

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

February 8, 2013

1:31 p.m.

MEMBERS PRESENT

Senator John Coghill, Chair
Senator Fred Dyson
Senator Bill Wielechowski

MEMBERS ABSENT

Senator Lesil McGuire, Vice Chair
Senator Donald Olson

COMMITTEE CALENDAR

REPORT: ALASKA CHILDREN'S JUSTICE TASK FORCE

- HEARD

SENATE JOINT RESOLUTION NO. 6

Urging the United States Congress not to relinquish to the office of the President of the United States the legislative duty to safeguard our most fundamental right; and urging the President of the United States to refrain from any further efforts to restrict ownership of firearms.

- MOVED SJR 6 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SJR 6

SHORT TITLE: OPPOSE EXECUTIVE ORDERS ON GUN CONTROL

SPONSOR(s): SENATOR(s) DYSON

01/25/13	(S)	READ THE FIRST TIME - REFERRALS
01/25/13	(S)	JUD
02/04/13	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/04/13	(S)	Heard & Held
02/04/13	(S)	MINUTE(JUD)
02/08/13	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

JAN RUTHERDALE, Attorney

Civil Division
Child Protection Section
Department of Law; and Chair
Alaska Children's Justice Act Task Force
Juneau, Alaska

POSITION STATEMENT: Participated in the Alaska Children's Justice Act Task Force presentation.

CATHY BALDWIN-JOHNSON, MD., member
Alaska Children's Justice Act Task Force
Anchorage, Alaska

POSITION STATEMENT: Participated in the Alaska Children's Justice Act Task Force presentation.

THOM JANIDLO, Vice-Chair and attorney member
Alaska Children's Justice Act Task Force
Anchorage, Alaska

POSITION STATEMENT: Participated in the Alaska Children's Justice Act Task Force presentation.

GAYLE GARRIGUES, Assistant District Attorney
Criminal Division, Department of Law (DOL); and member
Alaska Children's Justice Act Task Force
Fairbanks, Alaska

POSITION STATEMENT: Participated in the Alaska Children's Justice Act Task Force presentation.

BRYCE WRIGLEY, representing himself
Delta Junction, AK

POSITION STATEMENT: Testified in support of SJR 6.

BOB NEELEY, representing himself
Gakona, AK

POSITION STATEMENT: Testified in support of SJR 6.

SCOTT HAMANN, representing himself
Kenai, AK

POSITION STATEMENT: Testified in strong support of SJR 6

ACTION NARRATIVE

[1:31:06 PM](#)

CHAIR JOHN COGHILL called the Senate Judiciary Standing Committee meeting to order at 1:31 p.m. Present at the call to order were Senators Dyson, Wielechowski, and Chair Coghill.

Presentation: Alaska Children's Justice Act Task Force

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CHAIR COGHILL announced the first order of business would be a presentation from the Alaska Children's Justice Act Task Force (Alaska CJATF).

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JAN RUTHERDALE, Chair, Alaska Children's Justice Act Task Force and Attorney, Civil Division, Child Protection Section, Department of Law, provided an overview of the presentation. She said she would introduce the Alaska Children's Justice Act Task Force followed by Dr. Cathy Baldwin-Johnson who would talk about child maltreatment in Alaska, and Thom Janidlo, an attorney in private practice in Anchorage who represents parents in children's cases. She directed attention to the pamphlet in the packets and the overview of the Alaska CJATF that talks about its history, mission, and projects. She noted that the packets also contained some proposed legislation, an amendment to the proposed legislation, and a summary of the Adverse Childhood Experiences (ACE) Study. She introduced the members of the task force who were present.

MS. RUTHERDALE reminded the members that the legislation that the Alaska CJATF recommended last year became part of Senate Bill 210. She expressed appreciation to Senators McGuire, Dyson, and Wielechowski as primary and co-sponsors, and noted that it passed unanimously.

