

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

April 10, 2007

4:03 p.m.

MEMBERS PRESENT

Representative Peggy Wilson, Chair
Representative Bob Roses, Vice Chair
Representative Anna Fairclough
Representative Mark Neuman
Representative Paul Seaton
Representative Sharon Cissna
Representative Berta Gardner

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 207

"An Act relating to questionnaires and surveys administered in the public schools."

- HEARD AND HELD

HOUSE BILL NO. 215

"An Act relating to the establishment of a task force to review the Council on Domestic Violence and Sexual Assault."

- MOVED CSHB 215(HES) OUT OF COMMITTEE

HOUSE BILL NO. 213

"An Act relating to an aggravating factor at sentencing for crimes committed at certain shelters and facilities."

- MOVED CSHB 213(HES) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 207

SHORT TITLE: STUDENT QUESTIONNAIRES AND SURVEYS

SPONSOR(S): REPRESENTATIVE(S) WILSON

03/19/07 (H) READ THE FIRST TIME - REFERRALS

03/19/07 (H) HES, JUD
04/03/07 (H) HES AT 3:00 PM CAPITOL 106
04/03/07 (H) Scheduled But Not Heard
04/10/07 (H) HES AT 4:00 PM CAPITOL 106

BILL: HB 215

SHORT TITLE: TASK FORCE RE: COUNCIL ON DOM. VIOL.
SPONSOR(S): REPRESENTATIVE(S) FAIRCLOUGH

03/21/07 (H) READ THE FIRST TIME - REFERRALS
03/21/07 (H) HES, FIN
04/10/07 (H) HES AT 4:00 PM CAPITOL 106

BILL: HB 213

SHORT TITLE: CRIMES AT DOMESTIC VIOLENCE SHELTERS
SPONSOR(S): REPRESENTATIVE(S) DOLL

03/21/07 (H) READ THE FIRST TIME - REFERRALS
03/21/07 (H) HES, JUD
04/10/07 (H) HES AT 4:00 PM CAPITOL 106

WITNESS REGISTER

REBECCA ROONEY, Staff
to Representative Peggy Wilson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 207 on behalf of
Representative Peggy Wilson, prime sponsor.

JAY BUTLER, M.D., Director
Central Office
Division of Public Health
Department of Health and Social Services (DHSS)
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 207.

TAMMY GREEN
Chronic Disease
Division of Public Health
Department of Health and Social Services (DHSS)
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 207.

GEORGE W. BROWN, M.D.
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 207.

MATT FELIX, Director
National Council on Alcoholism and Drug Dependence (NCADD)
Juneau, Alaska
POSITION STATEMENT: Testified in support of HB 207.

EMILY NENON, Alaska Government Relations Director
American Cancer Society
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 207.

DICK LUTHER, Special Assistant
Office of the Commissioner
Department of Education and Early Development (EED)
Juneau, Alaska
POSITION STATEMENT: Answered questions during the hearing on HB 207.

CHRIS ASHENBRENNER, Interim Program Administrator
Council on Domestic Violence and Sexual Assault (CDVSA)
Juneau, Alaska
POSITION STATEMENT: Testified during the hearing on HB 215.

PEGGY BROWN, Executive Director
Alaska Network on Domestic Violence and Sexual Assault (ANDVSA)
(No address provided)
POSITION STATEMENT: Testified in support of HB 215.

REPRESENTATIVE ANDREA DOLL
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Introduced HB 213, as prime sponsor.

RICK SVOBODNY, Deputy Attorney General
Department of Law
Juneau, Alaska
POSITION STATEMENT: During hearing of HB 213, answered questions.

JERRY LUCKHAUPT, Attorney
Legislative Legal and Research Services
Legislative Affairs Agency
Juneau, Alaska
POSITION STATEMENT: During hearing of HB 213, answered questions.

ACTION NARRATIVE

CHAIR PEGGY WILSON called the House Health, Education and Social Services Standing Committee meeting to order at [4:03:12 PM](#). Representatives Wilson, Roses, Fairclough, Seaton, and Cissna were present at the call to order. Representatives Neuman and Gardner arrived as the meeting was in progress.

HB 207-STUDENT QUESTIONNAIRES AND SURVEYS

The committee took an at-ease from 4:04 p.m. to 4:05 p.m.

[4:05:29 PM](#)

CHAIR WILSON announced that the first order of business would be HOUSE BILL NO. 207, "An Act relating to questionnaires and surveys administered in the public schools."

