

ALASKA STATE LEGISLATURE
HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

March 22, 2012

3:02 p.m.

MEMBERS PRESENT

Representative Wes Keller, Chair
Representative Alan Dick, Vice Chair
Representative Bob Herron
Representative Paul Seaton
Representative Beth Kerttula
Representative Bob Miller
Representative Charisse Millett

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

PRESENTATION: TGM~ STATEWIDE SUICIDE PREVENTION

- HEARD

HOUSE BILL NO. 363

"An Act prohibiting the use of public funds for abortion."

- HEARD & HELD

CS FOR SS FOR SENATE BILL NO. 82(JUD)

"An Act relating to the procedures and jurisdiction of the Department of Health and Social Services for the care of children who are in state custody; relating to court jurisdiction and findings pertaining to children who are in state custody; and modifying the licensing requirements for foster care."

- MOVED HCS CSSSSB 82(HSS) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 363

SHORT TITLE: NO PUBLIC FUNDS/FACILITIES FOR ABORTION

SPONSOR(S): HEALTH & SOCIAL SERVICES

03/12/12 (H) READ THE FIRST TIME - REFERRALS

03/12/12 (H) HSS, JUD, FIN
03/22/12 (H) HSS AT 3:00 PM CAPITOL 106

BILL: SB 82

SHORT TITLE: FOSTER CARE LICENSING/STATE CUSTODY

SPONSOR(s): DAVIS

02/04/11 (S) READ THE FIRST TIME - REFERRALS
02/04/11 (S) HSS, JUD
03/11/11 (S) SPONSOR SUBSTITUTE INTRODUCED-REFERRALS
03/11/11 (S) HSS, JUD
03/14/11 (S) HSS AT 1:30 PM BUTROVICH 205
03/14/11 (S) Heard & Held
03/14/11 (S) MINUTE(HSS)
03/16/11 (S) HSS AT 1:30 PM BELTZ 105 (TSBldg)
03/16/11 (S) Moved CSSSSB 82(HSS) Out of Committee
03/16/11 (S) MINUTE(HSS)
03/18/11 (S) HSS RPT CS 5DP SAME TITLE
03/18/11 (S) DP: DAVIS, MEYER, ELLIS, EGAN, DYSON
03/30/11 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/30/11 (S) Heard & Held
03/30/11 (S) MINUTE(JUD)
04/01/11 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/01/11 (S) Moved CSSSSB 82(JUD) Out of Committee
04/01/11 (S) MINUTE(JUD)
04/04/11 (S) JUD RPT CS 5DP SAME TITLE
04/04/11 (S) DP: FRENCH, COGHILL, WIELECHOWSKI,
PASKVAN, MCGUIRE
04/07/11 (S) TRANSMITTED TO (H)
04/07/11 (S) VERSION: CSSSSB 82(JUD)
04/08/11 (H) READ THE FIRST TIME - REFERRALS
04/08/11 (H) HSS, JUD
04/14/11 (H) HSS AT 3:00 PM CAPITOL 106
04/14/11 (H) -- MEETING CANCELED --
03/22/12 (H) HSS AT 3:00 PM CAPITOL 106

WITNESS REGISTER

RON PRATT, President
TGM Ministries
North Pole, Alaska

POSITION STATEMENT: Discussed the work of TGM (This Generation Ministries) ministries in Alaska.

ALICIA MCCARROLL
TGM ministries
North Pole, Alaska

POSITION STATEMENT: Discussed the work of TGM ministries in Alaska.

JIM POUND, Staff
Representative Wes Keller
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 363 on behalf of the House Health and Social Services Standing Committee, which Representative Keller chairs.

JOSEPH LAPP
Homer, Alaska

POSITION STATEMENT: Testified in opposition to HB 363.

KAREN QUIRK
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 363.

DIRK MOFFATT
Alaska Right To Life
Forty Days for Life
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 363.

KATHLEEN GUSTAFSON
Homer, Alaska

POSITION STATEMENT: Testified in opposition to HB 363.

MIKE DUNLEAVY
Wasilla, Alaska

POSITION STATEMENT: Testified in support of HB 363.

PAIGE HODSON
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 363.

JOSHUA DECKER, Staff Attorney at Law
American Civil Liberties Union (ACLU) of Alaska
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 363.

CLOVER SIMON
Planned Parenthood of the Great Northwest
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion on HB 363.

KAREN LEWIS, Educational Director
Alaska Right to Life
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 363.

LORA WILKE
Homer, Alaska

POSITION STATEMENT: Testified in opposition to HB 363.

KAYT SUNWOOD
Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition to HB 363.

CAROL CAIRNES
Ketchikan, Alaska

POSITION STATEMENT: Testified in opposition to HB 363.

KRISTA HOWARD, student
University of Alaska Anchorage
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 363.

CANDY MILLER
Wasilla, Alaska

POSITION STATEMENT: Testified in support of HB 363.

ROSANNE CURRAN
Cordova, Alaska

POSITION STATEMENT: Testified in support of HB 363.

