

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

February 11, 2008  
1:17 p.m.

**MEMBERS PRESENT**

Representative Jay Ramras, Chair  
Representative Nancy Dahlstrom, Vice Chair  
Representative John Coghill  
Representative Bob Lynn  
Representative Ralph Samuels  
Representative Lindsey Holmes  
Representative Mike Doogan

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

Representative Max Gruenberg

**COMMITTEE CALENDAR**

HOUSE BILL NO. 351

"An Act relating to submission of fingerprints by applicants for a concealed handgun permit; and providing for an effective date."

- MOVED CSHB 351(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 250

"An Act relating to children engaging in inappropriate sexual conduct."

- HEARD AND HELD

HOUSE BILL NO. 303

"An Act relating to marine products and motorized recreational products; and providing for an effective date."

- BILL HEARING CANCELED

**PREVIOUS COMMITTEE ACTION**

BILL: HB 351

SHORT TITLE: CONCEALED HANDGUN PERMIT: FINGERPRINTS  
SPONSOR(S): REPRESENTATIVE(S) COGHILL

02/06/08 (H) READ THE FIRST TIME - REFERRALS  
02/06/08 (H) JUD, FIN  
02/11/08 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 250

SHORT TITLE: YOUTH INAPPROPRIATE SEXUAL CONDUCT  
SPONSOR(S): REPRESENTATIVE(S) DOOGAN

05/02/07 (H) READ THE FIRST TIME - REFERRALS  
05/02/07 (H) JUD, FIN  
05/10/07 (H) JUD AT 1:00 PM CAPITOL 120  
05/10/07 (H) Heard & Held  
05/10/07 (H) MINUTE(JUD)  
02/11/08 (H) JUD AT 1:00 PM CAPITOL 120

**WITNESS REGISTER**

KAREN LIDSTER, Staff  
to Representative John Coghill  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 351 on behalf of the sponsor,  
Representative Coghill.

NORMAN D. MEANS, M.D.  
Palmer, Alaska

**POSITION STATEMENT:** Provided comments during discussion of  
HB 351 and suggested a change to the bill.

KATHRYN MONFREDA, Chief  
Criminal Records and Identification Bureau  
Division of Statewide Services  
Department of Public Safety (DPS)  
Anchorage, Alaska

**POSITION STATEMENT:** Responded to questions during discussion of  
HB 351.

CORRINE BRYANT, Center Manager  
Alaska C.A.R.E.S. (Child Abuse Response and Evaluation Services)  
Providence Health & Services  
Anchorage, Alaska

**POSITION STATEMENT:** Provided comments and responded to  
questions during discussion of HB 250.

CAROL COMEAU, Superintendent of Schools  
Anchorage School District (ASD)  
Municipality of Anchorage (MOA)  
Anchorage, Alaska

**POSITION STATEMENT:** Provided comments during discussion of HB 250.

SHARON K. ARAJI, Ph.D., Professor of Sociology  
University of Alaska Anchorage (UAA)  
Anchorage, Alaska

**POSITION STATEMENT:** During the hearing on HB 250, provided information regarding preadolescent children with sexual behavior problems.

MICHAEL LESMANN, Community Relations Manager, Legislative Liaison  
Office of Children's Services (OCS)  
Department of Health and Social Services (DHSS)  
Juneau, Alaska

**POSITION STATEMENT:** Provided comments and responded to questions during discussion of HB 250.

TAMMY SANDOVAL, Director  
Central Office  
Office of Children's Services (OCS)  
Department of Health and Social Services (DHSS)  
Anchorage, Alaska

**POSITION STATEMENT:** Responded to questions during discussion of HB 250.

CHRIS PROVOST, Supervising Attorney  
Civil Section - Juvenile Delinquency  
Office of Public Advocacy (OPA)  
Department of Administration (DOA)  
Anchorage, Alaska

**POSITION STATEMENT:** Provided comments during discussion of HB 250.

#### **ACTION NARRATIVE**

**CHAIR JAY RAMRAS** called the House Judiciary Standing Committee meeting to order at [1:17:02 PM](#). Representatives Holmes, Doogan, Dahlstrom, Coghill, Samuels, Lynn, and Ramras were present at the call to order. Representative Gruenberg was also in attendance.

HB 351 - CONCEALED HANDGUN PERMIT: FINGERPRINTS

1:17:34 PM

CHAIR RAMRAS announced that the first order of business would be HOUSE BILL NO. 351, "An Act relating to submission of fingerprints by applicants for a concealed handgun permit; and providing for an effective date."

1:17:41 PM

KAREN LIDSTER, Staff to Representative John Coghill, Alaska State Legislature, sponsor, relayed on behalf of Representative Coghill that HB 351 would alter Alaska's statute pertaining to obtaining a permit to carry a concealed handgun such that only one fingerprint card would be required rather than two. Changes in technology have allowed the Department of Public Safety (DPS) to only need one set of fingerprints, and this statutory change will reflect what is currently actually happening.