[4:05:36 PM](#)

REBECCA ROONEY, Staff to Representative Peggy Wilson, Alaska State Legislature, presented HB 207 on behalf of Representative Wilson, sponsor. She paraphrased from the following written statement [original punctuation provided]:

HB 207 will change the parental consent requirement for surveys in schools from active to passive.

Active parental consent requires written permission to participate in the survey.

Active parental consent overburdens the school system and significantly increases the costs involved in conducting student surveys.

Research and experience suggests that the vast majority of parents would consent to their students participating in such surveys.

Many schools are unable to use the data they collect because there are not enough participants.

Most of the research indicates failures to provide written permission are driven by apathy, oversight, or student error, not by parent's refusal.

Passive parental consent notifies and informs the parents about the nature of the surveys and allows

parents to refuse to allow their child to participate in the survey.

School-based surveys continue to be a reliable method for gathering valuable population based information on youth. This data helps policy makers, educators, program planners, and parents to better understand important health and social issues that affect young people's chances of success.

Routine standardized surveys such as the national and state Youth Risk Behavior Survey (YRBS), which is conducted by the Centers for Disease control (CDC) track trends over time. They also help guide and evaluate important health and prevention programs.

State and federal grant programs that rely on these surveys include tobacco prevention and control, obesity prevention, diabetes, heart disease and stroke, safe and drug free schools and other substance abuse prevention, injury prevention including violence and suicide prevention, HIV and STD prevention, and more.

The overall statewide response rate to YRBS in 2005 was 55%, which did not meet the required response rate of 60%. The State was unable to use the data or publish a report, since the data would not be representative of the high school population.

When we don't get the report we lose the ability to have timely data, track trends over time, and are not able to compare Alaska data to national data during the same time period.

One thing to note is that notification of surveys, and their content, will still be sent to every parent of a child that is a candidate participant in the survey, as we did before with active permission.

A parent will have the option of reviewing the survey and how it will be administered before it is administered.

Any parent who doesn't want their child to participate will have the option to opt-out.

[4:08:55 PM](#)

REPRESENTATIVE FAIRCLOUGH asked whether the law was previously changed from requiring passive to active parental consent.

MS. ROONEY responded that the original law was changed in 1999.

[4:09:47 PM](#)

REPRESENTATIVE GARDNER recalled that the Anchorage School District has lost grants and federal funds due to the change. She asked whether the sponsor knows how much the active parental consent requirement has cost the state.

MS. ROONEY replied that in 2007 a \$50,000 line item was approved to fund contacts with parents to inspire parents to return consent forms; in fact, additional costs will be the subject of subsequent testimony.

[4:10:50 PM](#)

REPRESENTATIVE NEUMAN asked whether the Department of Education and Early Development (EED) has a policy or standard regarding parental notification of surveys and controversial presentations or classes.

MS. ROONEY expressed her belief that, currently by statute, active parental consent is required to participate in a survey, whether anonymous or voluntary. She added that there will be testimony from EED representatives.

REPRESENTATIVE NEUMAN questioned whether all school districts conform to the same policy.

CHAIR WILSON acknowledged that some school districts have slightly different policies in that some require one blanket permission slip during enrollment while others obtain permission for each occurrence.

[4:12:35 PM](#)

REPRESENTATIVE FAIRCLOUGH observed that Anchorage schools are allowed to obtain a blanket permission slip at registration, and then to give two week notice prior to the administration of a survey. She asked for confirmation that HB 207 will not preclude this existing state law.

MS. ROONEY deferred to EED representatives.

4:13:36 PM

JAY BUTLER, M.D., Director, Central Office, Division of Public Health, Department of Health and Social Services (DHSS), informed the committee that from a public health perspective, YRBS is an epidemiological survey designed by the CDC and administered by state and local health agencies and schools each year. The survey is conducted in approximately 45 states around the country, and Alaska has participated since 1995. Approximately 2,000 high school students in Alaska anonymously answer questions about a number of health-related activities, and the data is used to develop and evaluate programs to encourage a healthy lifestyle for young adults. For validity of the survey, Alaska is required to meet a predefined response rate of 60 percent; however, the 2003 survey was barely representative and the response rate in 2005 was 55 percent. Dr. Butler explained that national data suggests that school districts that require active parental consent will have a lower response rate.

4:16:36 PM

REPRESENTATIVE GARDNER asked whether the witness was familiar with any adverse fiscal impact to Alaska as a result of the low response rate on the survey.

