

HOUSE FINANCE COMMITTEE
March 25, 2009
1:38 p.m.

1:38:41 PM

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 1:38 p.m.

MEMBERS PRESENT

Representative Mike Hawker, Co-Chair
Representative Bill Stoltze, Co-Chair
Representative Bill Thomas Jr., Vice-Chair
Representative Allan Austerman
Representative Harry Crawford
Representative Anna Fairclough
Representative Richard Foster
Representative Les Gara
Representative Reggie Joule
Representative Mike Kelly
Representative Woodie Salmon

MEMBERS ABSENT

None.

ALSO PRESENT

Representative John Coghill; Representative Nancy Dahlstrom; Tim Clark, Staff, Representative Bryce Edgemon; Greg Winegar, Director, Alaska Division of Investments, Department of Commerce, Community and Economic Development; Ben Mulligan, Staff to Representative Stoltze.

PRESENT VIA TELECONFERENCE

None.

SUMMARY

#hb35

HB 35

"An Act relating to notice and consent for a minor's abortion; relating to penalties for performing an abortion; relating to a judicial bypass procedure for an abortion; relating to coercion of a minor to have an abortion; relating to reporting of abortions performed on minors; amending Rule 220, Alaska Rules of Appellate Procedure, and Rule 20, Alaska Probate Rules, relating to judicial bypass for an abortion; and providing for an effective date."

HB35 was HEARD and HELD in Committee for further consideration.

HB 20 "An Act relating to commercial fishing loans for energy efficiency upgrades."

HB 20 was HEARD and HELD in Committee for further consideration.

[1:39:14 PM](#)

HOUSE BILL NO. 35

"An Act relating to notice and consent for a minor's abortion; relating to penalties for performing an abortion; relating to a judicial bypass procedure for an abortion; relating to coercion of a minor to have an abortion; relating to reporting of abortions performed on minors; amending Rule 220, Alaska Rules of Appellate Procedure, and Rule 20, Alaska Probate Rules, relating to judicial bypass for an abortion; and providing for an effective date."

REPRESENTATIVE JOHN COGHILL, presented House Bill 35. A similar bill has been before the House in the past but has fallen short of being made into law. The Parental Consent Act of 1997 established parental rights in the area of minor's seeking abortions. In 2007 the Alaska Supreme Court overturned the Parental Consent Act on the basis that it was unconstitutional. Representative Coghill stated that HB 35 has been crafted with a sincere effort to balance the rights and responsibilities of all involved parties: The Alaska Supreme Court, the state, parents, and minors.

[1:42:01 PM](#)

Representative Coghill pointed out that there are state statutes that mandate parental consent for minors to undergo medical procedures, obtain marriage and drivers licenses, and receive tattoos and piercings.

[1:44:05 PM](#)

Representative Coghill read from a prepared statement, "HB35 Parental Consent for Abortions" (Copy on File):

- This bill is in the Alaska Statutes dealing with abortions.
- This bill answers an Alaska Supreme Court decision in statute by modifying the standards, process, and parental part of a minor girl with regard to abortions.

Representative Coghill argued that the U.S. Supreme Court decision puts a barrier between parents and children because it does not statutorily give the parent the right to know if the child has had an abortion. He felt loving, caring parents should be allowed by law to guide the minor in decision making of this magnitude. The bill would give parents the right not only to know about the abortion, but would ultimately extend to the parent the right to make the choice for the immature minor.

Representative Coghill continued on Slide 1, "The Standard":

- The Standards are a balance of parental rights and responsibilities, the minor's right of protection under the privacy clause, and the states compelling interest in protecting the family, the minor, and each right enjoyed by both.
- The way the court viewed the Standard was that it needed to be the least restrictive of the minor's right to privacy.
- Therefore this bill outlines the flow of consent requirements:
 - Minor must obtain consent of parents and 48 hour notice for fit and loving parents.
 - If married - no parental consent required.
 - If legally emancipated - no parental consent required.
 - If entered in the armed forces - no parental consent required.
 - If self-subsisting and employed - no parental consent required.
 - If petition court showing mature decision - no parental consent required.
 - If court inactive - no parental consent required.
 - If sexual or physical abuse upon signature and witness - no parental or court consent required.

[1:45:55 PM](#)

Representative Coghill felt that cases defined by the standards are cases where minors had demonstrated a sufficient maturity level and could be trusted to make the decision whether or not to have an abortion.

[1:47:38 PM](#)

Representative Coghill expounded on the reasoning behind the U.S. Supreme Court decision of 2007. The court sought to find a balance between the minor's right to privacy and the parent's right to be involved in decision making related to abortion. After ten years of deliberation the Alaska Supreme

Court stated that requiring parental consent for a minor female to obtain an abortion was constitutionally suspect. The court was in favor of parental notification, but not consent. Representative Coghill thought that parents should have more than a notification provision under state law.

