

ALASKA STATE LEGISLATURE
SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

March 16, 2011

1:35 p.m.

MEMBERS PRESENT

Senator Bettye Davis, Chair
Senator Dennis Egan
Senator Johnny Ellis
Senator Kevin Meyer
Senator Fred Dyson

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative Les Gara

COMMITTEE CALENDAR

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 82

"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 CSSSSB 82(HSS) OUT OF COMMITTEE

SENATE BILL NO. 15

"An Act relating to penalties for certain alcohol offenses involving persons under 21 years of age committed by a sex offender or child kidnapper."

- MOVED CSSB 15(HSS) OUT OF COMMITTEE

SENATE BILL NO. 8

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

- MOVED SB 8 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 82

SHORT TITLE: FOSTER CARE LICENSING/STATE CUSTODY

SPONSOR(s): SENATOR(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)

BILL: SB 15

SHORT TITLE: SEX OFFENDER/UNDERAGE ALCOHOL OFFENSE

SPONSOR(s): SENATOR(s) MEYER

01/19/11 (S) PREFILE RELEASED 1/7/11
01/19/11 (S) READ THE FIRST TIME - REFERRALS
01/19/11 (S) HSS, JUD
03/16/11 (S) HSS AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 8

SHORT TITLE: STUDENT QUESTIONNAIRES AND SURVEYS

SPONSOR(s): SENATOR(s) DAVIS

01/19/11 (S) PREFILE RELEASED 1/7/11
01/19/11 (S) READ THE FIRST TIME - REFERRALS
01/19/11 (S) EDC, HSS
02/16/11 (S) EDC AT 8:00 AM BELTZ 105 (TSBldg)
02/16/11 (S) Scheduled But Not Heard
02/21/11 (S) EDC AT 8:00 AM BELTZ 105 (TSBldg)
02/21/11 (S) Heard & Held
02/21/11 (S) MINUTE(EDC)
02/25/11 (S) EDC AT 8:00 AM BELTZ 105 (TSBldg)
02/25/11 (S) Heard & Held
02/25/11 (S) MINUTE(EDC)
02/28/11 (S) EDC RPT 3DP 2NR
02/28/11 (S) DP: THOMAS, DAVIS, FRENCH
02/28/11 (S) NR: MEYER, STEVENS
02/28/11 (S) EDC AT 8:00 AM BELTZ 105 (TSBldg)
02/28/11 (S) Moved SB 8 Out of Committee
02/28/11 (S) MINUTE(EDC)
03/16/11 (S) HSS AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

CELESTE HODGE, Staff to Senator Davis
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Presented SB 82 for sponsor, Senator Davis.

SENATOR KEVIN MEYER
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of SB 15.

CHRISTINE MARISIGAN, Staff to Senator Meyer
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Presented SB 15 for sponsor, Senator Meyer.

TONY NEWMAN, Program Officer
Division of Juvenile Justice
Department of Health and Social Services
Juneau, AK

POSITION STATEMENT: Answered questions regarding SB 15.

KATE BURKHARDT, Executive Director
Advisory Board on Alcohol and Drug Abuse
Juneau, AK

POSITION STATEMENT: Testified in support of SB 15.

SHALON HARRINGTON, Legislative Liaison
Department of Corrections
Juneau, AK

POSITION STATEMENT: Answered questions regarding SB 15.

THOMAS OBERMEYER, Staff to Senator Davis
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Presented SB 8 for sponsor, Senator Davis.

WARD HURLBURT, Director
Division of Public Health
Chief Medical Officer
Department of Health and Social Services
Anchorage, AK

POSITION STATEMENT: Answered questions regarding SB 8.

EMILY NENON
Alaska Government Relations Director
American Cancer Society Cancer Action Network

POSITION STATEMENT: Testified in support of SB 8.

PETER HOEPFNER, President
Cordova School Board
Cordova, AK

POSITION STATEMENT: Testified in support of SB 8.

RYAN KAUFMAN, representing himself.
Sitka, AK

POSITION STATEMENT: Testified in support of SB 8.

BRUCE JOHNSON, Executive Director
Alaska Council of School Administrators
Juneau, AK

POSITION STATEMENT: Testified in Support of SB 8.

CHRISTINA VAN CLEEVE
Alaska School Nurses Association
Juneau, AK

POSITION STATEMENT: Testified in support of SB 8.

