

ALASKA STATE LEGISLATURE
SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

March 5, 2012

1:33 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Johnny Ellis

COMMITTEE CALENDAR

PRESENTATION: GOVERNOR'S COUNCIL ON DISABILITIES & SPECIAL
EDUCATION

- HEARD

SENATE BILL NO. 202

"An Act relating to resuscitation protocol documents that may be
adopted by reference in regulations."

- MOVED SB 202 OUT OF COMMITTEE

SENATE BILL NO. 151

"An Act relating to mitigation at sentencing in a criminal case
for a defendant found by the court to have been affected by a
fetal alcohol spectrum disorder."

- MOVED CSSB 151(HSS) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 202

SHORT TITLE: RESUSCITATION PROTOCOL DOCUMENTS

SPONSOR(S): SENATOR(S) EGAN

02/17/12	(S)	READ THE FIRST TIME - REFERRALS
02/17/12	(S)	HSS
03/05/12	(S)	HSS AT 1:30 PM BUTROVICH 205

BILL: SB 151

SHORT TITLE: FETAL ALCOHOL SPEC. DISORDER AS MITIGATOR
SPONSOR(s): SENATOR(s) MEYER

01/17/12 (S) PREFILE RELEASED 1/13/12
01/17/12 (S) READ THE FIRST TIME - REFERRALS
01/17/12 (S) HSS, JUD
03/05/12 (S) HSS AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

RICHARD ETHERIDGE, Chief
Juneau Fire Department
Juneau, Alaska
POSITION STATEMENT: Testified in support of SB 202.

DAVID HULL, Chief
Alaska Council On Emergency Medical Services (ACEMS)
Ketchikan, Alaska
POSITION STATEMENT: Testified in support of SB 202.

DR. WARD HURLBURT, Chief Medical Officer
Division of Public Health
Department of Health and Social Services
Anchorage, Alaska
POSITION STATEMENT: Testified in support of SB 202.

KATE BURKHART, Executive Director
Advisory Board on Alcoholism and Drug Abuse
Division of Behavior Health
Department of Health and Social Services
Juneau, Alaska
POSITION STATEMENT: Testified in support of SB 151.

MARIE OLSON, Representing Herself
Juneau, Alaska
POSITION STATEMENT: Spoke in support of SB 151.

MARGARET VROLYK, Parent Navigator
FASD Diagnostic Clinic
Juneau, Alaska
POSITION STATEMENT: Testified in support of SB 151.

RIC IANNOLINO, Representing Himself
Juneau, Alaska
POSITION STATEMENT: Spoke in support of SB 151.

LORETTA (BETTY) MARVIN, Representing Herself

Juneau, Alaska

POSITION STATEMENT: Spoke in support of SB 151.

MICHAEL JEFFREY, Superior Court Judge

Barrow, Alaska

POSITION STATEMENT: Testified in support of SB 151.

DEB EVENSON, Director

Fetal Alcohol Consultation and Training Services (FACTS)

Homer, Alaska

POSITION STATEMENT: Spoke in favor of SB 151.

JEANNE GERHARDT-CYRUS, Representing Herself

Kaina, Alaska

POSITION STATEMENT: Testified in support of SB 151.

MONICA CHARLES-LEINBERGER, Member

Alaska FASD Partnership

Bethel, Alaska

POSITION STATEMENT: Testified in support of SB 151.

DAVE FLEURANT, Attorney

Disability Law Center of Alaska

Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 151.

MILLIE RYAN, Executive Director

Governor's Council on Disabilities and Special Education (GCDSE)

Anchorage, Alaska

POSITION STATEMENT: Provided information related to GCDSE.

ERIC GEBHART, Chair

Governor's Council on Disabilities and Special Education (GCDSE)

Anchorage, Alaska

POSITION STATEMENT: Presented information related to GCDSE.

ACTION NARRATIVE

[1:33:26 PM](#)

CHAIR BETTYE DAVIS called the Senate Health and Social Services Standing Committee meeting to order at 1:33 p.m. Present at the call to order were Senators Meyer, Egan, Dyson, and Chair Davis.

SB 202-RESUSCITATION PROTOCOL DOCUMENTS

CHAIR DAVIS announced the consideration of SB 202.

1:34:11 PM

SENATOR DENNIS EGAN, sponsor of SB 202, introduced the bill. He read from the following sponsor statement:

Cardiopulmonary Resuscitation (CPR) standards are updated regularly based on new research. Unfortunately, due to the slow process of changing agency regulations, current state regulations reference outdated and incorrect CPR standards. For example, when the current resuscitation regulations were adopted in 2002, the gold standard for adult CPR was 15 chest compressions for every two breaths administered. Today, the American Heart Association recommends for trained rescuers two breaths for every 30 compressions, and compressions only for an average bystander. Pediatric standards have also changed significantly since the time current CPR regulations were established.