[1:49:46 PM](#)

Representative Coghill discussed judicial bypass. Under HB 35 victims of physical abuse, sexual abuse, or emotional abuse can go directly to a doctor for an abortion with a signed and notarized statement from the minor and one of the following:

- Adult sibling
- Law enforcement officer
- Department of Health and Social Services representative such as a case worker for Office of Children's Services (OCS) or Juvenile Justice.
- A grandparent
- A stepparent

Representative Coghill reasoned that the pregnant minor is in need of mature guidance, outside of herself, to make the choice of whether or not to have an abortion. He added that if the parents of the minor in question are abusive or have strong beliefs against abortion, the additional bypass provides the minor female a way to demonstrate her maturity and need for an abortion without parental consent.

[1:50:44 PM](#)

Representative Coghill discussed coercion. By law a minor cannot be coerced to have an abortion. A minor child could obtain emancipation if a parent were forcing her to have an abortion through coercion. For example, a parent refusing to provide food, shelter, or financial support. He believed that in our current society young women are preyed upon. He asserted that as the law currently stands, there is no protection from coercion for the minor child. The bill would provide a mandatory provision for doctors to report abuse immediately.

[1:52:47 PM](#)

Representative Coghill pondered on the Supreme Court case of *Bellotti v. Baird*, 443 U.S. 622 (1979), (Copy on File), which established the court bypass provisions. The Massachusetts parental consent law was found unconstitutional by the U.S. Supreme Court because:

- It allowed judicial authorization for an abortion to be withheld from a minor who is mature and competent enough to make the decision independently. (House Bill 35 complies and allows exemption for this minor.)
- It required parental notification in all cases (parents were required to be notified if their daughter initiated proceedings in superior court) without allowing the minor to seek an independent judicial assessment of her competence to decide the abortion issue. (House Bill 35 allows for judicial bypass without notification of parents.)

Representative Coghill informed the committee that provisions have been entered into the bill in order to provide the minor accessibility to the court and protection from coercion by perpetrators.

[1:54:01 PM](#)

Representative Coghill discussed Section 1 of HB 35, (Copy on File). The section elucidates the conditions under Alaska Statute (AS) 18.16.010(a), in which an abortion can be performed in the state. He continued to Section 2, AS 18.16.010(g), which elaborates on the protection of the physician or surgeon performing the abortion when using good faith clinical judgment.

[1:55:39 PM](#)

Representative Coghill continued to Section 3, AS 18.16.020, which provides the language pertaining to notice and consent required before a minor's abortion. He stressed the importance of mature guidance for minors in navigating the court system.

[1:57:24 PM](#)

Representative Coghill felt that some people favor abortion. He specifically cited Planned Parenthood. He mentioned that there are people ready to help the minor on both sides of the issue. He expressed concern for minors that may be trapped in their hometowns without any authoritative help.

[1:59:25 PM](#)

Representative Coghill continued to Section 5, line 22. This section covers the possibility of parental interests existing outside of the child's best interest. Section 8 outlines protections in place for the minor should the court decide that the abortion be performed without parental consent. Section 9 deals with coercion. He felt this gave

the minor some power in defending herself should the parent/child relationship be abusive.

[2:01:36 PM](#)

Representative Coghill stated that the bill is designed to bring minors and parents together in making the decision on abortion, provide an avenue for the minor to demonstrate maturity or need for an abortion, and give the most benefit to the minor in the least restrictive way. He reiterated his personal fear that without the law, minors would be manipulated by abusers.

[2:03:01 PM](#)

REPRESENTATIVE NANCY DAHLSTROM, stated her strong support for HB 35. She said that her constituents, both "pro-life" and "pro-choice", are in favor of the bill.

[2:04:32 PM](#)

Representative Gara wondered if a representative from OCS would be available to answer questions regarding the bill. He pointed out that it cannot be written into law that parents be "loving and caring." He expressed concern for minors who did not have "loving and caring" parents and wondered how the consent provision would work for minors in foster care or awaiting foster care placement. He was curious how OCS would implement the law in situations where the child has been taken out of the parent's custody. Representative Coghill replied that he would wait for OCS to give the final answer. Co-Chair Stoltze assured the committee that a formal request would be made to OCS to speak to Representative Gara's concerns. Representative Gara also requested an analysis of the possible fiscal impact to the state.

[2:07:39 PM](#)

Co-Chair Stoltze stated that he would work to have questions answered by OCS as soon as possible.

Representative Coghill informed the committee that there were 12 abortions performed on children under 15 in 2008. He felt that it would not take long to determine how many of those minors were in state custody at the time the abortion was performed.

Representative Austerman referred to earlier statistics provided by Representative Coghill. According to the statistics there were 13 abortions performed on minors under 15 and 128 abortions performed on 15-17 year olds in 2008.