JENNIE GRIMWOOD
Eagle Forum Alaska
Cordova, Alaska

POSITION STATEMENT: Testified in support of HB 363.

HAYLEE SHIELDS
Forty Days For Life
Palmer, Alaska

POSITION STATEMENT: Testified in support of HB 363.

MARY KEHRHAHN-STARK
Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition to HB 363.

TERRY BOREN
Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition to HB 363.

MATT JOHNSON, Executive Director
Alaska Right to Life
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 363.

SENATOR BETTYE DAVIS
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced SB 82, as the prime sponsor of the bill.

CELESTE HODGE, Staff
Senator Bettye Davis
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the proposed changes to SB 82 on behalf of the prime sponsor of the bill, Senator Davis.

TRACY SPARTZ-CAMPBELL, Deputy Director
Central Office
Office of Children's Services (OCS)
Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: Answered questions during discussion of SB 82.

AMANDA METIVIER, Statewide Coordinator
Facing Foster Care in Alaska
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 82.

ACTION NARRATIVE

[3:02:54 PM](#)

CHAIR WES KELLER called the House Health and Social Services Standing Committee meeting to order at 3:02 p.m. Representatives Keller, Miller, Kerttula, Dick, and Seaton were present at the call to order. Representatives Herron and Millett arrived as the meeting was in progress.

Presentation: TGM, Statewide Suicide Prevention

[3:03:32 PM](#)

CHAIR KELLER announced that the first order of business would be a presentation about Statewide Suicide Prevention by This Generation Ministries (TGM).

[3:04:48 PM](#)

RON PRATT, President, TGM Ministries, said that he and his wife, Yolanda Pratt, had been professionally working with youth for 26 years. He stated that he and his wife had moved to Alaska in 1998. He reported that TGM Ministries went into the villages in Alaska to deal with the issue of suicide, and the scheduled offerings included: summer camps, concerts, winter camps, workshops, conferences, and special events, "whatever it takes to get into the heart of a young person and speak worth and speak life and speak hope into them before something drastic happens and they end it all." He stated that the TGM Ministry had a lot of experience and history, and were passionate about reaching Alaskan Native young people.

CHAIR KELLER added that the rates of suicide were higher in Alaska than anywhere else, especially among Alaskan Natives.

[3:07:03 PM](#)

ALICIA MCCARROLL, TGM ministries, declared that she was passionate about TGM ministries and this current generation. She declared that, although young people were the future of Alaska, they were still a contributing, vital part of Alaska today and could make a positive impact and difference. She recounted her past, and her introduction into TGM ministries at the age of 9 years, which had made her feel validated as a person who could make a difference. This helped her decide to dedicate her life to Alaskans of all ages. She voiced a need for people who struggled with the issues of suicide to be able to talk about it. She shared that TGM spoke at school assemblies, providing motivational talks for youth to become active immediately. She counseled for young people to stay in Alaska, become members of their community, and help it become great.

[3:10:05 PM](#)

MR. PRATT reflected that the TGM ministers used whatever tools were necessary, including multi-media and music, in its remote camps. He played a short video, titled "Angela," which was a story that TGM wanted to share.

CHAIR KELLER expressed his pleasure for seeing the results to problems the legislature often encountered.

HB 363-NO PUBLIC FUNDS/FACILITIES FOR ABORTION

[3:12:20 PM](#)

CHAIR KELLER announced that the next order of business would be HOUSE BILL NO. 363, "An Act prohibiting the use of public funds for abortion." He acknowledged that he introduced the proposed bill for the committee "without a lotta interaction with the committee." He expressed his appreciation for the committee's indulgence.

REPRESENTATIVE SEATON expressed his appreciation for Chair Keller's proclamation that the bill was sponsored by Chair Keller and not the House Health and Social Services Standing Committee.

REPRESENTATIVE KERTTULA declared her objection to the introduction of the proposed bill. She pointed to Alaska statute which read that a committee chair could not introduce legislation on behalf of a committee without agreement from the majority of the committee. She requested that the committee follow the proper process, and that, should there not be agreement by the majority of the committee, the proposed legislation be withdrawn.

CHAIR KELLER declared that he would withdraw the legislation if Representative Kerttula maintained her objection and that was the vote of the committee.

REPRESENTATIVE KERTTULA stated that she maintained her objection, as the statute did not allow this process, and she disagreed with the proposed legislation.

CHAIR KELLER offered his belief that a committee chair could introduce legislation on behalf of a committee, as long as there was the opportunity for committee members to express themselves.

REPRESENTATIVE KERTTULA offered to continue with the hearing and to request a legal opinion. She stated her understanding that concurrence of the majority of the committee was necessary. She temporarily withdrew her objection, pending a legal opinion.

CHAIR KELLER said that [introduction of] a committee bill had never been voted on during his time in the legislature.

CHAIR KELLER explained that the proposed bill was "about whether or not we're going to pay for it [abortion] with state funds, if we're gonna pay for elective abortion with state funds." He stated that the proposed bill was a follow up to an earlier [House Health and Social Services Standing Committee, March 13, 2012] hearing on state funding for pregnancy termination.

