

SENATE FINANCE COMMITTEE
February 20, 2008
9:15 a.m.

CALL TO ORDER

Co-Chair Stedman called the Senate Finance Committee meeting to order at [9:15:04 AM](#).

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Bert Stedman, Co-Chair
Senator Charlie Huggins, Vice-Chair
Senator Kim Elton
Senator Donny Olson
Senator Joe Thomas
Senator Fred Dyson

MEMBERS ABSENT

None

ALSO PRESENT

Senator Lesil McGuire; Trevor Fulton, Staff, Senator Lesil McGuire; Linda Hall, Director, Division of Insurance; Senator Hollis French; Susan Cox, Assistant Attorney General, Department of Law, Juneau; Darwin Peterson, Staff, Senator Stedman; Doug Wooliver, Administrative Attorney, Alaska Court System

PRESENT VIA TELECONFERENCE

Stephanie Birch, Section Chief for Woman's, Children's, And Family Health, Division of Public Health, Providence; Susan Johnson, Director of Compensation, Benefits, and Human Resources information Systems, Providence; Dr. Jody Butto, Pediatrician, President, American Academy of Pediatrics, Alaska Chapter; Dennis DeWitt, Alaska State Director, National Federation of Independent Businesses; Peter Maasen, Lawyer, Anchorage; Mary Weir, Mat-Su

SUMMARY

SB 170 "An Act requiring that health care insurers provide insurance coverage for well-baby exams."

SB 170 was HEARD and HELD in Committee for further consideration.

SB 226 "An Act relating to litigation brought by a vexatious litigant; amending Rules 3, 4, 12, and 41, Alaska Rules of Civil Procedure; and providing for an effective date."

SB 226 was HEARD and HELD in Committee for further consideration.

SB 247 "An Act relating to missing persons and unidentified human remains."

SB 247 was HEARD and HELD in Committee for further consideration.

[9:15:11 AM](#)

SENATE BILL NO. 170

"An Act requiring that health care insurers provide insurance coverage for well-baby exams."

SENATOR LESIL MCGUIRE provided an overview of SB 170 requiring private insurers in the State of Alaska to offer insurance coverage for well-baby exams. She maintained that regular exams and vaccination schedules are critical to the long term health of a child. She indicated that coverage exists for many adult exams but not always for children. Senator McGuire pointed out that the American Academy of Pediatrics has been able to access results of these exams, such as, neglect, malnutrition, parental lack of knowledge, and also determine the child's basic skills and development. She believed the philosophy behind this bill is to show that Alaska cares about its youngest and most vulnerable. Senator McGuire covered ideas from the sponsor statement:

The first 24 months of a newborn's life is perhaps the most critical period in a child's life. Routine medical checkups during this vulnerable stage are necessary in order to monitor and assess a baby's normal, healthy development. These checkups - commonly referred to as "well-baby" exams - not only provide a professional medical assessment of a newborn's health and development, but they also provide the opportunity to educate parents in proper child care.

SB 170 would require health insurance carriers in the State of Alaska to include in their standard coverage for dependents "well-baby" exams. These exams, considered a part of routine pediatric health supervision, are estimated to cost between \$125 and \$250 per visit. The American Academy of Pediatrics recommends a schedule that includes 10 exams in the first 24 months of a baby's life. A typical "well-baby" exam includes monitoring development and growth rates,

hearing, vision, language skills, motor development, diet, general and preventative health care, immunizations, and infectious diseases.

There is evidence to suggest that preventative healthcare coupled with early detection of health related problems not only improves health outcomes but is also cost-effective over the long run. Although "well-baby" exams may increase short-term costs to insurance providers, they inevitably save money in the long run. By averting severe and more costly health problems, including serious illness and emergency care, "well-baby" exams make sense.

9:20:56 AM

TREVOR FULTON, STAFF, SENATOR LESIL MCGUIRE, provided data supporting the bill. He observed that a major question of the well-baby exams is who pays for them. His research indicated that there is an increase of .1 to .3 percent in insurance policies that contain the well-baby coverage. That coverage would equal a thirty-seven cent to eighty-four cent increase per employee per month. He reported the employer would be contributing an additional \$1.40 to \$1.87 per member per month. Mr. Fulton stressed that among children with incomplete well-child care there is an increased risk, in first six months, of having an emergency room visit.