Representative Crawford identified with Representative Coghill's passion for the issue. He wondered what would happen if parents have conflicting views on the issue of abortion. He also questioned how the bill would address the "morning after pill," or RU486. Representative Coghill replied that he would research the issue of the RU486 pill. He gave that the matter of a split opinion on abortion between parents was more complicated. He assumed that there would be a family discussion to determine consensus on the matter.

[2:12:49 PM](#)

Representative Coghill stated that there were three parts to the question; how close is the family, what is the legal question, and how is the child's relationship with their parents. He felt that the issue is a legal issue but it is also about life choices.

Representative Gara thought that minimizing the overall number of abortions altogether was a positive goal. He wondered if health classes could provide young people more information on navigating the adoption system. He felt such information could help to limit abortions. Representative Coghill replied that informed consent would open up a dialogue between parents and minors to discuss all options for the minor. Representative Gara maintained that laws could not be written to make families communicate productively. He pointed out that there is no law requiring a child to have parental consent to have sex.

[2:17:07 PM](#)

Representative Coghill referenced the statutory age limits for sex between minors and legal adults.

[2:18:05 PM](#)

Representative Austerman spoke in support of the Sponsor.

Representative Gara had issue with some the mechanics of the bill. He felt that the list of standards for the judge's ruling was not clear in the language of the bill. He wondered what standard the judge would base a decision on. Representative Coghill referred to page 5, line 19 of the bill.

[2:20:13 PM](#)

Representative Coghill recognized that the language could be subjective. He stated that the bill establishes a timeline to ensure that the minor is not experiencing hardship while waiting for a court hearing. The hope is that court action will be quick under the legislation. He reiterated that as

the law stands there is a void of protection for the minor and a barrier between the parent and the immature pregnant person.

[2:21:18 PM](#)

Representative Gara argued that the language in the bill regarding the information needed in the minor's affidavit before the court is clear, but that there is no provision in the bill that establishes the standard that the judge is to base the final decision on.

Representative Coghill replied that the judge would base the decision on the maturity level of the minor and the minor's intelligence level. He warned that presently there is no standard and that immature minors have no protection from coercion.

[2:23:10 PM](#)

Representative Gara pointed out that there must be a law that the judge applies when making the decision and he did not believe the bill contained such a standard.

[2:23:53 PM](#)

Representative Coghill replied that the standard had been lowered to "clear and convincing evidence". Representative Gara reiterated that he had many questions about the bill. Co-Chair Stoltze said that there would be an opportunity for everyone ask questions and to speak their mind on the bill, but stressed that time is limited.

[2:26:26 PM](#)

Representative Coghill noted that the protection of minor children is a nationwide issue. He felt if minors cannot trust their parents, other options need to be available to them.

Co-Chair Stoltze assented that this is a substantial policy issue. Representative Coghill understood that there are court process issues that should be researched further in order to speak to Representative Gara's concerns.

[2:27:44 PM](#)

Co-Chair Stoltze shared that he had reviewed public testimony from past meetings in preparation for the meeting.

HB 35 was HEARD and HELD in Committee for further consideration.

[2:28:54 PM](#)

#hb20
HOUSE BILL NO. 20

"An Act relating to commercial fishing loans for energy efficiency upgrades."

TIM CLARK, STAFF, REPRESENTATIVE BRYCE EDGEMON, discussed the CS of HB 20, which amends the Commercial Fisheries Loan Act. He elaborated on the sections with amended language (Copy on File).

[2:31:41 PM](#)

Mr. Clark finished with the Retroactivity Clause in section 3. Section 4 sets an immediate effective date for the bill.

[2:32:32 PM](#)

Representative Foster wondered about preferential treatment for people in rural areas. He voiced the need for loans to be made available to other Alaskans, such as Alaska Native artisans, as well as fishermen.

[2:33:53 PM](#)

Mr. Clark replied that he believed that artisans may be eligible for loans under the Rural Development Initiative and possible small business or economic development loans. Representative Foster wondered why the loans were not coming from a bank, as would a car or home loan.

[2:34:45 PM](#)

Mr. Clark explained that the Commercial Fishing Loan Act was established in early 1970, at a time when the industry needed state assistance. He said the program was a different way for fishermen, who may not have had a credit history, to acquire loans. Representative Foster pointed out that there used to be small loans available for miners. He stressed that not only fishermen needed loans to operate.

[2:36:49 PM](#)

Co-Chair Stoltze said that these loans were available only to commercial fishermen. Representative Foster maintained that there are banks available to provide loans for viable businesses.

[2:37:31 PM](#)

Mr. Clark explained that the criteria for the loans are directly related to the needs of fishermen. The loans that are approved are directly related to commercial fishing.