[3:16:22 PM](#)

JIM POUND, Staff, Representative Wes Keller, Alaska State Legislature, defined the proposed bill, HB 363, as "an appropriations measure" which cut money from current state spending. He reported that the Department of Health and Social Services spent more than \$250,000 of Medicaid funds on unnecessary termination of pregnancies, with an additional \$250,000 on related services. Reading from Black's Law Dictionary, he defined Medicaid to be: "a form of public assistance sponsored jointly by the federal and state government providing medical aid for people whose income falls below a certain level." He read the legal definition of medical: "pertaining, relating of, belonging to the study and practice of medicine, or the science and art of the investigation, prevention, cure, and alleviation of a disease." He stated that neither legal definition related to life termination or abortion. He explained that the proposed bill simply states that the State of Alaska will no longer pay for an elected procedure, and those funds would be returned to the general fund, or used in a more productive Medicaid service.

[3:18:04 PM](#)

CHAIR KELLER reviewed that, since an Alaska Supreme Court case in 2001, although the legislature had put language in the appropriation bill declaring that no money should be spent on abortions, the money was spent regardless. He offered his belief that the money had been spent in compliance with a court order. He opined that the proposed bill "was a way to move forward to prohibit the use of public funds for abortions."

[3:19:39 PM](#)

REPRESENTATIVE KERTTULA stated her belief that the Alaska Supreme Court had twice ruled that, under the Alaska State Constitution, the state could not refuse to pay for abortion services, if publicly funded pregnancy and health care services were provided.

CHAIR KELLER, in response, said that he had recently read the state supreme court decision as written by Chief Justice Fabe. He declared:

This case concerns the state's denial of public assistance to eligible women whose health is in danger, it does not concern state payment for elective abortions.

CHAIR KELLER opined that, as there were no guidelines in regulation or state law for the danger of a woman's health or for an elective abortion, the committee could define those terms.

[3:20:59 PM](#)

REPRESENTATIVE KERTTULA posed the question whether proposed HB 363 would restrict the right for a wealthy woman to pay for an abortion without state funding.

CHAIR KELLER stated that proposed HB 363 was "about Medicaid abortions, it does not restrict anybody's right to pay for an abortion."

REPRESENTATIVE KERTTULA, in response, queried that one group of women were able to have a choice, whereas another group did not.

CHAIR KELLER agreed that this was the basis for the decision for equal access to Medicaid services, and the question that needed definition was: "just what is a medically necessary abortion." He stated that this definition was necessary to determine guidance, as "without the guidance it's been continual turmoil and confusion in the state."

REPRESENTATIVE KERTTULA proffered that this would treat Alaskans differently, dependent on their ability to pay.

CHAIR KELLER declared that there was not a requirement to pay for abortions for a wealthy person, and that proposed HB 363 would remove public funding for abortions.

MR. POUND offered his belief that the judicial interpretation was now based on the undue burden clause, which changed the requirements of constitutionality for "who does and who does not." He remarked that Medicaid in Alaska did not pay for oral

contraceptives, and "therefore an elective abortion is essentially a form of contraceptive."

[3:23:20 PM](#)

REPRESENTATIVE KERTTULA emphasized that "no one uses abortion as a contraception time after time in Alaska. That's not something women like to do." She affirmed that any analogy between contraception and abortion was really wrong.

MR. POUND offered his belief that abortion was quite often used as a form of contraception.

REPRESENTATIVE KERTTULA declared that she heavily doubted those statistics.

CHAIR KELLER interjected that the constitutional issues of the proposed bill would be addressed in the next committee of referral, the House Judiciary Standing Committee.

[3:24:12 PM](#)

REPRESENTATIVE HERRON asked if it was possible for DHSS to separate the costs for abortions from those for abortion prevention or related services.

MR. POUND deferred to a response from the commissioner of DHSS.

[3:25:05 PM](#)

CHAIR KELLER opened public testimony.

[3:25:37 PM](#)

JOSEPH LAPP, reading from a prepared statement, urged the committee to reject the proposed bill. He declared that the simple fact, regardless of the moral or ethical view on abortion, was that the Alaska Supreme Court had ruled that any gender based discrimination in the provision of medical services was a violation of the Alaska State Constitution. He stated that the government should not be wasting its time and resources in opposition to this, as every previous attempt at legislation had been found to be unconstitutional. Suggesting that the cost to present this legislation would be more than any potential savings it would engender, he surmised that proposed HB 363 would also be rejected by the courts. He listed other potential legislative issues to address, which he deemed to be of greater

importance. He asked if this proposed bill was an effective use of time for the House Health and Social Services Standing Committee. Referencing proposed HB 5, [legislation for a high school graduation requirement for U.S. constitutional history also introduced by Chair Keller] he asked if proposed HB 363 was in apparent disregard for the U.S. Constitution and the rulings of the state supreme court. He declared that the state supreme court had consistently upheld access to abortions. He alleged that the proposed bill limited, rather than promoted, the access of Alaskan women to health care. He asked that the committee avoid partisan politics when discussing the health of Alaskans. He questioned whether the proposed bill promoted the health of Alaskans, or if it created barriers to health care access. Directing attention to page 1, line 13, he read:

including money paid by a university student as part of the tuition or fees paid to the University of Alaska, may not be used to assist in or provide facilities for an abortion or for training to perform an abortion.