9:23:05 AM

Senator McGuire offered to present well-baby research to the Committee members. She submitted this bill for the philosophical belief that Alaskan's have a commitment to their children. Senator McGuire acknowledged that in the last committee meeting (Health, Education, and Social Services Committee) there were questions if well-baby exams were really a cost saving. She reported a nationalized move among employers to shift to more value based budgeting strategies as opposed to budget based allocations. She referenced an information booklet for employers to help them think about what to include in their insurance coverage (Investing in Maternal and Child Health: An Employer's Toolkit, National Business Group on Health, 2007, copy on file). Senator McGuire recognized that costs are important, but emphasized that regular health exams and treatments would give the children of Alaska the best shot at a good life.

9:25:00 AM

Senator Dyson agreed that it was a good idea to get early intervention to recognize health or abuse issues in young children. He remarked that he has voted for insurance

mandates before but has been rethinking those decisions. As the exploration continues to get more insurance companies in Alaska offering a wider variety of coverage, new mandates can cause problems. Alaska is a small market and the cost/benefit ratio for them is marginal. He proposed that in an insurance company's evaluations a major factor is how many mandates are present that limit the kinds of packages they can offer. Alaska's mandates, in the middle or higher range, can make the state an unattractive place for insurance companies to cover. Senator Dyson cautioned against spending "other people's money" to do good things. He thought it was a good idea for taxpayers to assume cost for indigent care as opposed to shifting it to third party payers. He believed well-baby exams are good but this bill does not cover the indigent, who do not have insurance and would ultimately force it on to the insurance companies. Senator Dyson stressed that if Alaskans, as a culture, decide to take care of everybody then the only fair to make this part of our tax base for all citizens to contribute.

[9:29:01 AM](#)

Senator Dyson acknowledged the bill was based on good intentions, but judged there can be significant potential for unintended consequences which do not get at the core problem.

[9:29:16 AM](#)

Senator Thomas observed that statistics point to a cost savings for these exams and wondered why employers did not look at the long range.

[9:30:19 AM](#)

Senator McGuire indicated that there is movement among businesses to look at the broader field. She proposed that businesses are better at dealing with the insurance companies since most individual subscribers are seen as a number, not a person. Employers who know their employees and policy makers are the ones who have to make this push to make things happen. She noted that prevention saves individuals and contributes to a healthier civilization. Senator McGuire agreed that the smaller market in Alaska may not attract as many insurance companies as desired, but this should not discourage well-intentioned mandates. She pointed out that mandated bills often help to interject new ideas into the discussion.

[9:32:27 AM](#)

Senator Huggins wondered if Denali KidCare performed well-baby exams. Senator McGuire responded "yes." Mr. Fulton

replied he would follow-up on information about Denali KidCare provisions.

Senator Huggins asked the bill sponsors if they thought about requesting tax breaks or incentives to small businesses that provide this coverage.

[9:33:43 AM](#)

Senator McGuire responded that since there is no state tax, tax breaks are not possible. She indicated that the federal government has improved in offering some incentives to insurance companies. She pointed out that the indigent are usually covered by other means and individuals more financially secure can afford higher insurance packages so this bill is aimed at the middle income class who experience the most financial difficulty.

[9:34:56 AM](#)

Senator Huggins commented that in Alaska there was a tendency to tax the "other person" or shift the burden. This is a sensitive issue to many.

Senator McGuire allowed that both sides have valid points and she is willing to offer a later repeal to this bill. She requested that the insurance companies return to the committee within a year's time to respond to the cost differential; if it has been a significant burden for employers and employees then she would agree to repeal the bill. She maintained her belief that adding the costs of well-baby exams should not significantly raise insurance rates or drive small businesses out of town.

[9:36:14 AM](#)

Senator Olson remarked that lowering the state business tax could provide an incentive to insurance companies. He asked how many other states have implemented this type of program.

Senator McGuire replied that twenty-one states have implemented a well-baby program.

Senator Dyson cautioned against being captured by the argument of "doing something now to save more at a later time." He agreed this can be a valid argument but he has been not hearing this from the companies involved. He would like to see a time when employers and employees have many insurance choices, but is not convinced that mandating rules is the way to go.