[2:38:18 PM](#)

Representative Foster wondered if the loans are only available to Alaskan residents. Mr. Clark replied yes.

GREG WINEGAR, DIRECTOR, DIVISION OF INVESTMENTS, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, stated that DCCED supports the bill with amendments. He felt that the amendments were consistent with the mission of the Commercial Fishing Loan Act.

Co-Chair Stoltze moved Amendment 1, 26-LS0124\P.1, Kane, 6/26/09 (copy on file):

Page 2, line 1, following "permits;":
Delete "or"
Insert "[OR]"

Page 2, line 4, following "efficiency;":
Insert "or
(iii) for new construction related to a vessel for the purpose of improving energy efficiency in a loan amount not greater than \$100,000;"

Vice-Chair Thomas OBJECTED.

[2:40:11 PM](#)

BEN MULLIGAN, STAFF REPRESENTATIVE BILL STOLTZE, stated that the amendment puts a clause in place to cap loans for new vessel construction at \$100,000. He explained that in some cases replacing an old vessel is more efficient than investing in repair on the old vessel.

Co-Chair Hawker wondered what would happen to older vessels if replaced by new vessels. Mr. Mulligan replied that the vessel owner could sell the vessel outright or for scrap. He said that it would be up to the owner of the vessel. Co-Chair Hawker felt that there was a gap in the logic of replacing an old vessel that could be repaired with an entirely new vessel.

[2:41:04 PM](#)

Representative Foster questioned the practicality of the amendment.

[2:41:57 PM](#)

Mr. Mulligan replied that the amendment left it up to the individual boat owner to decide the best course of action when upgrading vessels.

Vice-Chair Thomas explained how the fishing industry works. He relayed that he personally would not qualify for a state loan because he could qualify for a bank loan. He stressed that the loans are meant for fishermen who are struggling financially. He told of the cost of fuel and the burden it can place on the fishermen. He explained that boats are often recycled among fishermen.

[2:43:52 PM](#)

Representative Kelly remarked that he read the amendment in a different way. He hoped that the loans were going to be issued to upgrade old boats and not to buy new vessels.

[2:44:59 PM](#)

Representative Fairclough referred to page 2, line 4 of the bill. She understood that the amendment does not pertain to new vessels. Co-Chair Stoltze clarified the intent of the amendment was to not put energy efficiencies on a deficient boat. Representative Fairclough maintained that the language was unclear.

[2:45:52 PM](#)

Mr. Winegar understood that the amendment did pertain to new vessels. He remarked that the purchase of new vessels would be limited.

Vice-Chair Thomas WITHDREW his OBJECTION.

[2:46:56 PM](#)

Representative Kelly maintained that the language in the amendment was unclear.

[2:47:27 PM](#)

Vice-Chair Thomas reiterated his support of the amendment.

[2:48:17 PM](#)

Representative Kelly felt that some vessels had been left out of the bill altogether.

[2:49:14 PM](#)

Representative Foster asked about the delinquency rate on the loans. Mr. Winegar explained that the rate was 7 percent. Representative Foster thought that the rate was

high. Mr. Winegar thought the rate would decline throughout the year. He pointed out that the fund has performed well from a financial standpoint. Representative Foster maintained that the rate of return was disappointing. Mr. Winegar assured that the overall numbers speak favorably for the program.

[2:50:51 PM](#)

Representative Kelly thought there was still a misunderstanding of whether or not the bill applies to new boats. He requested clarification from the Department of Law (LAW).

Co-Chair Hawker understood that the bill addresses new vessels. He requested clarification. Mr. Winegar said he could not answer the question. Co-Chair Hawker thought clarification was warranted.

[2:52:25 PM](#)

Co-Chair Stoltze contended the bill should be held until the language could be clarified by LAW.

Representative Foster expressed frustration with special interest groups. He felt that fishermen are given preferential treatment that is not extended to miners. Co-Chair Stoltze responded that he understood Representative Foster's concerns.

[2:54:21 PM](#)

Representative Gara reported on constituent comments about expanded eligibility for the loans. He understood that there was a class of people that did not qualify for the loans.

[2:55:56 PM](#)

Mr. Winegar explained that there are separate sections in the statute that addressed the issue. Under Section A the applicant does not have to have been turned down by a bank. Section B requires that the applicant has tried to qualify for a bank loan and has been turned down. A lower interest rate distinguishes the difference.

Representative Gara commented that his constituents wanted loans to improve energy efficiency.

Mr. Clark explained that the intent of the bill is to correct inequities, widen eligibility, and to encourage conversion of vessels to prevent high energy costs.

[2:58:53 PM](#)

Representative Kelly reported that he had similar constituent concerns.

HB 20 was HEARD and HELD in Committee for further consideration.

#

ADJOURNMENT

The meeting was adjourned at 2:59 PM.