ACTION NARRATIVE

[1:35:13 PM](#)

CHAIR BETTYE DAVIS called the Senate Health and Social Services Standing Committee meeting to order at 1:35 p.m. Present at the call to order were Senators Meyer, Ellis, Dyson, Egan, and Chair Davis

SB 82-FOSTER CARE LICENSING/STATE CUSTODY

[1:37:12 PM](#)

CHAIR DAVIS announced the first order of business would be SB 82, the foster care bill. [SSSB 82 was before the committee.]

SENATOR EGAN moved to adopt the proposed committee substitute (CS) for SSSB 82, labeled 27-LS0500\D, as the working document.

CHAIR DAVIS objected for discussion purposes.

CELESTE HODGE, staff to Senator Davis, said there are only three minor changes in the CS. On page 5, line 10, delete "the" and insert, "Unless the child, department, and guardian ad-litem agree to release from custody without a motion and with less than 30 days' notice, the". The justification for this change is that it would allow for release from custody in less than 30 days if the youth, the state, and the guardian ad-litem all

agree. On page 6, following line 2, insert a new subsection to read, "In this section, another planned permanent living arrangement (APPLA) means a permanent living arrangement for a child who is committed to the custody of the department under AS 47.10.080, that is an alternative to permanent placement with an adult family member and to unification, adoption, and legal guardianship." Page 6, lines 11-13, delete all material. This was done to avoid conflict between the OCS worker who is trying to find placement and the licensing worker who is trying to follow the rules. Then renumber the following paragraphs accordingly.

[1:39:17 PM](#)

CHAIR DAVIS closed public testimony and removed her objection.

SENATOR DYSON asked if the department agreed with the changes.

TRACY SPARTZ-GAMBELL Deputy Director, Office of Children's Services Department of Health and Social Services (DHSS), said the department had no objection to the proposed changes.

SENATOR EGAN moved to report CSSSSB 82, version D, from committee with individual recommendations and accompanying fiscal notes. Without objection, CSSSSB 82(HSS) moved from the Senate Health and Social Services Standing Committee.

At ease from 1:41 p.m. to 1:42 p.m.

SB 15-SEX OFFENDER/UNDERAGE ALCOHOL OFFENSE

[1:42:38 PM](#)

CHAIR DAVIS announced the next order of business would be SB 15.

SENATOR EGAN moved to adopt the proposed committee substitute (CS) for SB 15, labeled 27-LS0119/I, as the working document.

CHAIR DAVIS objected for discussion purposes.

SENATOR KEVIN MEYER, sponsor of SB 15, said there are people who will furnish alcohol to minors in return for sexual favors. This should not be tolerated. The lure of alcohol is a way for sex traffickers to kidnap children. This bill says if a person is convicted of buying alcohol for a minor, and also has a history of being a sex offender or child kidnapper, the penalty is upped by one step.

CHRISTINE MARISIGAN, Staff to Senator Meyer, said the intent of the bill is to provide aggravated penalties for sex offenders or child kidnappers who provide alcohol to minors. There are two

substantive changes in the CS. Page 1, lines 5 and 6, explicitly outline which alcohol penalties are included. These are AS 04.16.051, which is the furnishing or delivering of alcoholic beverages to persons under the age of 21; AS 04.16.055, which includes the offense of renting rooms for the purpose of providing alcoholic beverages to minors; and AS 04.16.057 which refers to possessing alcohol in a dwelling. The other substantive change is on page 2, lines 6 and 7, which explicitly sets out the definitions of sex offender and child kidnapper.

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SENATOR DYSON said he liked the changes in the CS and assumed the definitions referred to convicted criminals.

MS. MARISIGAN affirmed that was correct.

[1:47:59 PM](#)

TONY NEWMAN, Program Officer, Division of Juvenile Justice, Department of Health and Social Services (DHSS), said the definitions do apply to convicted sex offenders.

[1:48:41 PM](#)

KATE BURKHARDT, Executive Director, Advisory Board on Alcoholism and Drug Abuse, Department of Health and Social Services (DHSS), said the board is a statutory advisory body, and she does not speak on behalf of DHSS. The advisory board supports SB 15. Young people who choose to use alcohol do receive it more often than not from an older person. According to the 2009 Youth Risk Behavior Survey, one-third of students using alcohol said they received it from another person. It is important to note that in alternative high schools, students reported that about 28 percent had procured alcohol from an adult. Unlike traditional high school students, young women in alternative high schools are disproportionately receiving alcohol from adults. We know that alcohol and other drugs are indicated in the exploitation of minors.

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SENATOR MEYER said there was a letter from the Alaska Peace Officers Association in support of the bill.

SENATOR DYSON asked if the Department of Law (DOL) and the courts had any objections.