REPRESENTATIVE COGHILL, speaking as the sponsor, remarked that duplication is the bane of governments, and HB 351 merely provides that since only one set of fingerprints is needed [for processing an application for a concealed handgun permit], only one set shall be required.

CHAIR RAMRAS noted that similar [unnecessary] duplication of fingerprint cards occurs with regard to certain licensees.

REPRESENTATIVE COGHILL concurred, but pointed out that while some of that fingerprint duplication can be addressed via regulations, the fingerprint duplication for concealed handgun permits has to be addressed via statute.

REPRESENTATIVE DAHLSTROM offered her hope that someday the state will have only one fingerprint database that can be accessed by all agencies that need to, thereby eliminating the aforementioned duplication.

REPRESENTATIVE COGHILL explained that the DPS has suggested an amendment that would allow the department flexibility with regard to which format it would allow fingerprints to be submitted on.

1:21:25 PM

NORMAN D. MEANS, M.D., after relaying that is the holder of concealed handgun permit, said that although he is in agreement

with the bill, his concern is that holders of concealed handgun permits are losing their National Instant Criminal Background Check System (NICS) exemption because, since 6/1/06, the Federal Bureau of Investigation (FBI) quit conducting fingerprint checks for the DPS. He suggested, therefore, that the bill be amended to require the DPS to the perform fingerprint checks so that permit holders can once again get a NICS exemption.

[1:23:11 PM](#)

KATHRYN MONFREDA, Chief, Criminal Records and Identification Bureau, Division of Statewide Services, Department of Public Safety (DPS), in response to a question regarding Dr. Means's comment on the NICS, clarified that the FBI actually is still conducting fingerprint checks for the DPS, but is no longer conducting a search of "the other files" that it maintains under the Brady Handgun Violence Prevention Act ("Brady Bill"). The DPS itself, she remarked, doesn't have the resources to do that work, and she isn't sure why the FBI is no longer doing so.

MS. MONFREDA, in response to further questions, explained that a permit holder will have to have a NICS check done at the time of any gun sale/purchases, and although there might be a delay of up to three days, over 95 percent of such checks are performed immediately.

[1:24:47 PM](#)

REPRESENTATIVE MAX GRUENBERG, Alaska State Legislature, noting that existing AS 18.65.700(a)(8) stipulates that a person applying for a permit can't suffer a physical infirmity that prevents the safe handling of a handgun, asked whether the DPS has a standard that defines "physical infirmity that prevents the safe handling of a handgun", and how that would be determined.

MS. MONFREDA said she is not sure of the answer but would research the issue further, and indicated that she would provide that information to the committee.

CHAIR RAMRAS, after ascertaining that no one else wished to testify, closed public testimony on HB 351.

[1:26:30 PM](#)

REPRESENTATIVE COGHILL made a motion to adopt Amendment 1, labeled 25-LS1411\C.1, Luckhaupt, 2/11/08, which read:

Page 2, lines 1 - 2:

Delete "on a Federal Bureau of Investigation approved fingerprint card [CARDS]"

Insert "in the format approved by the department [ON FEDERAL BUREAU OF INVESTIGATION APPROVED FINGERPRINT CARDS]"

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

REPRESENTATIVE COGHILL expressed reluctance to address "the NICS issue" via HB 351, but added that he is sympathetic to the concern raised.

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REPRESENTATIVE DAHLSTROM moved to report HB 351, as amended, out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHB 351(JUD) was reported from the House Judiciary Standing Committee.

HB 250 - YOUTH INAPPROPRIATE SEXUAL CONDUCT

[1:28:17 PM](#)

CHAIR RAMRAS announced that the final order of business would be HOUSE BILL NO. 250, "An Act relating to children engaging in inappropriate sexual conduct."

[1:28:29 PM](#)

REPRESENTATIVE SAMUELS moved to adopt the proposed committee substitute (CS) for HB 250, Version 25-LS0882\M, Mischel, 1/4/08, as the work draft. There being no objection, Version M was before the committee.

REPRESENTATIVE DOOGAN, speaking as the sponsor of HB 250, relayed that Version M encompasses three changes from the original bill: one, the behaviors covered under the bill are now specifically outlined; two, there is now a requirement that a caregiver be notified in cases where the Department of Health and Social Services (DHSS) finds "a problem"; and, three, there is now a requirement that both the victim and perpetrator be clinically assessed, with the cost of any subsequent treatment [for the perpetrator being borne by the parent or guardian of

the perpetrator]. He mentioned that the House Finance Committee would be reviewing the bill's fiscal notes.