MR. LAPP opined that, although the University of Alaska did not have a medical program, the proposed bill would not allow the training of doctors to perform abortions, which went beyond the scope of the proposed bill.

[3:29:44 PM](#)

KAREN QUIRK stated her support of proposed HB 363.

[3:31:26 PM](#)

DIRK MOFFATT, Alaska Right To Life, Forty Days for Life, stated that the taking of the life of an unborn child was wrong, and that state funds should not be used for elective surgery.

[3:32:35 PM](#)

KATHLEEN GUSTAFSON stated that the proposed bill violated the constitutional rights of women, the right to privacy, equal rights, and the equal right for representation. She adamantly pointed out that these rights were the first guarantee to the citizens of Alaska by the Alaska State Constitution. She declared that proposed HB 363 used health care funding as "a weapon that the government can use to control women's behavior, limiting the options of poor women who are least able to defend their rights when they are threatened." She directed attention

to page 2, line 24, and read: "Nothing in this section shall be construed as creating or recognizing a right to abortion or a right to federal or state funds for family planning services." She emphasized that, in Alaska, women have had a legal right to abortion since 1971, two years prior to Roe et al. v. Wade, District Attorney of Dallas County. She declared that any attempt to use the legislature to block a woman's access to a legal procedure was "an illegitimate use of your power." She reiterated that the Alaska State Constitution guaranteed every citizen equal protection under the law, and she reminded the committee members that they were sworn to uphold the Alaska [State] Constitution. She stated her belief that using women as political kindling should be beneath the institution. She declared that prohibiting state health care providers from discussion of abortion and forbidding students from using state student loans to pay for medical training, both included in the proposed bill, were "totalitarian tactics that had no place in a free society." She urged opposition to the proposed bill, and strongly suggested that, instead, the committee secure and protect rights for Alaskans.

[3:34:32 PM](#)

CHAIR KELLER replied that legislators also reserved the right to interpret the [Alaska State] Constitution.

[3:35:04 PM](#)

MIKE DUNLEAVY said that the State of Alaska did not have the right to end the life of any of its citizens. He opined that any funding for abortion services could be better spent for the health care of women and children.

[3:35:39 PM](#)

PAIGE HODSON, stating her opposition to the proposed bill, said that the U.S. Supreme Court had declared that a state could not prohibit or limit access to abortion. She offered her belief that the proposed bill would narrow access to abortion, excessively constrain women's access to information, place a gag order on medical professionals, limit training of medical procedures, increase cost to the State of Alaska, and increase risk to unborn, unwanted children. She stated that this would also result in increased litigation. She declared her indignation and offense regarding statements from Representative Dick "asking for permission slips to get health care, asking for panels of three doctors and insinuating that one woman's doctor

would be a liar, and for equating a rape to someone's moral objections." She established that an apology to the women of Alaska for those statements was in order.

CHAIR KELLER asked that all testifiers be respectful.

[3:38:10 PM](#)

JOSHUA DECKER, Staff Attorney at Law, American Civil Liberties Union (ACLU) of Alaska, referring to a letter from Jeffrey Mittman, Executive Director, ACLU of Alaska, dated March 21, 2012, [Included in members' packets] said that, as reproductive decisions, including abortion, were a fundamental right which was protected by the Alaska State Constitution, the proposed bill was unconstitutional as it removed public funding from medically necessary abortions. This was in direct conflict with the 2001 state supreme court decision, Department of Health & Human Services v. Planned Parenthood of Alaska, Inc. He declared the proposed bill to be bad policy, as it would cause harm for low income women by forcing them into the limited options of choosing to harm their own health or their fetus's health, or wait until "their life is in eminent fear of death." He directed attention to page 2, line 17, declaring that the escape clause was insufficient, as it was nearly identical to the language addressed by the aforementioned state supreme court decision, which had already been determined to be unconstitutional. He voiced opposition by the ACLU for proposed HB 363. He provided the Alaska Bureau of Vital Statistics report, which stated that fewer than 61 percent of the women who had abortions, had more than one abortion, and that fewer than 4 percent of those women had more than three abortions. He stated that this supported the earlier statement by Representative Kerttula that "no one uses abortion as a contraception time after time in Alaska. That's not something women like to do."

[3:40:36 PM](#)

REPRESENTATIVE MILLETT, noting that Mr. Decker had referred to the proposed bill as bad policy, questioned whether the ACLU customarily designated bad policy and good policy. She asked if the ACLU won every case in which it participated.

[3:41:22 PM](#)

MR. DECKER replied that ACLU carefully selected cases to protect and respect the civil rights of Alaskan under the federal and state constitution.

[3:41:42 PM](#)

REPRESENTATIVE MILLETT posed the question, if the ACLU were asked to represent a woman who had decided to choose an abortion or her mate who did not support this choice, who would ACLU represent.