SENATOR MEYER said they had met with DOL, and they helped write the bill but did not take a position.

CHAIR DAVIS asked about the fiscal note.

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SHALON HARRINGTON, Legislative Liaison, Department of Corrections (DOC), said that DOC went back over the last 15 years and looked at the number of offenders who were charged as sex offenders with a second offense of providing alcohol to minors. The average was 3.5 per year. Looking at those numbers and with elevated charges, this would result in an increase of 122 man days for a class A misdemeanor. If this charge was elevated, the average would go to 336 days. Multiplied by the number of offenders, this would give an increase of 860 days per year. With a daily cost of care of \$106.44, the total financial impact would be \$117,308. For a class c felony, the increase would result in 1,095 days per year, multiplied by 3.5, resulting in 2,579 days per year, with a total cost of \$351,924. This explains the fiscal note.

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SENATOR MEYER said, "That means at least seven people every year that are known sex offenders that are buying for minors".

MS. HARRINGTON responded it is an average of seven per year. So there could be years with ten or years with two.

SENATOR MEYER said that number shows the need for this bill, but noted he did not understand the fiscal note. It seemed excessive. He also questioned how DOC can know precisely how many they will have each year. Obviously there will be an increased cost, but the fiscal note should be indeterminate. DOL said that prosecutors won't necessarily go for the higher sentencing, but this gives them the flexibility to do so.

MS. HARRINGTON replied that DOC had not met with the Department of Law. They based their calculations on the number of individuals charged with both offenses. These numbers are based on average sentences. DOC could revisit the fiscal note and talk with DOL.

[2:00:38 PM](#)

SENATOR MEYER said that would be good.

MS. HARRINGTON said the additional increase over two years would be due to overlapping inmates.

SENATOR MEYER noted the conviction for a class C felony would be most likely; it is an automatic sentence.

MS. HARRINGTON answered the average sentence is 365 days.

[2:02:28 PM](#)

DOUG WOOLIVER, Administrative Attorney, Alaska Court System, said the sentencing would be for offenders who have a prior felony conviction. This would make them second felony offenders.

SENATOR MEYER responded that if a person who was convicted once is now buying alcohol to do it again, this shows the need for this bill. The sentence seems adequate to the crime. He stated he was concerned about the cost, and would work with DOC to come up with a revised fiscal note.

CHAIR DAVIS said that question could be handled in Finance.

SENATOR MEYER asked Chair Davis if she would accept a motion to change the fiscal note.

CHAIR DAVIS answered she was willing to attach a letter, but the fiscal note would still be the Finance committee's purview.

SENATOR DYSON said he guessed the real fiscal impact would be significantly less than indicated by the current fiscal note. He noted the fiscal note could get changed in Judiciary.

CHAIR DAVIS noted the bill had a Judiciary referral.

SENATOR MEYER said that passing it on to Judiciary would be a good solution.

CHAIR DAVIS said originally there was no fiscal note.

SENATOR MEYER said it definitely needs a fiscal note; it just needs to be more accurate.

[2:09:25 PM](#)

SENATOR EGAN moved to report CS for SB 15, version I, from committee with individual recommendations and accompanying fiscal notes. There being no objection, CSSB 15(HSS) moved from the Senate Health and Social Services Standing Committee.

At ease from 2:09 p.m. to 2:10 p.m.

SB 8-STUDENT QUESTIONNAIRES AND SURVEYS

[2:10:59 PM](#)

CHAIR DAVIS announced the next order of business would be SB 8, an act related to student questionnaires and surveys, sponsored by Senator Davis.

THOMAS OBERMEYER, Staff to Senator Davis, said SB 8 is an act relating to student questionnaires and surveys. The purpose is to increase participation in the national biennial Youth Risk Behavior Survey (YRBS) in order to meet minimum 60 percent participation required by the Centers for Disease Control (CDC) for the survey to be validated for assessment, recording, and reporting of reliable results. The YRBS will next be administered in the spring of 2011 and 2013. This survey is valuable to all aspects of society dealing with youth.

SB 8 would change the parental permission requirement from active to passive. There is ample time and opportunity for parents to review the survey. Students may also independently decline to participate. There is absolute privacy and anonymity. Failure to return parental consent forms is more often due to a lack of interest or attention by parents. Schools and other organizations need the facts and population-based information on student behavior. The YRSB helps guide important health and prevention programs; the survey makes it easier to obtain information on youth risk behaviors.