REPRESENTATIVE DOOGAN recalled that at the bill's first hearing in the House Judiciary Standing Committee, some concern was expressed that the bill would be applied inappropriately to children simply "playing doctor"; that it might result in [premature] notification; and with regard to how to deal with the perpetrators. He offered his understanding that there is still some concern regarding the latter point - concern over whether suitable programs exist, whether trained personnel are available in Alaska, and how children found to be perpetrators will be dealt with by the State. He surmised that such perpetrators are not the kind of children one would want housed with other children. In conclusion, he offered that Version M addresses all the concerns that could be addressed via this particular piece of legislation.

REPRESENTATIVE DAHLSTROM relayed that according to conversations she's had with the Office of Children's Services (OCS), if HB 250 were in place today, the OCS would be unable to follow through with what's being required by the bill because of a lack of staff. Regardless, she said, she and the sponsor still feel that the issue of [children sexually molesting other children] needs to be addressed, and offered her understanding that this sort of behavior is a learned behavior in that the perpetrators have themselves been molested. The bill is not a fix-all, she acknowledged, but it is a good start in the direction of putting systems in place that will help the children and their parents.

CHAIR RAMRAS questioned whether the bill creates an unfunded mandate.

REPRESENTATIVE DAHLSTROM opined that it does not; rather, the bill falls under one of the legislature's constitutionally mandated duties, that being to ensure public safety.

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REPRESENTATIVE MAX GRUENBERG, Alaska State Legislature, said he would like to know how many incidents of [children sexually molesting other children] there are likely to be in a year and what the cost will be to deal with such children, in order to determine whether the bill should be given a fiscal note.

REPRESENTATIVE DOOGAN said that approximately 100 incidents per year are expected, and this tentative guess is based both on

what the rest of the U.S. has experienced and on the population of Alaska. He offered his belief that the current fiscal notes reflect that estimate. In response to a question, he explained that the bill isn't changing who has to report; rather, Version M makes a change to the nature of the reports themselves, aligning such reports to those that the OCS is used to dealing with anyway, those being reports of harm as defined by the department in order to get certain children into the system.

CHAIR RAMRAS offered his understanding that adult pedophiles begin sexually molesting children when they themselves are children, and expressed interest in learning more about the brain chemistry of young perpetrators of such crimes.

[1:42:56 PM](#)

CORRINE BRYANT, Center Manager, Alaska C.A.R.E.S. (Child Abuse Response and Evaluation Services), Providence Health & Services, after relaying that Alaska C.A.R.E.S. is the Children's Advocacy Center ("CAC") in Anchorage, said that there isn't currently a system in place in Anchorage for the investigation of "child on child" cases. Alaska C.A.R.E.S., however, has seen such cases because they are informally referred by law enforcement, by medical providers, by childcare licensing personnel, by counselors in the community when the family of the victim wants to have their child evaluated, and by the OCS when the parents of [the perpetrator] want help for their child. Out of the 900 [sexually molested] children Alaska C.A.R.E.S. served last year, 56 had perpetrators who were under the age of 12.

MS. BRYANT, in response to a question, indicated that such cases involve coercion, manipulation, and secrecy, and the victim feels shame as well as all of the other emotional consequences that are felt by adult victims [of rape]. Returning to her testimony, she relayed that when the OCS refers a perpetrator to the Alaska C.A.R.E.S., a forensic interview is conducted, a determination is made, and referrals for services in the community are provided. She noted that in Wasilla, these cases are assigned to local law enforcement, as are all sexual abuse cases; both the victim and the perpetrator are interviewed at the CAC in Wasilla, and the information about the perpetrator is forwarded to the Division of Juvenile Justice (DJJ), and although the DJJ may not be able to do anything except notify the family and provide treatment referrals, at least a paper trail for the perpetrator has been established.

MS. BRYANT said that she was on the task force that was meeting to help with the gap in services for these children, and this Anchorage-based task force did not get much input from rural areas of the state. Although the goal of some participants in that task force was to provide a solution to a few of the problems that were being seen, input from other participants was ignored and so they stopped coming and participating. As a result, she relayed, she has some questions regarding HB 250 as it's currently written. Referring to language in proposed AS 47.10.401(a), which stipulates that upon receiving a report of harm the department shall conduct an investigation, she asked whether the department would be receiving both a report on the victim and a report on the perpetrator, whether the victim will be involved in the initial investigation, and whether such participation will be voluntary. And if there isn't any investigation involving the victim, she remarked, then she is uncertain how [the claims of sexual molestation] can be substantiated by the OCS.