[9:39:38AM](#)

LINDA HALL, DIRECTOR, DIVISION OF INSURANCE, remarked that the Division of Insurance has not taken a position on the bill.

Co-Chair Stedman wondered if this bill applies to the state employee insurance plan. Ms. Hall replied that it does not.

Co-Chair Stedman asked why not. Ms. Hall stated the Division of Insurance has not supported mandates as they usually only apply to a small segment of the population. She remarked that during a prior hearing outside experts analyzed Alaska's population. They found that about 350,000 Alaskans were covered by some type of private insurance, but only about 150,000 of the 350,000 Alaskans were in plans regulated under Title 21. Mandates do not apply to any insurance program governed by the federal government and state plans can be regulated by the state legislature imposing statutes if they choose.

[9:43:02 AM](#)

Co-Chair Stedman asked about the potential impact on private insurance. Ms. Hall researched health insurance forms filed within the Divisions of Insurance and found that there are few restrictions on well-baby coverage in private insurance. She illustrated that a restriction might be an employer, small or large, who chooses a plan that, may or may not, cover certain things. She proposed that these plans are tailored to the wishes or needs of that particular group of employees with the employer having the final option to cover or not cover certain things. She added that problems can ensue when it is not a broad enough coverage for the larger group of people to be insured. She gave an example of "over 50" employees not necessarily wanting a provision like maternity coverage in their plan.

[9:44:47 AM](#)

Co-Chair Stedman referred to a footnote in the Legal Services memo, stating that "most state employees do not receive health coverage through the state's health care plan. Instead, they receive coverage through union trusts plans" and asked Ms. Hall to elaborate on this (Legal Services, Division of Legal and Research Services, Legislative Affairs Agency, State of Alaska, p. 2, copy on file). Ms. Hall remarked that there are different plans for different employees depending on the bargaining unit; most of the coverage is done through the collective bargaining process. The state plan is a select benefit plan that applies to legislators, exempt employees, the supervisory unit, and retirees.

[9:45:37 AM](#)

Senator Olson inquired if the same segment of the population who might not want maternity leave coverage might also not want the well-baby exam portion. Ms. Hall responded that, when looking for insurance coverage, it is optimal to have a pool of "healthy" and "unhealthy" people paying premiums so any major health issue, like a major surgery, would be spread over a larger group. In the individual market, when coverage is mandated, people can then elect to not have the coverage.

[9:46:45 AM](#)

Senator Dyson requested further elaboration on the impact of mandates to the attractiveness of Alaska as a market for insurance companies. Ms. Hall responded that the more difficult Alaska makes doing business here, fewer insurance companies will be attracted. The market place is balanced at the moment to attract companies. She maintained that more mandates will affect the flexibility to tailor programs in the employer markets. She added that, although it is hard to put a cost value on mandates, insurance companies have responded with figures of one to five percent of the premium. Ms. Hall regarded mandates as not particularly expensive but with the continued addition of new mandates, insurance costs are increased for a small group. She indicated that research shows that as premiums continue to rise, fewer people will purchase the insurance.

[9:49:36 AM](#)

STEPHANIE BIRCH, SECTION CHIEF FOR WOMAN'S, CHILDREN'S AND FAMILY HEALTH, DIVISION OF PUBLIC HEALTH, testified via teleconference and provided information and statistics in support of this bill. She observed that most self-insured major private employers in Alaska, such as, Carr Safeway, and health care institutions, such as, Providence Alaska Medical Center and Alaska Regional Medical Center, provide a complete array of child health care visits through age twenty-one. (copy on file in Senator McGuire's office).

[9:54:50 AM](#)

SUSAN JOHNSON, DIRECTOR, COMPENSATION, BENEFITS, AND HUMAN RESOURCES INFORMATION SYSTEMS, PROVIDENCE HEALTH AND SERVICES ALASKA, testified via teleconference and offered that Providence's self-funded plan provides the well-baby coverage as recommended by the American Academy of Pediatrics. Ms. Johnson reported that about seventy percent of claims submitted are from twenty percent of those covered. The twenty percent usually marks the unhealthiest portion of the group. She believes it is in everyone's best interest to keep a healthy population healthy in order to keep health care costs down and to provide a better quality of life. During early routine exams, potentially serious

illnesses can be detected, treated, and managed to reduce costs in future emergency room visits for the employer and the family involved.