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WARD HURLBURT, Director, Division of Public Health, Chief Medical Officer, Department of Health and Social Services, said the governor has concerns about the bill. He said the administration understands the importance of the information obtained, but Governor Parnell has always supported the opt-in provision of current Alaska law. He said the governor has a deep commitment to strong Alaskan families, and believes that the current law fosters engagement of parents with their children's lives.

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EMILY NENON, Alaska Government Relations Director, American Cancer Society Cancer Action Network, said they support the bill. She has followed the issue for several years. She researched the 1998 Alaska statute on this issue and the changes made in the 1999 statute. This bill does not take Alaska back to where we were before the law was changed. In 1999 the law was strengthened to protect the privacy of students and families. SB 8 keeps those protections in place. Allowing parents to opt out rather than actively opt in makes the survey more workable.

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PETER HOEPFNER, School Board President, Cordova, testified in support of SB 8 and said that students are able to answer honestly. This anonymous and private survey is a good way to see what is going on. The schools use the information obtained to try to identify issues and use preventive education. This survey needs to change to passive consent. Kids don't always bring permission slips home, and the form doesn't always get turned in on time. This survey provides an excellent way to see what is going on.

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RYAN KAUFMAN, Sitka, testified in support of SB 8. He said he had experience as an administrator for YRBS. He stated the majority of parents approve of students participating in the survey. The existing opt-out law is adequate for the minority who would deny permission. The response rate for permission forms is very low and this is a major barrier to collecting accurate data. Schools need quality data to provide quality services. The YRBS also serves as a test for those providing services to reduce risk behaviors; it is a powerful source of data. Confidentiality is of major importance to parents and students. This comes down to the goal of providing the highest quality services. We need accurate data; the ultimate goal is healthy and successful youth.

[2:25:11 PM](#)

BRUCE JOHNSON, Executive Director, Alaska Council of School Administrators, said the council supports SB 8. The YRBS is an important piece of data for school districts to use in developing and modifying programs. The more information they have, the more likely they can prevent risky behaviors.

[2:26:29 PM](#)

CHRISTINA VAN CLEEVE, Alaska School Nurses Association, a school nurse in the state for 20 years, testified in support of SB 8. She said passive consent works. Motivated parents who do not want the survey will let the school know. Schools are being asked to do more with less money, and this information is crucial to applying for grants. She noted the YRBS also measures healthy behaviors.

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CHAIR DAVIS closed public testimony on SB 8. She said that in the Education committee, an Anchorage School District representative gave a run-down on the survey and how it was administered. She noted the student can also opt out of survey,

as late as the day of the test. This survey provides important information. The opt out provision has worked in previous years; SB 8 is not an anti-family bill, it is actually pro-family.

[2:30:08 PM](#)

SENATOR DYSON said this is a very significant policy decision. The issue is whether to be guided by pragmatism or by the ideals of parental control and rights to privacy. He believes the only school district that has had problems with getting a good sample is Anchorage. Others did not have difficulty. He noted that schools require permission for 19 different things, and have no trouble getting active parental consent for things like field trips and sports. He also opined that a major reason for introduction of SB 8 is grant money. Grants require an objective standard for showing a program is successful and making progress. Money is the major motivation.

Federal law says that all surveys must have parental consent. This doesn't exclude anonymous surveys. United States Code 1232(h) says "No student shall be required as part of any application program to submit to a survey, analysis, or evaluation . . ." without parental consent. If we change this to passive consent there will definitely be a court challenge. The major reason that parents resist this survey is they want to protect the innocence of their children.

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Schools are good at getting permission for other things. This one is not unique. "Do we make it easier to violate parents' control over what their children are exposed to, or not? The choice is to support parents' rights or be pragmatic and pull down money."

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CHAIR DAVIS said she would have appreciated having Senator Dyson's comments before the meeting. She noted this bill does not preclude parents from deciding if their children should participate. They can still make their wishes known. Even the child can refuse to take the test. "How can this be anti-family or anti-parental control?" The state needs this information not just for money; it also needs the data in order to provide services that families and children need. This is valuable information. The information is not shared; it goes directly to Atlanta, where the surveys are scored and returned. SB 8 is not just about money.

[2:39:34 PM](#)

SENATOR EGAN moved to report SB 8 from committee with individual recommendations and attached fiscal notes.

SENATOR DYSON objected.

A roll call vote was taken. The motion to move the bill from committee passed 3:1 with Senators Egan, Meyer and Davis voting yea and Senator Dyson voting nay. Therefore, SB 8 moved from the Senate Health and Social Services Standing Committee.

[2:40:38 PM](#)

There being no further business to come before the committee, Chair Davis adjourned the meeting at 2:40 p.m.