MS. BRYANT, referring to the language in proposed AS 47.10.401(b)(3), which stipulates that the department shall provide a qualified clinical assessment of the [perpetrator], asked who would pay for that assessment, particularly given that even in Anchorage there are very few providers capable of providing such an assessment on a child perpetrator. Even when there is such a provider available, families are often told after the clinical assessment that their child is not a threat to other children, but then the child reoffends. And in [rural] areas of the state, clinical assessments can't be performed at all because there are no such providers. She questioned, therefore, whether the OCS would be paying to fly a provider out to those areas or whether the families would have to come into an urban setting to have an assessment conducted.

MS. BRYANT, referring to proposed AS 47.10.401(b)(4), which stipulates that the department shall provide clinical treatment to the perpetrator, pointed out that existing treatment programs in the state don't treat un-adjudicated sex offenders or child perpetrators, and that there are no inpatient programs and very few outpatient treatment providers. Also, if a parent refuses to pay for such treatment, how will the issue get resolved? Will the OCS then be mandated to provide that treatment? She said that she has been working at the CAC for about seven years, and the CAC has seen an increase in reports of [children sexually molesting other children], and there clearly is a hole in the system for such children. Although she has only seen about a dozen children over the years that would qualify under

the bill but that don't have parents who would follow through with getting them treatment, most parents don't want their children to become adult sex offenders and so will get their children treatment.

MS. BRYANT said she also has a concern that children will be [mistakenly] labeled. For example, there are cases where a small child discloses that he/she has been molested by an older child but doesn't know more than the perpetrator's first name, and so another child could be wrongly identified. She warned that they must be careful with how to go forward with this legislation; although something needs to be done to address the problems with the current system, this is a very complicated issue and she is not sure that the bill adequately addresses the treatment component, and she is also confused about what differences there might be between an "assessment" and an "investigation" as stipulated in the bill.

1:53:06 PM

CAROL COMEAU, Superintendent of Schools, Anchorage School District (ASD), Municipality of Anchorage (MOA), after relaying that she has worked extensively with Ms. Bryant, the Alaska C.A.R.E.S., and the "crimes against children" unit of the Anchorage Police Department (APD), acknowledged that there was one case that was publicized extensively in which the parents of a three-year-old [perpetrator] refused to seek treatment for him after his behavior came to the attention of the OCS, and by the time he entered first grade in a new school [and molested a child there], he'd already [been molesting other children] in the neighborhood and in kindergarten [at a different school], but that information was never provided to the authorities at the new school. She said that the ASD really supports the sponsor's intent in trying to address this issue, and characterized Version M as being better than the original version.

MS. COMEAU said that although the ASD is very concerned about the potential for "over reporting" and [misidentifying] a perpetrator, there has been a significant increase in the number of sexually aggressive children in the schools. A solution must be found, she opined, to help these truly sexually aggressive children - those that intimidate, manipulate, coerce, and threaten their victims. This is shocking and scary behavior, mostly perpetrated by a growing number of boys, and it's changed the nature of preschool, kindergarten, and first grade. The ASD thinks that HB 250 is a good start, but the ASD doesn't want

young children to be labeled and reported to the OCS when they aren't really sexually aggressive.

MS. COMEAU she went on to say:

I'll tell you the real problem for us has been, some of the parents have refused to acknowledge that their child has a problem. In some cases, the school has suspected that the child is either being abused at home or is watching [an] extensive amount of pornography or X-rated movies and it's becoming something that's not regulated, if you will, in the family, and so the children are learning about this kind of behavior through the Internet, through TV, cable, and so forth. But we also think there may be some abuse from older siblings, relatives, [and] parents, where it's this secrecy hush-hush thing. So there is an issue, we need to deal with it, but what the right way to deal with it is the concern, and over identification is really my staff's and our biggest, biggest concern.

[1:57:53 PM](#)

CHAIR RAMRAS offered his understanding that one child sexually molesting other children can result in those children then molesting still other children. However, he does not want to create an unfunded mandate, particularly given that this problem requires acute management.

MS. COMEAU said it has been found that when a situation devolves to the point of needing to have the police or the Alaska C.A.R.E.S. or the OCS intervene, the way a parent handles that situation makes a significant difference. For example, when parents are willing to seek help for their children and work in partnership with agencies and the school district, usually those children can be helped and turned around and the behavior never occurs again. Sometimes, however, when parents overreact, the children can develop more problems. She said she was very upset with the initial lack of communication by the OCS in the aforementioned case, but the OCS's communication has since improved and it is now willing to share such information with the ASD, thus giving the ASD an opportunity to put a safety plan in place before something bad happens again. The OCS has conducted joint training with ASD, for example, and everyone has taken other steps to educate people that this is a real issue

for children, so some good has come from some very ugly situations, she concluded.

REPRESENTATIVE GRUENBERG pointed out that nothing in either the original bill or Version M addresses the issue of a parent who [once notified that his/her child is sexually molesting other children] fails to act. He asked whether there is anything that requires a parent to act in such situations.