[9:57:06 AM](#)

DR. JODY BUTTO, PEDIATRITION, PRESIDENT OF THE AMERICAN ACADEMY OF PEDIATRICS, ALASKA CHAPTER, ANCHORAGE, testified via teleconference in support of SB 170, on behalf of herself and the Alaska Chapter of the American Academy of Pediatrics. She reminded the Committee that studies have shown this to be cost effective care and stressed that a "well" population only uses a small amount of the resources available.

[9:58:54 AM](#)

DENNIS DEWITT, STATE DIRECTOR, NATIONAL FEDERATION OF INDEPENDENT BUSINESSES opposed SB 170. He asserted that it is not an issue about the value of well-baby visits; it is an issue of who pays. He pointed out that employers have limited funds for employee compensation and this should be left to the employer to decide how that compensation is decided. Each mandate added by an external force limits the choices that employers and employees have for providing and obtaining insurance. The issue of this bill is if there should be mandates for how those benefits are decided. This bill covers a very small portion of Alaska's population. State employees are not covered under this bill, along with the big box stores. Mr. DeWitt commented that the big box stores are often in direct competition with small independent businesses. He maintained that this bill would force a very small group of employers to fund a decision made by the legislature for coverage that employees may or may not want. He estimated a one to three percent increase in the cost of insurance and often new smaller employers are opting not to offer any health insurance coverage at all, because of the cost.

[10:01:57 AM](#)

Senator Olson requested the dollar amount to be paid by the employer or the employee when looking at the percentage increase. Mr. DeWitt replied that he did not have that number but believed the numbers would be close to the sponsor's numbers.

Senator Thomas understood Mr. DeWitt's concern about mandates but wondered if he had ever negotiated with insurance companies on behalf of small businesses to not raise rates every time there was a new mandate, especially if statistics showed there were cost savings in the long run.

[10:03:21 AM](#)

Mr. DeWitt responded that the Alaska Chapter of the National Federation of Independent Businesses has not been active in doing this, although it has occurred on the national level. He reminded the committee that his membership is small. He believed a better avenue for negotiation would be for the State Of Alaska, who represents a larger group and has more power, to get involved.

[10:05:16 AM](#)

Senator Elton observed that it is easy to identify cost to an insurance plan with mandates but more difficult to identify the benefits that can accrue with having a healthy family. He wondered if there had been a debate among his membership about making employers recognizes the importance of having a healthy workforce.

[10:06:31 AM](#)

Mr. DeWitt agreed that small business employers are interested in having healthy employees since the loss due to sickness can have a greater impact. In making insurance decisions, there are many factors, such as, employee health, age, money, and small children. They are not suggesting the well-baby mandate is not a valid program only that such decisions should be made by the employers and employees, not a legislative mandate.

[10:08:48 AM](#)

Senator McGuire encouraged members to understand that when earlier mandates have passed, insurance companies have not astronomically raised their rates or left the state. She reminded them that she was open to having the bill repealed if it did not prove cost efficient and successful.

[10:11:03 AM](#)

SB 170 was HEARD and HELD in Committee for further consideration.

[10:11:20 AM](#)

SENATE BILL NO. 226

"An Act relating to litigation brought by a vexatious litigant; amending Rules 3, 4, 12, and 41, Alaska Rules of Civil Procedure; and providing for an effective date."

Senator Hollis French read his sponsor statement:

SB 226 creates a process in statute for courts to manage the problem of lawsuits brought by individuals who are "vexatious litigants."

A vexatious litigant is defined as a person who, among other things, repeatedly litigates the same claims or previous adverse decisions against the same parties, files multiple frivolous lawsuits, repeatedly files pleadings or motions that are frivolous or in bad faith, or repeatedly engages in tactics that are without merit or intended to cause unnecessary delay.

