if he had any additional information.

DR. MANDSAGER replied the aforementioned summarizes the proposals that came from the committee during the first hearing, but doesn't go as far as the ACLU suggested. "We think these suggestions are reasonable limitations and that we can do what is necessary." He said he was interested in whether the committee views this as an appropriate balance point.

CHAIR THERRIault asked if the House Judiciary would be presented with the same packet.

DR. MANDSAGER said that's correct.

SENATOR ELTON remarked he doesn't like the notion that the state could access his medical records in a way that he could be identified as an individual for the sake of some study. With suggested Amendment 9 that could happen, and that is an unacceptable intrusion, he asserted.

DR. MANDSAGER asked Senator Elton whether he is bothered by the idea of someone looking at his personal records without his knowledge even if the information isn't linked to his name.

SENATOR ELTON replied his concern stems from the increasing number of ways that personal information can be stolen and used.

There were no further questions.

CHAIR THERRIault announced he would hold SB 75 in committee and watch what happens in the House Judiciary Committee.

There being no further business to come before the committee, Chair Therriault adjourned the meeting at [4:54:37 PM](#).