MS. COMEAU said she is not aware of anything. She expressed favor, though, with the language in Version M that requires the department to immediately notify all adults who have a legitimate interest in the child.

REPRESENTATIVE GRUENBERG said he didn't know whether the behavior of a child perpetrator could be considered delinquent behavior and thus failure to take action could then be considered contributing to the delinquency of that child. He asked Ms. Comeau whether she is aware of other situations in which a parent failed to act.

MS. COMEAU said there have been other situations involving non-cooperative parents, but those situations didn't rise to the same level as the one she'd described.

[2:04:22 PM](#)

REPRESENTATIVE DAHLSTROM acknowledged that this type of behavior has long-lasting consequences, and surmised that many parents handle such behavior by ignoring it. She offered her belief that the bill is intended to create a situation in which children are being protected and there is a process in place for everyone. She mentioned that she'd met with [one of the victim's of the aforementioned perpetrator] and his mother, and the mother's main concern was that a way should be found to protect other children.

REPRESENTATIVE DOOGAN, on the issue of "over reporting," explained that the OCS investigates complaints, and it's only once those complaints are substantiated that the name [of the perpetrator] is released. Also, once the complaint is substantiated, the OCS is then responsible for a clinical assessment. On the question pertaining to the difference between an assessment and an investigation, he offered:

You have sort of two choices, here, as near as I can tell. There's a clinical model, which this sort of

follows, and there's a criminal model ... in which you would have something that plugged more directly into the criminal justice system. So this is an attempt to match a situation in which you do want to be sensitive to the fact that not every claim is going to be substantiated, and yet on the other hand have a mechanism for treatment once a claim is substantiated. ... That's the reason ... [the] OCS takes two steps, here. First they, ... basically, investigate the charge, and if they find that it's ... substantiated ..., the next step is, they're required to make sure that there's a clinical assessment of the perpetrator and that treatment occurs based on that assessment.

[2:08:56 PM](#)

SHARON K. ARAJI, Ph.D., Professor of Sociology, University of Alaska Anchorage (UAA), relayed that in addition to being with the UAA, she is also with the University of Colorado, and along with Cynthia Bradley of the APD was one of the primary organizers of the Alaska Taskforce on Preadolescents with Sexual Behavior Problems, which was brought together last year to address the issue [of children sexually molesting other children]. She mentioned that in 1997 she'd published a book - Sexually Aggressive Children: Coming to Understand Them - and she'd noted in her book back then that there was a task force in Anchorage, and her concern is that even now, many years later, still nothing has been done to address this issue, and now there are many more perpetrators and victims. The new task force sought input from all interested parties, and a legislative solution was what some members focused on. There is a concern, she relayed, that this legislation be moved forward, because currently no one is mandated to deal with child perpetrators and there isn't any funding with which to do anything with them.

DR. ARAJI surmised that this lack has resulted in situations such as the one Ms. Comeau described. The concern is that this really is an issue; best estimates are that about 6 percent of children [are being sexually molested by other children]. The perpetrators don't usually have only one victim, and new research illustrates that the more this type of behavior becomes a pattern - i.e., not checked - the harder it is to stop. Therefore, she remarked, even though HB 250 as currently written might not be the bill that ultimately gets enacted, "we" must move forward on this in order to prevent further victimization. She cautioned against simply creating an unfunded mandate - there has to be money put into this effort. Although many

parents will pay for treatment for their child, some may not have the resources to do so. Regardless, passage of the bill in some form will ultimately save the state a lot of money because otherwise these child perpetrators who don't get treatment and subsequently develop a pattern will again be seen as adolescent offenders and as adult offenders. If the state can fund a preventative/intervention plan as proposed by the bill, it will save a lot of "human costs" and dollar costs.

DR. ARAJI, in conclusion, urged the committee to continue its work on this issue and recognize that this is an issue which must be faced.

[2:13:59 PM](#)

REPRESENTATIVE DAHLSTROM offered her belief that most parents who refuse to seek treatment for their child refuse to do so because they are in denial of the problem or because they are embarrassed by it or because there is some sort of abuse going on in the home that they don't wish to have revealed, not because treatment poses a financial burden.

DR. ARAJI said she both agrees and disagrees. She elaborated:

I think some ... parents would not deny the issue, particularly if the abuse is not originating in the family; if it's originated outside the family, it's a lot less embarrassing. However, if it's going to open up a whole history - and what we find is [much] ... of this ... is from one generation to another or across generations that ... still exist - I think those parents are going to be very reluctant to have the history and what's going on in their families opened to the public and perhaps even open them to charges. And in the original document, you will notice an appendix B, ... [which] talks about [the crime of] endangering the welfare of a child in the first degree, and we have some suggestions in there [regarding] ... what we wanted to add ..., and that is what would happen to the parent who knows ... [that] his child or children are involved in this perpetrating behavior, and how [the parents] ... could be punished if they ignore it.