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CATHY BALDWIN-JOHNSON, MD. and member, Alaska Children's Justice Act Task Force, delivered an update on the research on Alaskan children in danger. She reviewed data from Alaska Office of Children's Services statistics for 2012; Kids Count data collections for 2011-2012 - Alaska and nationwide; and the Prevent Child Abuse America publication on the costs of child maltreatment in the United States.

DR. BALDWIN-JOHNSON explained that maltreatment includes physical abuse, sexual abuse, neglect, and other forms of endangerment for children. In 2012, more than 16,000 children in Alaska were reported as victims of at least one type of maltreatment. This translates to about 44 children a day. About 25 of the reports were for neglect, 7 for mental injury (this includes exposure to domestic violence), 5 for physical abuse, and 2 for in-home sexual abuse. This is likely a gross underestimate because it does not include the episodes of out-

of-home sexual abuse. Those cases are screened out and go directly to law enforcement. However, even law enforcement statistics are a gross underestimation, because many cases of child sexual abuse are not reported at all.

DR. BALDWIN-JOHNSON relayed that the overall statistics place Alaska at 171 percent of the national average, which is an improvement from previous years. She explained that the consequences of child maltreatment may be physical, psychological, behavioral, societal, short-term, or long-term. Clearly, the consequences continue throughout a person's lifespan.

One of the short-term health effects of child maltreatment is death. Approximately 1 of every 5 deaths of Alaskan children (up to age 9) is related to maltreatment. Nearly 3 out of 4 maltreatment-related deaths occur in infants.

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DR. BALDWIN-JOHNSON said the statistics for child and teen deaths show that the Alaska rates are far above the national average. Homicide continues to be about the fourth leading cause of death for Alaskan children. The statistics for violent death (homicide, suicide, and accident) of teens show that Alaska is above the national average in this category, too. A particular concern is that Alaska's rates of teen and young adult suicide are very far above the national average.

She discussed the direct and indirect costs of child maltreatment, both of which are expensive. Direct costs include the care for injured children. Indirect costs include the child protection system, the juvenile and adult criminal justice systems, future earnings and productivity, and medical and mental health care costs that can be short term or long term. Current estimates indicate that this costs the country about \$220 million a day, or \$80 billion per year. Not surprisingly, the cost of child maltreatment significantly contributes to the rising overall health care costs in the country.

DR. BALDWIN-JOHNSON described the landmark Adverse Childhood Experiences (ACE) Study. It was a collaborative study between researchers at the Centers for Disease Control and Kaiser Permanente, a large health maintenance organization in California. The first publication, "Turning Gold into Lead," talked about healthy and full of promise young children who didn't have good outcomes after being exposed to abuse. The initial study had more than 17,000 participants, all of whom

received insurance through their employer from Kaiser Permanente. An equal number of males and females participated and the majority was white and middle aged and had at least some college education. They didn't appear to be high risk.

Each of the participants was asked about different categories of abuse or family dysfunction they may have experienced during the first 18 years of life. They were asked if they had a history of verbal abuse, sexual abuse, or physical abuse. They were asked about family dysfunction and if there was substance abuse in the home, violence or threats of violence, a mentally ill parent, or if their parents were divorced or separated. The second wave of the study added questions about various kinds of neglect.

For each category of abuse or family dysfunction that a person experienced, the person received an ACE score of 1. The researchers found that a lot of people have bad things happen in childhood. More than a quarter of participants reported that they had been a victim of physical abuse and that there had been substance abuse in the home. Nearly a quarter of participants reported that their parents were either divorced or separated. A little over one-third of participants never experienced any of these things, which means that two-thirds of the participants had adverse experiences. Twelve and one-half percent of the participants experienced four or more categories of abuse or dysfunction when they were children.