DR. BUTLER answered that in addition to the \$50,000 incentive monies, there would be the costs of administering a survey that did not yield useful data.

4:18:01 PM

TAMMY GREEN, Chronic Disease, Division of Public Health, Department of Health and Social Services (DHSS), reminded the committee that, prior to 1999 and under the statute permitting passive consent, there were no reported problems. She stated that although HB 207 will revert to passive parental consent statewide, it will not preclude school districts from requiring active permission on a local basis. Ms. Green pointed out that the data collected by the YRBS survey has been utilized for the tobacco use prevention program and for public health education in a cost effective way.

4:20:22 PM

GEORGE W. BROWN, M.D., informed the committee that he is a practicing pediatrician in Juneau. Dr. Brown stated that having accurate data is the cornerstone of effective public and individual health. Therefore, the passage of HB 207 will aid in the collection of data and is best for children, youth, parents, and the school and parent relationship. He strongly urged the committee to pass the bill.

[4:21:28 PM](#)

MATT FELIX, Director, National Council on Alcoholism and Drug Dependence (NCADD), informed the committee that his agency is one of the oldest nonprofits in Juneau, and its main focus is the prevention of alcohol and drug abuse. As a prevention and promotion agency, the NCADD does not recruit treatment fees and primarily relies on grants and contracts for funding. Currently, his agency has 14 grants and contracts from federal, state, and local government. Mr. Felix pointed out that for his agency to maintain available federal funding, it must provide clear data to support grant applications. He referred to a nationwide survey conducted by the University of Michigan that did not include Alaska due to the lack of data. Complete survey data is necessary to compete with other states for grant funds. In addition, Mr. Felix noted that a passive survey will include students beyond "the cream of the crop" and will provide a better picture of health and behavior in the state. Mr. Felix relayed that he has lost grants due to the lack of data; for example, transportation grants for the promotion of seat belt usage and to prevent drunk driving. He stressed that accurate survey data measures the need for and the response to prevention programs.

[4:25:18 PM](#)

REPRESENTATIVE FAIRCLOUGH asked whether other sources of information are available. For example, data from police records that document violations of seat belt laws.

MR. FELIX acknowledged that data can be obtained elsewhere, but the YRBS survey is the broadest and best source for comparative and objective information. He encouraged the passage of HB 207, and concluded that non profit agencies in the state are suffering from the lack of data.

[4:26:42 PM](#)

EMILY NENON, Alaska Government Relations Director, American Cancer Society, stated that the importance of survey data to her organization is to set goals and to measure the success of various prevention programs. She pointed out that the passage of HB 207 will not return the state to the 1998 statute. In fact, HB 207 incorporates the best of the previous statute and also preserves the key elements of the changes in law that were made in 1999. Ms. Nenon stated that the parental review of surveys and the notification of results is retained in HB 207.

[4:29:52 PM](#)

CHAIR WILSON recalled that during the previous session the House Health, Education and Social Services Standing Committee recommended the changes made by the bill in order to lower the state's cost of providing social services.

[4:30:59 PM](#)

REPRESENTATIVE GARDNER added that HB 207 will preserve the confidentiality of individual students and families.

CHAIR WILSON noted that, in addition, the bill will maintain parental rights of review and denial of permission.

[4:31:52 PM](#)

REPRESENTATIVE FAIRCLOUGH restated her question regarding the ability of a school district to obtain a blanket permission slip for the school year under Sec. 14.03.110(b). She read:

Of this section may be obtained annually and is valid until the commencement of the subsequent school year or until the parent or legal guardian who gave permission submits a written withdrawal of permission to the school [principal].

REPRESENTATIVE FAIRCLOUGH continued to say that, as a parent, she would like to see that a copy of the survey is still provided and that the Anchorage School District can continue its current policy.

[4:33:20 PM](#)

DICK LUTHER, Special Assistant, Office of the Commissioner, Department of Education and Early Development, advised that the current regulation, passed in 1999, requires that parents notify

the school with permission or with denial of permission prior to the administration of a survey. He opined that a school district can utilize a blanket permission slip at the beginning of the year; however, parents retain the right to look at the survey and can revoke their blanket permission. Mr. Luther said that districts are required to follow the law, but can write different procedures at the local level.

[4:34:49 PM](#)

CHAIR WILSON opined that HB 207 provides parents the right to withdraw their annual blanket permission after they review the survey.