The bill allows the court to impose reasonable restrictions on vexatious litigants' access to the court. Under SB 226 a court can require conditions, such as the posting of security or pre-filing review of a complaint by a presiding judge, before an action filed by a vexatious litigant can proceed. Several states have passed similar legislation to control the problem of vexatious litigation. The provisions in this bill are based on California's Code of Civil Procedure.

Vexatious litigation needlessly burdens the resources of the court system, and creates unnecessary expense for individuals who are the target of this litigation in the public and private sectors. It is certainly important to recognize and protect the individual's right to litigate claims in our court system. SB 226 will only affect those few cases that are clearly without merit. This bill will provide means for screening out extreme examples of meritless cases before they are filed. Please join me in supporting SB 226.

[10:15:13 AM](#)

Senator Elton inquired about costs to the court system when making a decision if a litigant is vexatious or not. Senator French expressed his belief that the costs would be minimal since the cost of deflecting the lawsuit would be less than processing the lawsuit. Senator Elton questioned if there was any discussion on imposing a time limit.

Senator French pointed out that on page 3, line 12-16, identifies a "vexatious litigant, a person who reacts without a lawyer, who:

(A) commenced, prosecuted, or maintained as the plaintiff at least five litigations in state or federal court, other than small claims actions, during the preceding seven years

[10:17:51 AM](#)

Senator Huggins asked what would happen if the sentence about "not" having an attorney was removed from the bill (page 3, line 12-13).

Senator French answered that he did not believe this would affect the bill or any lawyer, but deferred to the Department of Law or the court system. Senator Elton wondered if someone suing multiple individuals over the same case could be classified as a vexatious litigant.

[10:19:23 AM](#)

Senator French deferred the question to the Department of Law.

[10:19:34 AM](#)

SUSAN COX, ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF LAW, JUNEAU, responded to previous questions by the committee members. She answered the question regarding an individual filing lawsuits over a period of time, refraining for a time period, then resuming again. She indicated that this legislation was modeled after the California Code of Civil Procedure, enacted 40 years ago, where there is a process for having a pre-filing orders vacated. Ms. Cox reiterated that this legislation does not bar anyone's access to the courts, only places some restrictions precedent to litigating for vexatious litigants.

[10:23:08 AM](#)

Senator Elton wondered about a person becoming a vexatious litigant, not over filing too many cases in the exacted time period, but filing multiple suits against different people over the same issue, such as a neighborhood situation. Ms. Cox responded again that the definition requires five different law suits over a seven year period and all decided adversely against the filer.

[10:25:59 AM](#)

Senator Thomas inquired about how many people would be considered vexatious litigants if this bill were law today. Ms. Cox replied that about six people fall into this definition and another six against the Department of Corrections. In total, less than twenty people would be considered vexatious litigants.

[10:27:28 AM](#)

Senator Huggins wondered if the sentence regarding attorneys on page 3, line 12-13, was struck from the bill, what would be the effect. Ms. Cox remarked that the intention of bill is directed toward those people who have abused the court

system without the representation of a lawyer. Lawyers are controlled by contempt of court or ethics regulations. Senator Huggins suggested it would not hurt if taken out. Ms. Cox was not sure if it would add or take anything away from the bill.

[10:28:58 AM](#)

Co-Chair Hoffman inquired how the five and seven year number was arrived at. Ms. Cox responded that it was simply modeled on the California plan that has been in place for over forty years.

Senator Elton followed up on Senator Huggins' question about removing the "attorney" language and asked if this would become a problem for attorneys. Ms. Cox believed it would only penalize the plaintiff but there was some confusion in the language that could affect a lawyer who represented a vexatious litigant.

[10:30:50 AM](#)

DOUG WOOLIVER, ADMINISTRATIVE ATTORNEY, ALASKA COURT SYSTEM, responded to Senator Elton's question about fiscal impact to the court system. He does not see any impact but noted that this bill will certainly be challenged before the court by the same people it is intended to target.

Senator Elton wondered if Mr. Wooliver saw a negative or positive fiscal impact. Mr. Wooliver responded that there could be some time and effort saved by the court but this bill really targets just a handful of individuals and will not be used that often.