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DR. BALDWIN-JOHNSON explained that when the researchers looked at the participants' adult health, they found that the higher the ACE score the more likely it was that the person would suffer common, chronic ailments. For example, a person with a high ACE score was much more likely to have started smoking when they were young, to be smoking now, and to be a heavier smoker. Similarly, a person with a high ACE score was more likely to be an alcoholic and to have injected intravenous drugs. The study found that over half of the participants with an ACE score of 4 or higher suffered from depression. Of those who had an ACE score of 7 or more, over one-third had attempted suicide at some point in their lifetime.

ACE scores also correlated with other health concerns. Twelve percent of the people that had very high ACE scores were morbidly obese and 26.6 percent of the people that had higher ACE scores were sedentary. When the researchers looked at chronic disease, they found links with all kinds of cancer, stroke, diabetes, hepatitis, and sleep problems. They found a

significant correlation with chronic lung disease that persisted even when they controlled for smoking. For heart disease, there was a stronger correlation with the ACE score than traditional risk factors such as hypertension, diabetes, or high cholesterol.

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Links were also identified with reproductive health, mental health problems, auto-immune diseases, skeletal fractures, being a future victim, being a future perpetrator of violence, work absenteeism, and work productivity.

DR. BALDWIN-JOHNSON highlighted that studies both before and after confirm the landmark ACE study findings. The following is a sample of the confirmatory research:

- Child Abuse Neglect 2008: CSA & CPA increased risk later depression, anxiety, conduct/antisocial personality disorder, substance abuse, suicide attempts.
- American Journal Public Health 2009: 30 year prospective study - child physical & sexual abuse increases risk for STIs in adults.
- Cancer 2009: significant & stable association between child physical abuse and cancer even adjusting for other risk factors.
- Obesity 2009: 30 year prospective study - child physical abuse predicted significantly higher BMI in adulthood even controlling for other factors.
- Riggs et al; Journal of Pediatrics 1990 found that children that had been physically abused were 5 times more likely to attempt suicide and teenagers that had been sexually abused were 3 times more likely to attempt suicide.
- CAN 2008: lifetime re-victimization study found the childhood victimization risk for future physical & sexual abuse/assault, kidnapping, stalking, having family friend murdered or commit suicide.
- Journal of Psychoactive Drugs 2008: family substance abuse predictive of earlier, more severe methamphetamine dependence.

DR. BALDWIN-JOHNSON summarized the evidence from the ACE study. It suggests the need to view adverse childhood experiences as one of the most basic causes of health risk behaviors, illness, disability, premature death, and health care costs.

Current research is looking at why these links occur, but it's likely multifactorial. It is known that toxic stress affects how the brain develops and learns to respond to the environment. Some of it has to do with the effect of toxic stress on the immune system and some of it may have to do with underlying genetics. Current findings indicate that some of it has to do with epigenetics - how the genes are expressed or modified due to toxic stress. Addressing the question of what to do with the information, Dr. Baldwin-Johnson said it's very clear that when bad things happen to children, bad things will continue to happen into the future. The abused child will be adversely affected as an adult and society will, too.

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DR. BALDWIN-JOHNSON displayed a stratified pyramid to illustrate the mechanisms by which adverse childhood experiences influence health and wellbeing throughout the lifespan. Traditionally, child protection, medical, mental health, law enforcement, and court system resources are spent at the top of the pyramid when it's clear that effort should be concentrated at the bottom on prevention of adverse childhood experiences and early interventions. Sometimes interventions have to do with having a better legal system to protect children from harm, she said.

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DR. BALDWIN-JOHNSON reviewed the requests of the Alaska CJATF.

- Increased support for child advocacy centers (CACs) in Alaska.

She explained that these child-focused, community based centers bring the services of multidisciplinary agencies to the child. Forensic interviews and medical evaluations are provided by trained individuals. Psychosocial evaluations are done directly or by referral. Mental health, advocacy and support services, and referral for services are provided for the child and family. CACs coordinate the agencies and resources, collect data, and track the outcomes.