MR. LUTHER agreed. He added that the permission is given at the beginning and it stays in effect "until revoked."

[4:35:52 PM](#)

REPRESENTATIVE FAIRCLOUGH observed that HB 207 does not specifically allow the one-year blanket provision. She related she is not in opposition to forwarding the bill from committee because the information that's generated is valuable to the state as well as local communities. Representative Fairclough said, "But ... we were explicit before to allow a one-year blanket. And this ... goes one step further and allows a parent to actually see the survey. But, for a parent ... like me, I like to be able to give it once, right with registration, and then review it as it comes along. But if I'm not being active, ... then I want the school district to be able to go ahead and administer the survey"

MR. LUTHER expressed his belief that HB 207 does not require parental permission. However, if a parent does not want his/her student to participate in a survey, then they have to notify the school district. He reiterated that the new legislation does not require permission; it requires the opposite. Mr. Luther opined that opposing parents will be given a blanket disapproval at the beginning of the school year.

[4:37:56 PM](#)

REPRESENTATIVE NEUMAN asked whether Mr. Luther would define "active" and "passive."

MR. LUTHER responded that an active response says a student can not participate and a passive response allows a student to take the survey, unless the parent does not want them to.

REPRESENTATIVE NEUMAN referred to HB 207, page 2, subsection (c), and said that the school district is required to provide two weeks' notice. He expressed his understanding that if a parent does not want a child to participate, an active parent is required to notify the school and a passive parent does not reply and thus consents. Representative Neuman concluded that districts are required to send all surveys to parents for their review two weeks before the survey is taken.

MR. LUTHER agreed, and added that surveys must be sent out two weeks before they are administered at which time parents have the opportunity to actively say "no", or, say nothing, and imply consent. The current legislation requires a response of "yes" or "no."

[4:40:25 PM](#)

MS. NENON said that she had spoken with the president of the Anchorage School Board regarding HB 207. Her understanding is that school districts at the local level will have the power to set policies that are above and beyond what is required at the state level. She opined that HB 207 does not preclude execution of an annual blanket permission form, or conversely, does not preclude a school district from requiring active parental consent.

[4:42:22 PM](#)

REPRESENTATIVE SEATON observed that HB 207 requires that every survey has to go to each parent two weeks prior to administration; thus, there is no option for yearly permission. He said that this requirement is an expensive burden for the school system, and should be amended to allow annual permission.

[4:43:34 PM](#)

REPRESENTATIVE GARDNER opined that the language allows for the school district to give written two weeks' notice at the beginning of the year.

CHAIR WILSON agreed with Representative Gardner, but noted that the amendment suggested by Representative Seaton was acceptable.

[4:44:21 PM](#)

REPRESENTATIVE ROSES commented that a blanket permission slip at the beginning of the year for any survey would be fine. He explained that the bill would provide that even the students whose parents did not sign a permission slip would be given the survey; therefore, all students, whether their parents had signed the slip or not, would be given the survey. The only exception would be for those students whose parents signed a specific paper stating that they do not want their children to be given the survey.

[4:45:12 PM](#)

REPRESENTATIVE FAIRCLOUGH concurred with Representative Roses. She said, "They have to notify the parents, one way or another."

[4:45:24 PM](#)

REPRESENTATIVE NEUMAN directed attention to language on page 2, line 3, which specifies "the questionnaire". He interpreted that to mean each individual survey, not a blanket survey. He questioned whether it would be possible for parents who give permission for their children to fill out a survey to have the option of seeing the surveys before they are given.

[4:47:27 PM](#)

REPRESENTATIVE FAIRCLOUGH said, "I am not in opposition, because this would remove a step at registration, because they are already required - every time they do a survey - to ask the parent the question." Notwithstanding that, she relayed that there are parents who are concerned with the subjective nature of some school surveys. She revealed that parents have called her regarding a survey that asked about sexual practices and was worded in a manner which assumed that the child was sexually active. She cautioned against making assumptions about a child's behavior.

[4:50:33 PM](#)

REPRESENTATIVE ROSES, regarding two-week notification, drew attention to the language in statute as of 1999, which allows permission to be given at the beginning of the year for anonymous surveys but requires two-week notification for any survey that is not anonymous. He offered his understanding that HB 207 does not make that distinction.

4:51:07 PM

MS. ROONEY offered an explanation.