REPRESENTATIVE GRUENBERG asked whether the bill would conflict with the Indian Child Welfare Act (ICWA).

DR. ARAJI said that might be a possibility that should be researched, and concurred with previous comments that the new task force had not had time to obtain input from rural areas of the state. "This" is going to be a big issue in rural areas of the state, she remarked, and so of course will involve Alaska Natives.

REPRESENTATIVE GRUENBERG surmised that how small communities deal with this issue could be quite different from how larger communities deal with it.

DR. ARAJI relayed that she's worked with many of the Alaska Native faculty at UAA, and some have shared with her the problems that exist in rural communities, and even approached the subjects of incest. So treatment, assessment, and identification would have to involve Native leaders, because they are very much concerned about this issue, and [these communities may have] a big percentage of the problem.

[2:18:45 PM](#)

REPRESENTATIVE GRUENBERG asked why the age of 12 was selected.

DR. ARAJI said that's the age at which adolescence usually begins, and the age of 12 and under is what all the experts in this field are focusing on as a way of differentiating between preadolescent offenders and adolescent offenders. She pointed out that this essentially takes more of a clinical approach as opposed to a criminal approach.

REPRESENTATIVE GRUENBERG characterized HB 250 as a good and important bill, but questioned whether this creates a loophole if the perpetrator is over the age of 12.

DR. ARAJI suggested that the laws pertaining to adolescents would then apply, but acknowledged that perhaps that issue should be researched further.

REPRESENTATIVE DAHLSTROM, on the issue of the ICWA, said her intent with the bill is to protect the children who cannot protect themselves, not to single out the children and their victims based on their race.

REPRESENTATIVE DOOGAN mentioned that when the new task force finished it's work, it had an extensive and well thought-out proposal but with a \$10 million fiscal note. He chose instead to address this issue via a system that required reporting and

required the DHSS to deal with child perpetrators the best it could, with the understanding that more information about this issue and how to better address it would then be forthcoming.

[2:23:16 PM](#)

MICHAEL LESMANN, Community Relations Manager, Legislative Liaison, Office of Children's Services (OCS), Department of Health and Social Services (DHSS), relayed that he's worked with the sponsor and his staff, and appreciates their efforts to deal with this very complex issue - that being children sexually [molesting] other children. The view of the OCS, however, is that the bill in its current form would require the OCS to intervene in a family's life regardless of the parents' decisions, actions, or their ability to safely parent their own child. Under the bill, parents could be doing everything conceivable to obtain treatment and therapy for their child, and everything conceivable to take the appropriate steps to protect other children from their offending child, and yet the parents would still have to be managed and have to have case management services provided to them by case workers from the OCS.

MR. LESMANN said that while the OCS certainly recognizes the importance of treating children with sexual behavior problems and protecting other children, state law, as currently written, requires the OCS to intervene on the basis of the parents' behavioral problems, not the children's behavioral problems. The bill, in contrast, would establish the OCS as the first line of defense against children sexually molesting other children, but the OCS would prefer that the parents be the first line of defense. He said that if parents are not responsive to such situations, or if they are negligent, culpable, or refuse to get the necessary treatment for their child, or if there is some report that suggests the child himself/herself is a victim at the hands of his/her parents, the law is written so that the OCS can intervene, and the OCS does so.

MR. LESMANN asked the committee to also keep in mind that when such an investigation takes place, the OCS needs to be able to substantiate the allegations before going forward with a petition for custody.

REPRESENTATIVE DAHLSTROM asked whether there should instead be another agency tasked solely with dealing with children's [sexual] behavior problems.

MR. LESMANN said that such an agency, in a perfect world, is "mom and dad"; if those children who are sexually molesting other children fall outside of the criminal or delinquency statutes, and there are no grounds for Child Protective Services to be involved, the OCS hopes that mom and dad are the first line of defense.

[2:28:38 PM](#)

REPRESENTATIVE GRUENBERG, referring to the DHSS's fiscal note, said it would seem to him that removing the child from the home so that he/she won't reoffend would address the welfare of that child. If such is the case, what would the DHSS's fiscal note then be reduced to?

MR. LESMANN explained that that fiscal note is based on the original version of the bill, because the department doesn't prepare a fiscal note on a committee substitute until it is [moved from committee]; so, should Version M move from committee, the DHSS will then revise its fiscal note. He also indicated that the fiscal note only applies for a child offender who actually ends up becoming a child in need of aid (CINA).

REPRESENTATIVE GRUENBERG offered that the bill doesn't necessarily account for the child offender being a CINA. Therefore, what would the fiscal note be when a child offender isn't determined to be a CINA?

REPRESENTATIVE COGHILL surmised that the answer to that question would involve pure speculation.