Alaska now has 10 CACs and 2 satellites that have served nearly 18,000 Alaskan children since the first CAS opened in 1996. Since 2008, the funding has been flat despite significant increases in utilization. Most CACs have also increased the types of services they provide. A good example is that many CACs have expanded their capacity to provide mental health services to children and their non-offending caregivers.

The CACs submitted a request for \$520,109 and the governor's current budget allocation is \$400,000.

DR. BALDWIN-JOHNSON discussed the second request.

- Support for HB 73 and SB 22.

Many provisions in these bills will benefit children. They relate to sex trafficking, investigations of child abuse images, sentencing provisions regarding three judge panels and child sexual exploitation images, expanded admission of evidence of prior bad acts, and revisions to the mandatory reporting statutes.

CHAIR COGHILL advised that SB 22 was currently in the committee's jurisdiction.

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THOM JANIDLO, Vice-Chair, Alaska Children's Justice Act Task Force, said he was a private attorney in Anchorage representing parents whose children have been removed by OCS. He described the first legislative recommendation the Alaska CJATF believes would further protect children.

- Update the current statute concerning medical evaluations of suspected child abuse.

DR. BALDWIN-JOHNSON explained that the problem with AS 47.17.064 is that it is not current with regard to diagnostic testing. It refers to x-rays and photographs when there are a number of newer technologies that do a better job of helping to differentiate between abuse and non-abuse conditions. She suggested replacing the reference to "radiological examination" with the phrase "imaging studies or other diagnostic testing." Parent notification of the testing would continue.

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CHAIR COGHILL asked if that recommendation was in the document titled "CJATF Proposed Legislation."

DR. BALDWIN-JOHNSON affirmed that was in Section 5 of that document.

MR. JANIDLO described the second legislative recommendation.

- Add a new section to the criminal code regarding children's exposure to domestic violence (DV).

Although research shows that children that are exposed to domestic violence have the same negative outcomes as children that directly experience abuse, it is not a crime under state law to expose a child to domestic violence. Mr. Janidlo noted that the Municipality of Anchorage (MOA) criminal code does list DV exposure as a crime, but the perpetrator cannot be prosecuted under state law. The Alaska CJATF proposes patterning state law after the MOA criminal code.

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SENATOR DYSON inquired why perpetrators can't be prosecuted under municipal law.

MR. JANIDLO answered that they can, but if the abuse occurs anywhere outside the municipal boundary it's not a crime. He described the third legislative recommendation

- Add victim protections to criminal laws and child in need of aid (CINA) laws.

MR. JANIDLO explained that the problem is that during the discovery process the interviews of children and their physical and mental health evaluations often end up in the wrong hands, and the child is re-victimized. The solution is to make unauthorized publication of a victim's protected material a crime; modify the rules of discovery in criminal and CINA cases regarding redistribution of protected materials; and protect the mental health records of a victim.

He described the fourth legislative recommendation.

- Revise the mandatory reporting statute.

MR. JANIDLO reviewed the history of mandatory reporting and the current law under AS 47.17. The standard for reporting is having reasonable cause to suspect that a child has suffered harm as a result of child abuse or neglect. AS 47.17.290 provides a definition of "child abuse" and AS 47.10.014 provides a definition of "neglect."

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MR. JANIDLO said that even with the current mandatory reporters, research shows that child abuse is still underreported. Furthermore, there is confusion in Alaska about who must report. The Alaska CJATF suggests, at a minimum, filling the gaps and requiring reporting from: first responders, social services

personnel, veterinarians, animal control officers, clergy, coaches, and other volunteers with regular contact with children.

However, the best solution is to require all adults to report when they have a reasonable cause to believe that a child is a victim of abuse. He said this is the national trend with more than one-third of the states and Puerto Rico currently requiring every person to report abuse when they have reasonable cause to believe it is occurring.