REPRESENTATIVE ROSES clarified that he wants to know if HB 207 would remove any language from AS 14.03.110(c), which read as follows:

(c) If a school administers to a student a questionnaire or survey that is not anonymous, the school shall obtain the written permission required under (a) of this section from the student's parent or legal guardian at least two weeks before the questionnaire or survey is administered.

CHAIR WILSON and MS. ROONEY directed attention to subsections (a) and (b), which read as follows:

(a) A school district, principal or other person in charge of a public school, or teacher in a public school may not administer or permit to be administered in a school a questionnaire or survey, whether anonymous or not, that inquires into personal or private family affairs of the student not a matter of public record or subject to public observation unless written permission is obtained from the student's parent or legal guardian.

(b) For an anonymous questionnaire or survey, written permission required under (a) of this section may be obtained annually and is valid until the commencement of the subsequent school year or until the parent or legal guardian who gave permission submits a written withdrawal of permission to the school principal. The school shall provide each student's parent or legal guardian at least two weeks' notice before administering a questionnaire or survey described under this subsection.

REPRESENTATIVE ROSES restated his concern as follows:

HB 207 takes the 1999 statute that says if it is an anonymous survey you can get permission at the beginning of the year, [and] ... says you don't need permission. Unless we specifically receive a written notice that you do not want your child to participate, they will automatically participate. However, in

[subsection] (c) where if it says if the survey is not anonymous there must be a two-week written notice, this bill, HB 207, repeals that. And so, we no longer make a distinction between anonymous and non-anonymous surveys. Is that correct?

[4:53:52 PM](#)

REPRESENTATIVE FAIRCLOUGH, in response to comments by Chair Wilson and Ms. Rooney, said she thinks Representative Roses is correct. She continued:

It's going to eliminate the current provision that is in code right now that defines a difference between anonymous and not anonymous. So, he's correct that [subsection] (c) is repealed. You're correct that it's referring to [subsections] (a) and (b), but in the end, the current language that's in statute no longer will exist for a non-anonymous survey; it's rolled together.

[4:54:23 PM](#)

REPRESENTATIVE ROSES said in reading the language, he vacillated on his interpretation of its meaning; therefore, he stated his desire that it be stated for the record if the intent of the bill is to eliminate the two-week requirement for non-anonymous surveys.

MS. ROONEY emphasized that is not the intent of the proposed legislation.

CHAIR WILSON announced her intent to hold HB 207 in order to get the answers to remaining questions.

[4:55:45 PM](#)

REPRESENTATIVE SEATON related that he would like to offer an amendment to add a subsection (d) that would state, "For the purposes of (b) of this section, parents may give annual written permission and waive the requirement to receive surveys for inspection prior to administration by the school district." He explained that many parents don't want the surveys sent to them in the mail, and it is costly to do those mailings. He said he is letting the committee know what his amendment would be, because he would like them to think about it until the next bill hearing.

CHAIR WILSON said she does not think it would be a requirement to send the surveys in the mail; the school would only have to offer the opportunity for the parent to review the survey, which could mean coming in to the school to look at it.

[4:57:33 PM](#)

REPRESENTATIVE FAIRCLOUGH asked for an example of a non-anonymous survey, whereby a child's name is attached to the survey.

MS. ROONEY offered her understanding that surveys which ask about the child's ethnicity, for example, would be non-anonymous.

[4:58:54 PM](#)

CHAIR WILSON closed public testimony and announced that HB 207 was heard and held.

HB 215-TASK FORCE RE: COUNCIL ON DOM. VIOL.

[4:59:49 PM](#)

CHAIR WILSON announced that the next order of business would be HOUSE BILL NO. 215, "An Act relating to the establishment of a task force to review the Council on Domestic Violence and Sexual Assault."

[5:00:20 PM](#)

REPRESENTATIVE FAIRCLOUGH introduced HB 215 as prime sponsor. She touched upon points in the sponsor statement, which read as follows:

Last month the Legislature voted to reauthorize the Council on Domestic Violence and Sexual Assault (CDVSA). Alaska continues to rank among the highest in the nation for rates of domestic violence and sexual assault and the Council has a vital role in prevention, education and response to those incidents in our state.

During the Reauthorization process, a number of questions arose on a variety of issues related to the Council, including its placement in the Department of

Public Safety, the Council's mission, and concerns brought forth in Legislative Audit Reports released in 2006 and 2002. The work done by CDVSA and its role in the battle to end sexual assault and domestic violence is essential, but the Legislature and the public deserve to have their questions addressed.