REPRESENTATIVE DOOGAN asked who deals with "these problems" currently.

MR. LESMANN said the OCS hopes that members of the community and the parents are addressing such problems. Under current law, the OCS can only intervene if the parents fail and that information is then reported to the OCS.

REPRESENTATIVE COGHILL surmised, then, that if parents are "negligent to the fact" that they have a child who is being abused by someone else, then that might be cause for a report of harm to come to the OCS.

MR. LESMANN concurred.

REPRESENTATIVE COGHILL questioned whether a report of harm would also come to the OCS if it became known that the parents were aware that their child is a perpetrator and harming other children.

MR. LESMANN said that a report could likely come into any one of the OCS's offices, but there really is no filter regarding the kinds of reports the OCS receives, so the determination of whether the OCS screens that report in for assessment depends on information pertaining to the parents' actions.

REPRESENTATIVE COGHILL pointed out, though, that what the legislature is attempting to address via the bill is how to deal with children who are sexually assaulting other children - that's criminal behavior. Under the CINA laws, the OCS currently has the ability to provide protection to a child before harm occurs, whereas the goal [with the bill] is to get a hold of perpetrators and get them counseling; doing so would be a new role for the OCS, he acknowledged.

CHAIR RAMRAS surmised that the OCS is reluctant to take on such a role.

MR. LESMANN concurred.

REPRESENTATIVE LYNN asked whether there are specific profiles of child perpetrators.

MR. LESMANN said that the OCS doesn't have that information, but acknowledged that 61 percent of the children who are in state custody are Alaska Native.

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TAMMY SANDOVAL, Director, Central Office, Office of Children's Services (OCS), Department of Health and Social Services (DHSS), in response to questions, said that she has not yet had discussions with the commissioner [regarding the appropriate staffing levels necessary to implement legislation such as HB 250], but has had conversations with the other divisions within the department. She relayed that the OCS is having a hard time meeting even its current statutory obligations, so although the OCS is probably the best division to address this very real issue of child perpetrators, and the OCS wants to do so, it doesn't currently have the necessary resources to do so. She added:

If we were to take this on, it would have to be a specialty. This wouldn't be something that we [already] do, [so] we would have to count on our child advocacy centers to partner with us because they are best equipped to do this. There ... [is] a request in for additional funding for child advocacy centers. I would say that this [bill], again, makes that need necessary, because we would have to partner with them if this were to happen.

REPRESENTATIVE DAHLSTROM surmised that the OCS, and the department as a whole, knows that there is a problem, and that in order to address it, the OCS would need more staff.

MS. SANDOVAL concurred.

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CHAIR RAMRAS asked how many other states are dealing with child perpetrators in a fashion similar to what HB 250 proposes.

MS. SANDOVAL said she doesn't know, but surmised that child welfare agencies around the country are struggling with meeting all the various special needs of children and their families. Years ago, there was this concept of "child welfare" and [her agency] tried to be all things to all people; now, however, the OCS is focusing on child protection, which is sometimes viewed as government intrusion into families' lives, and so if parents are meeting the needs of their children, the OCS tries to leave them alone. Child protection should step in when children are unsafe in their own homes, she opined.

REPRESENTATIVE DOOGAN said that he's not found any other state addressing the issue of child perpetrators.

MS. SANDOVAL, in response to a comment and a question regarding the term "harm" as defined in the bill, said that the OCS, internally, is attempting to be clearer about allegations that are substantiated claims as opposed to unsubstantiated claims; furthermore, the OCS must also determine whether kids are "at risk" even though that term is defined in several ways.

REPRESENTATIVE COGHILL surmised that it might be difficult for the OCS to comply with what's currently required by the bill.

MR. LESMANN, in response to questions, offered his understanding that under Version M, court oversight has been eliminated, and

the authority of the OCS and the DHSS with regard to children who sexually molest other children is specified in the bill.

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CHRIS PROVOST, Supervising Attorney, Civil Section - Juvenile Delinquency, Office of Public Advocacy (OPA), Department of Administration (DOA), relayed that the OPA would echo the main concerns expressed thus far and agrees with the OCS in most respects with regard to HB 250. Although Version M is a big improvement over the original version of HB 250, and defines exactly what "inappropriate sexual conduct" consists of, there is a concern that that definition too closely parallels the definition of adult sexual misconduct. He then noted that what he characterized as a constitutionally problematic provision pertaining to the duty to report and the penalty for failure to do so is not included in Version M.