[10:32:29 AM](#)

PETER MAASEN, LAWYER, ANCHORAGE, testified via teleconference in support of SB 226. He believed this added a necessary tool for trial judges. Although he opposes anyone not having access to the court system, he agreed that sometimes situations can go too far. Mr. Maasen presented a personal trial case situation where a client repeatedly sued him and the trial judge when things did not go his way. This has been a costly situation to him personally and to the courts.

[10:37:00 AM](#)

Mr. Maasen continued explaining the difficulties dealing with individuals who continue to tie up court time with multiple litigations. He supported this bill and believes it will be effective in dealing with such cases.

[10:37:40 AM](#)

Senator French elaborated that the bill specifically notes that this only deals with those individuals who repeatedly file court cases after they have lost a judgment from the court. In all cases, the judge has the discretion of deciding if someone is indeed a vexatious litigant.

[10:39:21 AM](#)

SB 226 was HEARD and HELD in Committee for further consideration.

[10:39:27 AM](#)

SENATE BILL NO. 247

"An Act relating to missing persons and unidentified human remains."

DARWIN PETERSON, STAFF, SENATOR STEDMAN introduced the bill that he helped to draft when he was a staff member for Senator Green. He read a section of the sponsor statement that says:

Specifically, SB 247:

Prohibits the disposal of unidentified human remains unless DNA samples are archived.

Prohibits a law enforcement agency from refusing to accept a missing persons report.

Provides a detailed list of specific information to be gathered and recorded by law enforcement about a missing person.

Allows law enforcement to obtain a DNA sample from the family of a missing person who has been missing for more than 30 days and forward that DNS to an approved facility for analysis and dissemination to missing persons databases.

Requires all missing person reports to be entered into a National Crime Information center (NCIC) Missing Person File, the Unidentified person File, and the state crime information system.

Provides a mechanism for law enforcement to determine if a missing person is deemed "high risk" and if so, take immediate action.

Improves procedures for handling human remains and communicating with the family of a missing person.

He expounded that if there was an increase in cooperation among law enforcement agencies to locate and safely return missing persons then this is a worthwhile effort.

[10:42:32 AM](#)

Senator Elton questioned if this falls under the "refusing to accept" provision of a missing persons report. In reading page 2, Section 3, line 6, "Each law enforcement agency in the state with reason to believe a missing person is in the jurisdiction served by the agency shall accept a report of a missing.." Senator Elton assumed that a family member of a missing person who happens to live in New York City could call a law enforcement person in the State of Alaska if they believed that person was heading to Alaska.

[10:43:58 AM](#)

Mr. Peterson responded that Senator Elton was accurate. A person does not have to be an Alaska resident to call law enforcement for this kind of help.

Senator Elton wondered if a high risk missing person, like an Alzheimer's patient, wandered from nursing home, would this prompt the same law enforcement procedures regardless of how long the person had been missing. Mr. Peterson agreed that law enforcement would have to initiate a missing person investigation.

[10:45:31 AM](#)

Senator Elton remarked that earlier in the bill it states, "regardless of the period of time a person is missing" and wondered if this could spike a significant effort and work load to the law enforcement community. He questioned if there was anything in the bill that would preclude law enforcement from having to act. Mr. Peterson believed that the reading of the legislation allows anyone to file a missing persons report even if other law enforcement agencies are actively looking for that person.

[10:47:23 AM](#)

Co-Chair Stedman referenced the three fiscal notes. Mr. Peterson commented on the fiscal note's requests and believed, since the work load would increase, there would be a need for an extra law enforcement individual. In the last section of the bill, it was inserted that there be no retroactivity in the bill. Mr. Peterson confirmed there would not be any additional work going back to "cold case" missing persons. Fiscal notes could go down or disappear if Department of Public Safety concern about the "mandatory" language was changed to "permissive."

[10:49:59 AM](#)

MARY WEIR, MATSU, MOTHER, testified via teleconference in support of SB 247. Her daughter disappeared in 2005 and it was nineteen months before her daughter's body was identified. She contended that if this bill had been in place, the action to find her missing daughter would have been immediate. She insisted that it is really important legislation with many systems already in place to act and noted that there is also federal funding and grants available.

[10:52:23 AM](#)

SB 247 was HEARD and HELD in Committee for further consideration.

ADJOURNMENT

The meeting was adjourned at 10:52 AM