The Task Force would bring members of the legislature and administration together with members of the public to have thoughtful, comprehensive discussions about the Council and the issues at hand.

This Task Force would prepare and present a report to the full legislature, in an effort to bring increased awareness of the Council's role as well as answer on-going questions that members have with its extension.

This act will be repealed April 16, 2008.

I urge your support in the creation of this Task Force.

REPRESENTATIVE FAIRCLOUGH expressed her hope that she will be appointed as a member of the aforementioned task force. She noted that the Department of Public Safety has committed to paying the transportation and per diem costs of the two public members of the task force, as well as the person representing the Alaska Network on Domestic Violence.

REPRESENTATIVE FAIRCLOUGH stated that there would be amendments to the bill. One amendment would quantify the meeting time and the expected outcome of the meeting. Another amendment would insert "domestic violence" on page 2, line 6. The last amendment would address legislation that established a 90-day session, by changing the February 1, 2008, date on page 3 to March 1, in order to accommodate the possibility of a later session commencement.

CHAIR WILSON commended Representative Fairclough's efforts.

5:05:20 PM

CHRIS ASHENBRENNER, Interim Program Administrator, Council on Domestic Violence and Sexual Assault (CDVSA), noted that she had submitted a letter in support of HB 215, on behalf of CDVSA. She related that at a press conference, Governor Sarah Palin expressed her dislike of Alaska's current statistics related to

sexual assault and domestic violence. She emphasized the council's commitment to continually strive for improvements.

5:06:50 PM

PEGGY BROWN, Executive Director, Alaska Network on Domestic Violence and Sexual Assault (ANDVSA), spoke of a letter from the network in support of HB 215. She said ANDVSA has been actively working with Representative Fairclough and CDVSA. She reported that at a recent meeting, the lieutenant governor stressed the importance of lowering Alaska's statistics on domestic violence and sexual assault. She said it has been 11 years since the Domestic Violence Protection Act of 1996, and it is prudent to look for means of improvement.

5:08:44 PM

CHAIR WILSON closed public testimony.

5:08:54 PM

REPRESENTATIVE GARDNER said upon her first glance of the bill she had questioned what the task force could do that could not be done by the council. She stated that her understanding after hearing Representative Fairclough's presentation is that the council does not establish it's own mandate - the legislature does - and the task force would make recommendations to the legislature.

REPRESENTATIVE FAIRCLOUGH confirmed that would be the case. She noted that [the council] has been working with many members around the state, but she indicated that the council may not be completing all the necessary tasks. She explained, "I think that in the current language we've got a lot of implemented steps to accomplish a broader picture that we may not need" The mission, she said, is very broad and needs to be narrowed to allow the council to do the work it needs to do.

REPRESENTATIVE FAIRCLOUGH, in response Representative Gardner, said those sitting on the task force would not be the same individuals as those already sitting on the council. She said, "The Department of Law's currently there, but the Department of Corrections is not ... currently at the table. ... I don't believe that the Department of Education and Early Development has been an active participant, but the commissioner has at a higher level."

REPRESENTATIVE GARDNER suggested that it may be more efficient for the council to make its own recommendations as to what should be its focus.

REPRESENTATIVE FAIRCLOUGH explained that she wants to see the legislature's involvement so that the council is in line with what that body wants to support. She said her efforts are to streamline the process. She pointed out that those on the council are volunteers who work hard, but the council has not been successful with a strategic plan that it has been working on for four years.

[5:14:26 PM](#)

REPRESENTATIVE CISSNA remarked that HB 215 is succinct legislation. She recalled that six years ago discussions over domestic violence took place. She said resulting recommendations are not usually embraced by the legislature. She encouraged doing "some assessments of this process." She talked about the efforts of the community blending "with this," because she said she thinks there are "a lot of people out there that have been working on this for some time."

[5:16:23 PM](#)

REPRESENTATIVE FAIRCLOUGH said Representative Cissna's remarks are correct. Besides the council and the network, there used to be a funding committee and an action committee, she said. She said the action committee struggled to get anything done because they did not control the funds. She said people have not heard CDVSA's response to the audits. She said page 3 of the bill provides that one of the goals of the task force would be to consider the relationships between the council and other entities. She said the legislature should set the mandate of how it will address violence in Alaska. The council, she said, is in need of a supportive nudge - a partner that can recognize its work and the challenges therein.