[3:42:07 PM](#)

MR. DECKER replied that the ACLU board selected cases based on the facts, and that he could not answer regarding a hypothetical case. He stated that decisions for representation were selected based on the protection and enhancement for the civil liberties of Alaskans.

REPRESENTATIVE MILLETT asked if the ACLU considered an unborn child to have civil liberties.

MR. DECKER, in response to Representative Millett, said that it was not an easily answered question, as it was not a matter of personal consideration. He reminded the committee that the discussion was for whether this proposed bill was unconstitutional per the Alaska Supreme Court ruling in a similar case.

REPRESENTATIVE MILLETT declared her respect for the ACLU and its defense of "all walks of life, not one side or the other of an issue."

[3:43:41 PM](#)

CHAIR KELLER asked, as Mr. Decker had announced that the proposed bill was unconstitutional, if this meant that the legislature was not capable of defining what was medically necessary.

MR. DECKER replied that the legislature lacked the ability, through legislation, to contradict a decision by the Alaska Supreme Court about the meaning or requirements of the Alaska State Constitution.

CHAIR KELLER offered his belief that the legislature could write laws without any restrictions for crafting definitions. Directing attention to the aforementioned Department of Health & Human Services v. Planned Parenthood of Alaska, Inc. decision, he declared that the ruling was made in a different context,

with different meanings. He allowed that there was now a lot more information, including a Center for Medicare & Medicaid Services (CMS) definition for medically necessary. He declared that Alaska was in the minority of states which paid for elective abortions. He opined that this was a legitimate area for legislative exploration, and that there should be discussion in a search for options.

[3:45:30 PM](#)

MR. DECKER encouraged the House Health and Social Services Standing Committee to review the state supreme court decision for Department of Health & Human Services v. Planned Parenthood of Alaska, Inc., specifically the escape clause, which he determined was nearly identical to that in the proposed bill on page 2, line 17. He offered his belief that this similarity would make the proposed bill unconstitutional.

CHAIR KELLER assessed that Chief Justice Fabe had made 15 references to medically necessary abortions in the aforementioned decision, and that she had expressly noted that it did not apply to elective abortions. He asserted that it was his right to "try to attempt to define to make those definitions in legislation." He expressed his agreement with Representative Millett's assessment of the ACLU and its examination of proposed legislation.

[3:46:39 PM](#)

REPRESENTATIVE HERRON asked if the proposed legislation could separate abortions from abortion preventive services, which included pre-natal care, advice for full term birth, and post-natal care.

[3:47:17 PM](#)

MR. DECKER explained that the proposed legislation was unconstitutional because it limited medically necessary abortions, which was in direct contravention of the state supreme court decision. He asked for clarification to "the teasing out of counseling and other services versus abortion."

REPRESENTATIVE HERRON, in response, stated that abortion services did include pre-natal care, advice to take the pregnancy full term, and post-natal care, and he questioned whether the proposed bill eliminated these services as well as elective abortions.

[3:48:13 PM](#)

MR. DECKER affirmed that the proposed bill prohibited funding for medically necessary abortions, as well as other services, and he directed attention to page 2, line 8, which referred to counseling and referral services. He declared that refusal of funding for any of these would violate the equal protection clause.

[3:48:57 PM](#)

CHAIR KELLER said "I, again, take issue with your determination on this bill." He paraphrased from the limitations on page 2, line 17 of the proposed bill, which read:

The limitations in (a) - (f) of this section do not apply to an abortion [performed] when (1) the life of the mother is endangered by a physical disorder, physical illness, or physical injury; (2) the life of the mother is endangered by a physical condition caused by or arising from the pregnancy itself; or (3) the pregnancy is the result of an act of rape or incest.

CHAIR KELLER agreed that this was the language in question.

[3:49:57 PM](#)

REPRESENTATIVE KERTTULA, offering her belief that the proposed bill was unconstitutional, asked Mr. Decker for his evaluation of the difficulty to win this case, in light of the state supreme court decision that equal rights did not allow similarly situated people to be treated differently. She asked if she was reading this correctly.

CHAIR KELLER opined that Representative Kerttula was not reading the proposed bill correctly, as there was "room for a definition of medically necessary."

REPRESENTATIVE KERTTULA, in response to Chair Keller, clarified that she had directed her question to Mr. Decker, and laughing, declared, "I know we don't agree, respectfully."

[3:51:11 PM](#)

MR. DECKER, in response to Representative Kerttula, said that the proposed bill was in direct conflict with case law and that the footnote to the state supreme court opinion spoke conclusively to the limitations just discussed.

[3:52:17 PM](#)

CLOVER SIMON, Planned Parenthood of the Great Northwest, asked if she could first discuss Planned Parenthood.

CHAIR KELLER approved the request by Ms. Simon, and then stated that he reserved his right to have further hearings on the proposed bill, and, dependent on the legal opinion for its allowance as a committee bill, he would have the committee vote to hear the proposed bill.