The International Liaison Committee on Resuscitation (ILCOR) is an international group of scientists that reviews studies, makes treatment recommendations, and publishes its findings. The addition of the ILCOR findings to AS 47.05.012 would allow Emergency Medical Services offices and instructors to teach the most current and appropriate resuscitation standards without having to go through the lengthy process of revising agency regulations. This bill is necessary to maintain a high standard of emergency medical care in Alaska.

CHAIR DAVIS requested a motion to bring SB 202 before the committee.

SENATOR EGAN moved to adopt SB 202, labeled 27-LS 1381\M, as the bill before the committee.

CHAIR DAVIS objected for discussion purposes.

1:37:30 PM

RICHARD ETHERIDGE, Chief, Juneau Fire Department, testified in support of SB 202, which would streamline the process for updating current regulations for CPR. He noted how much CPR has changed over the years. People around the world have studied the most effective delivery of CPR and the bill would bring Alaska up to date on these procedures.

SENATOR EGAN thanked Chief Etheridge for his testimony.

[1:39:27 PM](#)

DAVID HULL, Chief, Alaska Council On Emergency Medical Services (ACEMS), testified in support of SB 202. He said that ACEMS supports the use of the best methods of instructing CPR. Current state regulations have outdated standards for CPR. He stressed the importance of the life-saving qualities of CPR. He concluded that the bill would help support high standards of emergency care in Alaska.

[1:42:13 PM](#)

DR. WARD HURLBURT, Chief Medical Officer, Division of Public Health, Department of Health and Social Services, testified in support of SB 202, which would permit the use of contemporary recommendations in determining the best methods for CPR training.

CHAIR DAVIS closed public testimony.

SENATOR EGAN thanked the testifiers.

SENATOR DAVIS spoke in support of the bill. She removed her objection.

SENATOR MEYER moved to report SB 202 out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, SB 202 moved from the Senate Health and Social Services Standing Committee.

At ease from 1:44 p.m. to 1:46 p.m.

SB 151-FETAL ALCOHOL SPEC. DISORDER AS MITIGATOR

CHAIR DAVIS announced the consideration of SB 151.

[1:46:32 PM](#)

SENATOR KEVIN MEYER, sponsor of SB 151, explained that the bill would include Fetal Alcohol Spectrum Disorders (FASD) and Traumatic and Acquired Brain Injury (A/TBI) as "impaired brain function" under the state's existing definition of "mental disease or defect" and as mitigating factors in sentencing. Currently, under state law FASD and A/TBI are not included under those definitions. He cautioned that the bill is not a "get out of jail free" card. The intent is to have more appropriate

sentencing for people who suffer from these disabilities. The hope is that those people receive the treatment they need.

SENATOR MEYER referred to a recent presentation by Chief Justice Carpeneti who requested that judges have more flexibility in issuing sentences. Senator Meyer spoke of his efforts to correct an inequity. Alaska has the highest rate of FASD in the nation. According to the experts at the Alaska FASD Partnership, people with FASD are disproportionately represented within the criminal justice system.

CHAIR DAVIS asked if version X was before the committee.

SENATOR MEYER said that was correct. [There was no objection, and the assumption was that version X, 27-LS1132\X, was the working document of the committee.]

[1:49:31 PM](#)

KATE BURKHART, Executive Director, Alaska Mental Health Board, Advisory Board on Alcoholism and Drug Abuse, testified in support of SB 151. She recalled the history of this legislation, which is a grass roots effort led by the families of individuals with FASD and FASD individuals themselves. The FASD Partnership steering committee drafted a specific recommendation for the legislation.

MS. BURKHART addressed the fact that the legislation does not create a "get out of jail free" card. It provides that judges "may" impose a lesser sentence. The bill provides additional discretion to judges to help ensure that defendants are treated fairly according to their abilities.

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MARIE OLSON, representing herself, spoke in support of SB 151. She recalled participating in conventions related to Fetal Alcohol Spectrum Disorder (FASD). She shared her experience with children who had FASD and the problems related to the disease. She predicted that many are in jail because of the disease. She said that in FASD individuals, part of the brain has not developed and the person is not totally responsible for his or her actions. The bill is a step forward in the right direction, but does not address the whole problem. Limiting the jail time is part of the answer. She said she was grateful for the bill.

[1:59:12 PM](#)

MARGARET VROLYK, Parent Navigator, FASD Diagnostic Clinic, testified in support of SB 151. She shared her experience as a

parent of a son with FASD. She also voiced concern about two areas of the bill.

SENATOR MEYER noted the removal of those two sections in version X.

SENATOR EGAN moved to adopt the proposed CS for SB 151, labeled 27-LS1132\X, as the working document. There being no objection, version X was before the committee.