REPRESENTATIVE FAIRCLOUGH stated for the record:

I don't think you can prevent rape; I don't think you can prevent someone from stealing your purse; but you can make people aware that that is out there as a possibility in [their] lives. But when we start to educate our public, and when we move toward social change, you're going to see an increase in reporting of child victimization. ... It means we're doing the

right thing, because kids are saying it out loud. ... I just don't leave with anybody the impression that if we do this that the numbers are going to go down, because that's not what's going to happen. The numbers are going to go up, and that means we're doing our job.

5:19:19 PM

REPRESENTATIVE GARDNER requested that the sponsor provide the report titled "Preventing Intimate Partner Violence, Sexual Violence and Child Maltreatment" identified on page 3, lines 17-18.

REPRESENTATIVE FAIRCLOUGH, in response to a question from Representative Gardner, explained that if an amendment were to pass, regarding how often the task force would meet and who would pay per diem and travel expenses, then "a more accurate number document" would be available.

REPRESENTATIVE GARDNER asked for the definition of ex officio.

REPRESENTATIVE FAIRCLOUGH specified that ex officio means "not a voting member." She explained the importance of that distinction.

5:23:06 PM

REPRESENTATIVE ROSES moved to adopt Amendment 1, labeled 25-LS0681\C.2, Luckhaupt/Bullard, 4/10/07, which read:

Page 3, following line 20:

Insert a new subsection to read:

"(e) The task force shall meet a minimum of at least once in the following cities: Juneau, Anchorage, Fairbanks, and a rural community of the state."

Reletter the following subsections accordingly.

Page 3, line 22, following "AS 39.20.180.":

Insert "Each department shall pay the per diem and travel expenses for its representative or representatives to the task force. The Department of Public Safety shall pay the per diem and travel expenses for the two public members of the task force and the director of the Alaska Network on Domestic Violence and Sexual Assault."

[5:24:30 PM](#)

REPRESENTATIVE GARDNER objected for discussion purposes. She asked if the council has its own way of paying per diem and travel expenses or if it should be included under the coverage given by the Department of Public Safety.

REPRESENTATIVE FAIRCLOUGH explained that CDVSA has its own resources since it is a division of the State of Alaska.

REPRESENTATIVE GARDNER removed her objection. There being no further objection, Amendment 1 was adopted.

[5:25:42 PM](#)

REPRESENTATIVE ROSES moved to adopt Amendment 2, as follows:

On page 3, line 27:
Delete "February 1"
Insert "March 1"

There being no objection, Amendment 2 was adopted.

[5:26:25 PM](#)

REPRESENTATIVE ROSES moved to adopt Amendment 3, as follows:

On page 2, line 6:
Between "for victims of" and "sexual assault;"
Insert "domestic violence and"

There being no objection, Amendment 3 was adopted.

[5:26:55 PM](#)

REPRESENTATIVE GARDNER moved to report HB 215, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 215(HES) was reported from the House Health, Education and Social Services Standing Committee.

HB 213-CRIMES : DOMESTIC VIOLENCE SHELTERS

[5:27:30 PM](#)

CHAIR WILSON announced that the final order of business would be HOUSE BILL NO. 213, "An Act relating to an aggravating factor at sentencing for crimes committed at certain shelters and facilities."

[5:27:57 PM](#)

REPRESENTATIVE ANDREA DOLL, Alaska State Legislature, introduced HB 213, as prime sponsor. She said the bill addresses safety at shelters by allowing stiffer sentences. She related an incident that happened at the AWARE shelter in Juneau which instigated the creation of the proposed legislation. She noted that April is [Sexual Assault Awareness] month.

[5:32:15 PM](#)

REPRESENTATIVE GARDNER asked for examples of how the sentencing would change under HB 213. She also asked for a definition of the phrase [on page 1, line 6]: "facility providing services to victims of domestic violence or sexual assault."

[5:33:01 PM](#)

REPRESENTATIVE DOLL said a "facility providing services" means a place offering refuge, counseling, classes, and a wide variety of services.

REPRESENTATIVE GARDNER asked if the bill would apply to a next-door neighbor giving shelter to a battered woman in the neighborhood.

REPRESENTATIVE DOLL said that is a good question.

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RICK SVOBODNY, Deputy Attorney General, Department of Law, said aggravating factors related to the bill are tried to a jury; therefore, the jury determines the definition of a shelter or facility that provides services for domestic violence or sexual assault victims. Notwithstanding that, Mr. Svobodny said he thinks it is the intent of the sponsor and would be the interpretation of anyone who reads the bill that "we're talking about the type of shelters that exist throughout the state or are funded by [CDVSA]."