MR. PROVOST said that when dealing with children who are age 12 and under, the OPA agrees that a clinical approach versus a criminal approach is better for kids, families, and the community. In many respects, it's a "much bigger hammer" to have the OCS looming in the background, as opposed to a mere misdemeanor charge, and there will be better outcomes in "these unique cases" as a result of having the OCS - rather than a magistrate or district court judge - working with the parents, he added. He relayed that the OPA feels there is existing jurisdictional grounds, under existing AS 47.10.011(4), for the OCS to take action, though that statute could perhaps be altered to more specifically address the issue of children sexually molesting other children, particularly given that the bill's definition of "harm" also includes the exhibition of a sexual behavior problem by a child 12 years of age or younger; AS 47.10.011(4) says:

(4) the child is in need of medical treatment to cure, alleviate, or prevent substantial physical harm or is in need of treatment for mental injury and the child's parent, guardian, or custodian has knowingly failed to provide the treatment;

MR. PROVOST offered his understanding that testimony at the bill's last hearing indicated that the real problem that needs to be addressed is parental negligence. In terms of the aforementioned child protection statute, that means parental neglect - knowingly failing to provide the treatment. For example, in the aforementioned situation that Ms. Comeau spoke

of, if it is factually true that the parents of the perpetrator knew of his problem but failed to implement appropriate intervention for him and he continued to [molest] other children, that would clearly be grounds under existing statute for the OCS to remove the child or require the parents to implement a case plan in lieu of removal. He suggested also that AS 47.10.011(7) - which pertains to victims of child sexual abuse - could be altered to address the problem of children who themselves have sexual behavior problems.

MR. PROVOST said that the OPA questions the necessity of new legislation in response to a relatively small number of highly publicized incidents of [children sexually molesting other children]. Furthermore, discovering whether such behavior is problematic requires a clinical assessment by a qualified assessor, and thus one of the OPA's concerns with [Version M] pertains to the fact that the OCS would be required to substantiate the report of harm before providing for a qualified clinical assessment and before instituting the necessary intervention, and that substantiation might be made by a "line" social worker who may not necessarily be qualified to make that assessment.

MR. PROVOST relayed, therefore, that the OPA would like to see the OCS open an investigation but not substantiate the report until there has been a clinical assessment by a qualified assessor and a case plan offered to the parents - of course, if the parents themselves are unable to afford to implement that case plan, then the State will have the burden of doing so. Also, the OPA sees the bill's current language as a problem because if a child has a sexual behavior problem, there are probably other issues going on with the family, and more often than not, these families are going to be either indigent or close to indigent. And although parents might be given a case plan, their inability to afford the therapy required by that case plan could prevent them from being successful in their case plan.

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MR. PROVOST explained that the OPA has submitted a zero fiscal note because it anticipates that there will only be a few cases that will result in the DOL seeking CINA jurisdiction, and in every one of those cases a guardian ad litem (GAL) will be assigned to represent the best interests of the child. He said the OPA agrees that the OCS is the right agency to deal with [children who sexually molest other children], but a huge amount

of resources will be needed by the OCS to do so. He said that the OPA also agrees with the comments by Ms. Comeau and Ms. Bryant regarding "over identification" and substantiating a report of harm, particularly if the substantiated report of harm is relayed to school officials and caregivers before a clinical assessment confirming that a child has a sexual behavior problem has been completed. That stigma will travel with the child, and it will be very hard to [remove even an inaccurate] substantiated report of harm from the Online Resources for the Children of Alaska (ORCA) database.

MR. PROVOST, in conclusion, offered his belief that HB 250, regardless of which version passes, won't conflict with the ICWA.

REPRESENTATIVE DAHLSTROM sought clarification regarding Mr. Provost's comment about indigent families.

MR. PROVOST indicated that although the OPA is appointed as a GAL in every case [involving a child], most of the cases the OPA receives pertain to indigent [people].

REPRESENTATIVE DAHLSTROM said that in the situations she is aware of, most of the parents have very good jobs and live in nice neighborhoods and would be humiliated to have others learn that their child has a problem and so would take steps to cover it up.

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REPRESENTATIVE DAHLSTROM, with regard to the comment that a stigma could be attached to a child, said that as a parent, she'd rather ere on the side of protecting children from sexual abuse even if it does result in an innocent child being questioned or investigated, because the stigma and pain and suffering associated with being a victim of sexual abuse is far worse.

REPRESENTATIVE DOOGAN noted that his intent is to prevent child perpetrators from creating more victims - not merely to ensure that perpetrators get treatment - and although there may not yet be a perfect way to deal with this issue, he has been seeking a better solution but has not yet received any suggestions. Therefore, he relayed, he would like to pass the bill from committee and just keep working on it as it moves through the process.

CHAIR RAMRAS offered his understanding that by the time pedophiles are found out, they have already committed 100 acts of pedophilia, that they often start out as juvenile sex offenders, and that they never retire - they remain pedophiles for the entirety of their lives.

CHAIR RAMRAS said he would leave public testimony open and hold HB 250 over to be heard again at a later date. He opined that the provisions of the bill should have a statewide application.

**ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:07 p.m.