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REPRESENTATIVE SEATON asked which version of the proposed bill was being discussed.

[3:54:01 PM](#)

CHAIR KELLER clarified that he wanted Version M to be the working draft.

[3:54:16 PM](#)

REPRESENTATIVE MILLETT moved to adopt the proposed committee substitute (CS) for HB 363, Version 27-LS1441\M, Mischel, 3/12/12, as the working document. There being no objection, Version M was adopted as the working document.

MS. SIMON reported that Planned Parenthood was a non-profit health care provider with 27 health centers in Alaska, Idaho, and Washington. She offered some background on Planned Parenthood, and stated that its services were primarily for birth control starts, well woman exams, cervical cancer screening, breast cancer screening, and testing and treatment of sexually transmitted infections. She detailed that 90 percent of its services were aimed at the prevention of unintended pregnancy and sexually transmitted infections. She stated that Planned Parenthood also provided first trimester medication and in-clinic abortions, although this was less than 10 percent of its services. She shared that while funding was primarily from fees collected for clinical services, 72 percent was generated from self-pay and third party payers, 14 percent of its revenue

was garnered from state, federal, or local grants, and 10 percent was from individual donors. She declared that Planned Parenthood did not support proposed HB 363, as it was necessary for poor women to have access to abortion services. She expressed agreement with the ACLU analysis regarding the constitutionality of the proposed bill and the aforementioned state supreme court decision that all therapeutic abortions were covered. She pointed out that the definition for therapeutic abortions, which included medically necessary, was contained in the Alaska statutes. She expressed her concern with a ban for counseling or referrals for abortions by any organizations which received state funds, as a broad interpretation would disallow options counseling and referrals through the family planning services required under federal law and paid with federal funds. She asked that the committee consider that, under the PPACA, the option to add family planning-only services to the Alaska Medicaid program was greatly simplified, and only required the state to submit a state plan amendment to supply the service. She estimated that this family planning amendment to Medicaid, serving more than 7000 women, would prevent about 360 abortions, a 20 percent decrease to the current Alaska abortion rate. She declared that the federal funding of 90 percent for the program would save the State of Alaska about \$6 million in future Medicaid costs. She emphasized that the decision for whether or not to become a parent was deeply personal and should only "be made by a woman in consultation with her family, her faith, and her doctor." She declared a desire to maintain protection of that right for all women, regardless of socio-economic status.

[3:58:22 PM](#)

CHAIR KELLER extended his apology, stating that earlier in the meeting he had read from the incorrect version of the proposed bill, and he now referred to page 2, line 18 of Version M, which he declared to be "a little different" than the earlier version. He stated that this proposed bill "does not apply to an abortion performed (1) when the abortion is medically necessary, as determined by a licensed physician in the state, or (2) when the pregnancy is a result of an act of rape or incest." He pointed out that there was a specific definition for elective abortion and for medically necessary.

[3:59:26 PM](#)

KAREN LEWIS, Educational Director, Alaska Right to Life, stated that testimony from earlier witnesses "act like the court have never been wrong, like what they say is the absolute truth,

absolutely, forever, and it's not true. You just go back 150 years and lots of people owned slaves, and at that time, that was normal and people that went against it got a lotta guff." She offered her belief that "that's exactly what's going to happen with killing babies. People are going to look back at this time and say what were those people thinking." She declared that this issue was "forcing those of us who understand that abortion is evil, is morally depraved, that it kills a child in the womb, and this state is trying to force us to pay our money to kill children in the womb, and that is unconscionable." She stated that she wanted no part of this, and that she desired the end of all abortions. She opined that more than 50 percent of people in the United States considered themselves pro-life.

[4:01:26 PM](#)

LORA WILKE urged the committee to reject the proposed bill. She expressed her bewilderment with the House Health and Social Services Standing Committee, offering her belief that the committee's purpose was "to promote health, and to help the citizens of the state live a healthy life." She declared that the proposed bill was not helping anyone, was wasting time, and would cost more to defend in the courts than the cost of the abortions it presumed to prevent. She extended her thanks to Representative Kerttula for ensuring the correct process for the introduction of legislation, and to Representative Millett for mentioning that men should also be involved with this discussion. She expressed her disagreement with any controversial legislation introduced without sponsorship by an individual, and not a committee. She urged the committee to "reject this bill."

[4:03:20 PM](#)

KAYT SUNWOOD expressed her opposition to the proposed bill, stating that any law which limited access was targeting poor women, and was an attack on the Alaska values of privacy, individual freedom of government interference, and fair treatment under the law. She declared that the proposed bill "disproportionately disadvantages women, which violates equal treatment gender wise." She emphasized that all women, regardless of income, deserved equal access to reproductive health options.

[4:04:20 PM](#)

CAROL CAIRNES stated that she was opposed to proposed HB 363. She said that developmental problems of the fetus could be the reason for abortion, and that the decision for termination should be made only by the woman and the medical professionals with whom she consults. She declared that the State of Alaska should leave medical decisions to medical professionals in consultation with the patient. She opined that it was likely the proposed bill would be determined to be unconstitutional. She declared that that it was not the role of the legislature to determine appropriate medical treatment.