[2:03:09 PM](#)

RIC IANNOLINO, representing himself, spoke in support of SB 151. He related that he coordinates the FASD Diagnostic Clinic in Juneau. He reported that Australia and other parts of the world are also in favor of the bill. He called the legislation humane and cost effective.

SENATOR MEYER the goal of the bill is to give a judge flexibility to adjust sentencing because of an individual's disability. He asked Mr. Iannolino if his clinic deals with those who are sentenced to treatment instead of jail time.

MR. IANNOLINO said Juneau Alliance for Mental Health and Gastineau Human Services both provide services to people who need services outside of prison.

SENATOR MEYER asked why the clinic closed.

MR. IANNOLINO said he was retiring.

[2:07:16 PM](#)

LORETTA (BETTY) MARVIN, representing herself, spoke in support of SB 151. She recalled her experiences working with FASD children. She related that she has experienced calls from parents requesting help for their children. She stated that FASD prisoners are treated poorly in jail. She shared a story. She agreed that a lesser sentence and some sort of help are answers to this problem.

[2:10:36 PM](#)

MICHAEL JEFFREY, Superior Court Judge, Barrow, Alaska, testified in support of SB 151. He said he has served on the statewide FASD committee. He maintained that the problem is a legislative issue. He said that brain injuries go beyond FASD, such as returning military with brain trauma. He spoke of the range of FASD disorders. He opined that there is a need for protection for public safety, but also for sentencing that meets the needs of this population. He agreed that the bill was cost effective.

SENATOR MEYER thanked Mr. Jeffrey for his testimony. He invited him to participate in the Judiciary Committee hearing. He asked what type of FASD individuals come before the court. He did not think there were many violent cases.

MR. JEFFREY observed that the person that comes before the court does not appear to be disabled. Most people affected with FASD in rural Alaska are not diagnosed. He pointed out that there are red flags to watch for. The classic charges fall into the following categories: property crimes, minor assaults, and a range of violations. He emphasized that the point is to have the sentencing fit the crime and for other methods to be used rather than jail time.

[2:19:10 PM](#)

DEB EVENSON, Director, Fetal Alcohol Consultation and Training Services (FACTS), spoke in favor of SB 151. She shared her extensive work with FASD. She quoted Stewart Whitley, Minister, Health and Human Service, Yukon Territory, who said, "Think of the unjustness of being visited by an affliction of appearing to understand more than you do." She talked about how many fetal brain cells are destroyed by alcohol. The brain works differently with FASD, with the problem solving ability being about half the person's chronological age.

She said this legislation is a giant step toward fair sentencing. She shared a story from court in Whitehorse, Yukon Territory, where a young man was given an alternative sentence and has not re-offended.

[2:24:21 PM](#)

JEANNE GERHARDT-CYRUS, Kaina, Alaska, testified on her own behalf in support of SB 151. She spoke of her personal experience with a child with FASD. She said if the goal is to prevent recidivism and protect society, then FASD victims should not be put in jail with others. They should receive structure and support in other ways.

[2:30:27 PM](#)

MONICA CHARLES-LEINBERGER, Alaska FASD Partnership, Bethel, Alaska, testified in support of SB 151. She listed her involvement as a member of the local FASD diagnostic team and as a FASD and Behavioral Specialist for the Lower Kuskokwim School District. She voiced concern about FASD individuals that don't learn from serving time. She spoke of her experience with FASD children in Lower Kuskokwim School District and how intervention

plans are developed. She concluded that the bill will give the judicial system a way to look at a person as an individual.

[2:34:41 PM](#)

DAVE FLEURANT, Disability Law Center of Alaska, testified in support of SB 151. He spoke of a decision in Canadian Court by Judge Barry Stewart who said, "It is manifestly unfair to make an individual pay for their disability with their freedom."

CHAIR DAVIS noted the bill would move to the Judiciary Committee next.

SENATOR DYSON moved to report CS for SB 151, version X, from committee with individual recommendations and accompanying fiscal notes. There being no objection, CSSB 151(HSS) was reported from the Senate Health and Social Services Standing Committee.

Presentation: Governor's Council on Disabilities & Special Education

CHAIR DAVIS announced the final order of business before the committee was a presentation by the Governor's Council on Disabilities and Special Education.

[2:38:23 PM](#)

MILLIE RYAN, Executive Director, Governor's Council on Disabilities and Special Education (GCDSE), thanked the committee for the chance to present and for their support over the years.

ERIC GEBHART, Chair, Governor's Council on Disabilities and Special Education, presented information related to GCDSE. He shared the council's mission to create change that improves the lives of people with disabilities. He explained that the council does not provide direct service, but works by building capacity, changing systems, and advocating for the systems that affect those with disabilities.