[5:36:09 PM](#)

MR. SVOBODNY, in response to Representative Gardner, said aggravating factors allow a judge to increase the length of a sentence from the length that has been deemed appropriate for any particular case. He offered examples.

[5:37:48 PM](#)

REPRESENTATIVE SEATON asked the sponsor if the aforementioned facility refers to a facility providing residential services.

REPRESENTATIVE DOLL replied yes.

REPRESENTATIVE SEATON asked Representative Doll if she would object to adding the language "residential" in order to be clear.

REPRESENTATIVE FAIRCLOUGH told Representative Seaton that doing so would eliminate rape crisis centers such as Standing Together Against Rape (STAR) in Anchorage.

REPRESENTATIVE SEATON explained that he is seeking a definition of what would and would not be covered.

[5:40:55 PM](#)

REPRESENTATIVE GARDNER stated her concern that using the term "residential" includes a HUD home. She suggested using the term "secure".

[5:41:21 PM](#)

REPRESENTATIVE CISSNA said women are often in the most danger just when they think the danger is over, and she indicated that a broad [term] is needed in the language.

[5:42:41 PM](#)

JERRY LUCKHAUPT, Attorney, Legislative Legal and Research Services, Legislative Affairs Agency, explained that he deliberately used broad language when drafting the bill in order to cover those facilities that don't meet all specifications. He said a prosecutor would have to convince a jury that the facility in question provides services to victims of domestic violence and sexual assault. In response to Representative Gardner's aforementioned example of a victim fleeing to a neighbor's house, while the neighbor may be providing temporary shelter, he/she is not providing services.

[5:44:31 PM](#)

REPRESENTATIVE ROSES said the bill adds aggravating factors and he does not think it is necessary to define where those aggravating factors occur. He said the discretion is being given to the court system and the language in the bill should be left vague. In conclusion, he stated that he is comfortable with the language as it is.

[5:45:49 PM](#)

REPRESENTATIVE FAIRCLOUGH said in remote and rural communities there may be safe homes that do not receive funding from CDVSA or even have paid staff. She said she shares Representative Seaton's concern, but also appreciates the remarks of Representative Roses.

[5:47:19 PM](#)

REPRESENTATIVE DOLL, in response to Representative Cissna, said the idea of the bill is to bring attention to protecting women; it will not solve the entire problem but provides a beginning. She related a story about a woman recently shot at the University of Washington.

[5:49:40 PM](#)

CHAIR WILSON noted that men are also victims.

[5:49:56 PM](#)

REPRESENTATIVE SEATON commented that the legislature's job is to write the law as it wants it enforced and the language of the bill is vague. He said he would not like to see one circumstance treated in one manner in one court and in a different manner in another court. He expressed his support for the intention of the bill, but said he would like to clarify its intent through its language. He admitted that he does not know how to do that, but suggested perhaps the House Judiciary Standing Committee would have a solution. He stated, "I'm uncomfortable when I cannot read the bill and then tell you where it is that the aggravator will apply, and that's ... just my concern."

MR. SVOBODNY said this issue is a policy call for the committee. He suggested that on page 1, line 6, the language could specify that the facility be one "that operates to provide services".

[5:52:38 PM](#)

REPRESENTATIVE FAIRCLOUGH suggested that the language read, "recognized shelter or facility". Regarding the aggravating factor at sentencing, she stated that rapists in Anchorage still rape, but are less likely to carry a knife or gun - actions that would aggravate the assault - because they know that would add time to their sentence. The bill would be a deterrent, she said. She stated, "It's sad to say that some of these individuals do have a brain and they choose to behave like this, but it is learned behavior. And they can learn that aggravation causes additional consequence."

[5:54:18 PM](#)

REPRESENTATIVE GARDNER said she would support Representative Fairclough's idea to add "recognized", because a safe home in a rural area might not necessarily be "a place that operates."

[5:54:52 PM](#)

REPRESENTATIVE FAIRCLOUGH moved to adopt Conceptual Amendment 1, as follows:

On page 1, line 5:

Between "premises of a" and "shelter"
Insert "recognized"

There being no objection, Conceptual Amendment 1 was adopted.

[5:55:34 PM](#)

REPRESENTATIVE GARDNER moved to report HB 213, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 213(HES) was reported from the House Health, Education and Social Services Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at [5:55:55 PM](#).