[4:06:39 PM](#)

KRISTA HOWARD, student, University of Alaska Anchorage, emphasized her disappointment for the remarks toward women's health care and women's rights, as Alaska had once been in the forefront of women's rights and reproductive choice. She stated that the proposed bill threatened the fundamental and constitutionally guaranteed right for legal and safe abortion services, and that legislators should not be placing barriers to these services. She stressed that any law which targeted low income women was an attack on Alaskan values, individual freedom, and the right to privacy, all of which were guaranteed by the Alaska State Constitution. She stipulated that Alaska should remain at the forefront of women's rights and reproductive choices. She specified that prevention of unintended pregnancy was the best way to reduce abortions.

[4:08:03 PM](#)

CANDY MILLER asked about the cost of an abortion, and if there was a listing for percentage of abortions due to rape, or "catastrophic situations that are a danger of the death of the mother." She expressed concern for double billing, and declared that private insurance should be the focus. She offered her belief that there was a growing co-dependency on the state, as people were not being responsible for themselves. She opined that an unborn child "has a voice and their communication is life." She read passages from the Fourteenth Amendment of the U.S. Constitution. She declared support for proposed HB 363, and opined that car insurance companies were recognizing unborn children. She offered her belief that this was an epiphany and there was a need for the corresponding laws.

[4:12:23 PM](#)

MS. SIMON, in response to Chair Keller, said that the cost for an abortion ranged from \$600 to \$800 in the first trimester, depending on the provider. She clarified that the Medicaid payment was about \$400.

[4:12:50 PM](#)

ROSANNE CURRAN directed attention to a rally, the March for Life, in Washington, D.C., in protest of the Supreme Court ruling on Roe et al. v. Wade, District Attorney of Dallas County. She presented that protests had been occurring since that court decision, in 1973. She mentioned that federal funding for Planned Parenthood was \$349 million in the prior year. She offered her belief that no government would require its citizens to pay for "something that they found morally repugnant." She quoted from a statement by the AUL (Americans United for Life) that read: "the federal government should not be forcing Americans to pay for abortions or abortion coverage." She declared that the proposed bill could stop state funding for abortions, and save the state about \$750,000. She declared that she did not want her tax money funding elective abortions.

[4:15:38 PM](#)

JENNIE GRIMWOOD, Eagle Forum Alaska, offered her belief that "Medicaid fraud was rampant in the abortion industry." She referred to a recent court filing in which Planned Parenthood was alleged to have been overpaid by \$5.7 million for services that were not covered by Medicaid. She stated that abortion was a moral decision, and offered a story of a child born as the result of a rape. She announced that "Alaska should not provide public funds for abortions."

[4:17:38 PM](#)

HAYLEE SHIELDS, Forty Days For Life, stated that the Alaska State Constitution declared that all persons had "a natural right to life, liberty, and the pursuit of happiness and that all persons are equal and entitled to protection under the law." She opined that it was a direct contradiction of the Alaska State Constitution to fund abortions, as this would take the life of an innocent person. She suggested a consideration of whether something was right or wrong, instead of how much it cost. She offered her belief that Alaskans should "no longer condone or be a party to the willful slaughter of innocent lives." She requested passage of proposed HB 363.

[4:19:21 PM](#)

MARY KEHRHAHN-STARK stated that, as all Alaskans held a strong value for individual freedom, discrimination for medical procedures would not be tolerated, especially to those women who were the most poor and vulnerable. She declared, "Shame, Representative Keller, in attempting to use your governmental power to strip individual rights because of your religious beliefs." She noted that the decision to end a pregnancy was a very personal, individual decision, emphasizing that abortion was not a form of birth control. She relayed that abortion had been legalized in 1970, and been reaffirmed in 1997 and 2001. She offered her belief that Alaskans supported reproductive freedom for men and for women, from governmental interference, with fair treatment under the law. She pointed out that this was a moral decision for everyone, and, as it needed to be fair for all Alaskans, it was especially important for representatives of the state to recognize. She asked why the legislature should determine whether an abortion was elective or medically necessary, as they were not the person who was living with the pregnancy.

[4:21:43 PM](#)

TERRY BOREN declared her agreement with the supporters of the proposed bill about one thing that "abortion is far more than a form of birth control." She established that access to abortion and family planning was a necessary and indispensable requirement for competent, humane health care, as pregnancy was risky, dangerous, and costly. She asked why the state would want to intervene in these difficult decisions. She reported that legislation had made it legal for abortions in Alaska in 1970. She admonished Representative Dick for advocating that women be required to have permission from the man who impregnated them, in order to have an abortion. She suggested that this might be about controlling a woman's fertility, or controlling her morality. She declared that control of a woman's sexuality by the church or the state was not allowed. She presented a personal story of her pregnancy. She summarized that proposed HB 363, by forbidding disclosure of pregnancy options and referrals for abortions, violated federal funding laws and "goes against everything Alaskans stand for."