He related that GCDSE is made up of 27 members appointed by the governor. The members are individuals with disabilities, parents or family members of people with disabilities, state agency representatives, and other representatives designated in federal law.

MS. RYAN added that the council is a "unique beast" because it is located within state government. It works closely with boards

and commissions and with the Department of Health and Social Services (DHSS).

MR. GEBHART explained that the council is different from most boards and commissions because it has "freedom to act" as designated by federal law.

MS. RYAN said the council is different from other states in that the board is a working board with no granting authority.

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MS. RYAN discussed the funding sources: federal receipts, no general fund receipts, inter-agency receipts, GF/Mental Health funds, and Alaska Mental Health Trust Authority (MHTAAR) funds. She said in FY 13 federal grants will be diminishing, with other funding sources remaining the same; however, there will be an increase in funds from MHTAAR in order to replicate a pilot program.

MR. GEBHART addressed the council's responsibilities. He listed the five committees/boards GCDSE is responsible for: State Council on Developmental Disabilities, State Advisory Panel on Special Education, State Interagency Council on Infants and Toddlers with Disabilities, Governing Board of the Special Education Service Agency (SESA), and Beneficiary Board of the Alaska Mental Health Trust Authority.

SENATOR DYSON asked for clarification on how the organizational chart works.

MR. GEBHART replied that the council members serve on those five boards. He said there is no budget for serving on those boards.

[2:49:11 PM](#)

SENATOR DYSON asked if the council is the board for SESA.

MS. RYAN said yes. The council hires the executive director.

SENATOR DYSON asked which of the five boards CDGSE has executive control over.

MR. GEBHART said only SESA.

MS. RYAN added that the council makes recommendations about issues impacting students receiving special education.

SENATOR DYSON asked who controls the funds that support the smaller boards.

MS. RYAN explained the different funding sources for each board.

[2:51:18 PM](#)

SENATOR DYSON concluded that the \$2 million is for supporting all of the boards. He asked if the boards do hands-on work.

MS. RYAN clarified that the council makes up all of the boards. She gave an example of funds received for special projects that fit with the council's mission.

SENATOR DYSON understood that the council's work did not involve providing services to individuals.

MS. RYAN said they supervise agencies that do provide the services.

She continued that March is Developmental Disability Awareness Month. She listed key facts about developmental disabilities, which are severe, chronic disabilities that occur at birth or before age 22 and are likely to continue indefinitely. They result in substantial function limitations in three or more areas of major life activity. They reflect an individual's need for a combination and sequence of special, interdisciplinary or generic assistance, support, or other services that are of lifelong or extended duration and are individually planned and coordinated. She gave examples of types of developmental disabilities. She said that about 13,000 Alaskans have a developmental disability.

MR. GEBHART explained ongoing challenges of the council. The council is responsible for developing actions and policies that will improve the lives of thousands of Alaskans with disabilities. It is also responsible for equipping Alaskans with disabilities with tools, skill, and opportunities they need to successfully live the same everyday lives as Alaskans without disabilities. The council is also working on Medicaid reform.

[2:56:26 PM](#)

MR. GEBHART shared the 5-year plan goal areas. He also listed the tools used to achieve the council's mission.

MS. RYAN gave an example of the council in action. There was considerable public testimony about barriers to employment such as lack of policy that promotes work as an expectation, lack of

access to needed resources, and limited employment opportunities.

She shared overall strategies of the council and some of the outcomes to date.

[3:01:36 PM](#)

MS. RYAN concluded with data on the percent of those on SSI who work, as compared to the national average, and the number in integrated employment. The Alaska Mental Health Trust Authority has done a survey to see how many people think people with disabilities can hold down a job. The number rose from about 30 in 2002 to about 53 percent in 2010.

SENATOR DYSON asked if Carr's grocery store in Southcentral Alaska receives financial incentives for employing disabled workers.

MS. RYAN said that the Division of Vocational Rehabilitation (DVR) can provide financial support in the form of tax credits or job coaching.

SENATOR DYSON asked for information regarding GCDSE's \$2 million budget.

MS. RYAN clarified that the council has worked with Vocational Rehabilitation on assessing abilities of disabled workers and helps to influence the way services are provided.

SENATOR DYSON requested more information on one of the charts.

MS. RYAN explained that the chart referred to Division of Senior and Disability Services statistics.

SENATOR DYSON asked if it was fair to infer that only another 400 individuals could qualify for jobs.

MS. RYAN said that 1,300 people could qualify for jobs.

SENATOR DYSON voiced appreciation for GCDSE.

CHAIR DAVIS thanked the presenters.

MR. GEBHART pointed out that GCDSE's office is in Anchorage.

[3:09:38 PM](#)

There being no further business to come before the committee, Chair Davis adjourned the Senate Health and Social Services Standing Committee at 3:09 p.m.