[4:27:53 PM](#)

MATT JOHNSON, Executive Director, Alaska Right to Life, offered his belief that most people would prefer there to be fewer

abortions. He referenced a recent NPR (National Public Radio) poll which stated that 59 percent of Americans found abortion to be wrong. He opined that the heart of the bill was whether people who found abortion to be morally objectionable should be complicit by paying for abortion. He referenced other polls that reflected Americans to be opposed to federal funding for a national health care law. He offered his belief that the proposed bill was not about restricting anyone's right to abortion, but was about who would pay. He stated that he did not want to be complicit with the state payment for this procedure. He suggested that "the hubris of the courts in subverting the legislature's constitutional role should not be a reason to withdraw this bill." On behalf of Alaska Right to Life, he declared strong support for HB 363.

[4:30:46 PM](#)

CHAIR KELLER asked that everyone keep an open mind, and declared that the restriction defined by the state supreme court was for abortions that were medically necessary. He declared his desire to explore the remaining options with this Alaska Supreme Court decision, and to explore a possible definition. He declared that he would introduce this proposed bill next year, if there was a legal decision to not allow its current introduction.

[HB 363 was held over]

SB 82-FOSTER CARE LICENSING/STATE CUSTODY

[4:32:20 PM](#)

CHAIR KELLER announced that the final order of business would be CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 82(JUD), "An Act relating to the procedures and jurisdiction of the Department of Health and Social Services for the care of children who are in state custody; relating to court jurisdiction and findings pertaining to children who are in state custody; and modifying the licensing requirements for foster care."

[4:32:48 PM](#)

SENATOR BETTYE DAVIS, Alaska State Legislature, said that her staff member, Celeste Hodge, would explain the proposed changes and compromises. She said that she would also be available for any questions.

[4:33:33 PM](#)

REPRESENTATIVE DICK moved to adopt the proposed House committee substitute (HCS) for CSSSSB82(JUD), Version 27-LS0500\R, Lauckhaupt\Mischel, 3/6/12, as the working document. There being no objection, Version R was adopted as the working document.

[4:33:55 PM](#)

CELESTE HODGE, Staff, Senator Bettye Davis, Alaska State Legislature, directed attention to the proposed changes in Version R. She stated that there were no changes in Section 1 or Section 2. She explained that there was a new Section 3, identifying page 3, lines 11 - 17, and read from the Explanation of Changes [Included in members' packets]:

amends provisions for extensions of state custody orders to distinguish among circumstance of release and need for out of home care. The proposed changes, page 3, line 11-17 were developed in consultation with the Department of Law and the Office of Children's Services and delineate statutorily the situations under which a youth may reenter state custody after being released. This delineation was needed to ensure proper applications of the reentry provision passed in 2010. Specifically, the proposed changes enable youth to reenter state custody if they were released to their parents' custody between ages 16 - 18 but those parents are unable or unwilling to care for the child. Page 3, lines 19-27, this language was added to clarify the conditions that must be met for a youth to reenter state custody.

MS. HODGE stated that Section 4 was renumbered to Section 5, Section 5 was renumbered to Section 6, Section 6 was renumbered to Section 7, and Section 7 was renumbered to Section 8.

[4:35:34 PM](#)

REPRESENTATIVE SEATON asked if the majority of the changes were on page 3, lines 19-24.

[4:36:03 PM](#)

MS. HODGE clarified that all the changes were on page 3, lines 11-17 and 19-27.

[4:36:39 PM](#)

CHAIR KELLER, in response to Senator Davis, said that he was not going to submit an amendment.

[4:36:51 PM](#)

SENATOR DAVIS announced that all the contributing parties were in agreement to pass Version R.

[4:37:05 PM](#)

CHAIR KELLER, directing attention to page 3, line 6, asked to clarify that this was a resumption of custody.

[4:37:51 PM](#)

TRACY SPARTZ-CAMPBELL, Deputy Director, Central Office, Office of Children's Services (OCS), Department of Health and Social Services, stated that OCS was in agreement with the changes in Version R.

[4:38:25 PM](#)

REPRESENTATIVE SEATON asked if OCS agreed with the proposed bill, as well as the changes in Version R.

MS. SPARTZ-CAMPBELL confirmed that OCS agreed with the totality of proposed Version R.

[4:38:51 PM](#)

AMANDA METIVIER, Statewide Coordinator, Facing Foster Care in Alaska, testified that Facing Foster Care supported SB 82. She reviewed that the proposed bill would: define siblings and request their placement together; restrict the use of "another planned permanent living arrangement" as a permanency goal; loosen the licensing standard for rural communities so young children could stay in the community, rather than move to urban areas; and allow for re-entry to foster care after an earlier release of custody.

[4:42:26 PM](#)

CHAIR KELLER closed public testimony.

[4:42:52 PM](#)

REPRESENTATIVE DICK moved to report HCS CSSSSB82 (JUD), Version 27-LS0500\R, Luckhaupt/Mischel, 3/6/12, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCS CSSSSB82 (HSS) was forwarded from the House Health and Social Services Standing Committee.

[4:43:44 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 4:43 p.m.