SENATOR DYSON commented that he knows of divorce lawyers that tell their clients to file a DV charge or accuse their spouse of child abuse. He requested a follow up conversation about how to protect those who are fraudulently accused.

MR. JANIDLO said that happens, but the truth generally comes out in the course of the investigation.

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MR. JANIDLO summarized the Alaska CJATF's requests and recommendations:

- Support increased funding for CACs
- Support HB 73 and SB 22
- Update AS 47.17.64
- Make it unlawful to exposure a child to DV
- Protect children from re-victimization in the discovery process
- Make all Alaskans understand they have a responsibility to report reasonable suspicions of child abuse or neglect.

CHAIR COGHILL asked how a child's sensitive and private information gets out during the discovery process.

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GAYLE GARRIGUES, Assistant District Attorney, Criminal Division, Department of Law (DOL), Fairbanks, Alaska, explained that in these sex crimes the state's attorney is required to give the defendant's attorney copies of the DVD, medical records, and photographs. The problem arises when council for the defense gives copies of the information to their client, because it sometimes is redistributed inappropriately.

The Alaska CJATF is requesting the process be tightened. The defense attorney could show the information to their client, but

it could not be redistributed without a good reason. A good reason could be that the defense wants to hire an expert. The intention of this recommendation is to keep the client from using the information for personal gratification or sharing it with their friends.

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SENATOR WIELECHOWSKI asked for a discussion of the root causes of child abuse in Alaska.

DR. BALDWIN-JOHNSON offered her belief that the causes are multifactorial. For many Alaskans there is historical trauma. There is a great deal of social isolation in the state, and that is a contributing factor. There is a lot of substance abuse in the state, particularly alcohol. When children are exposed to alcohol in utero, they are at higher risk for becoming future victims and future perpetrators because they have poor impulse control. Furthermore, intergenerational problems build on each other and cause a ripple effect of bad things happening now and in the future. Dr. Baldwin-Johnson said that's why she firmly believes that better primary prevention, better early intervention, and better support for families is so important. Referring to the pyramid she described earlier, she emphasized that it is more cost effective to work at the bottom.

SENATOR WIELECHOWSKI asked if she had suggestions for ways to break the cycle.

DR. BALDWIN-JOHNSON said there are a number of programs in existence or under development that need additional support. They look at prenatal care, early childhood development, and ways to help parents be better parents to their very young children. The best time to teach better parenting skills is during pregnancy and when the child is very young.

CHAIR COGHILL asked if some of the programs in use have already been evaluated.

DR. BALDWIN-JOHNSON explained that some of the nurse/family partnership programs have supporting research showing that their interventions work. Some interventions based in primary care practices have been used in other areas of the country and are being evaluated for introduction in Alaska.

CHAIR COGHILL discussed the budget process.

MS. RUTHERDALE stated support for the line item projects in the Governor's budget that relate to increasing housing for families affected by DV and the Strengthen Families Program.

CHAIR COGHILL questioned the practical application of making everyone a mandatory reporter, and expressed concern about the unintended consequences and potential harm it could cause a family that needs help.

MS. RUTHERDALE suggested that it's a question of balancing that potential against the good that can come when there is a valid report of harm.

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CHAIR COGHILL discussed the responsibility and potential drawbacks of making everybody a mandatory reporter, and pointed out that all the current mandatory reporters have been part of the problem.

MR. JANIDLO acknowledged that it will take time and effort to educate the public, but the national campaign that "We are all responsible for all our children." is something that should be promoted.

CHAIR COGHILL reiterated his concern about mandatory reporting and that it may chill a person's willingness to help somebody.

SENATOR DYSON agreed with Mr. Janidlo that there is a human responsibility to report reasonable suspicions of abuse. The welfare of children should be at the forefront, because not helping a child that's being hurt will have a huge, negative ripple effect.

CHAIR COGHILL observed that suspicions of child abuse can be very subjective.

MS. RUTHERDALE directed attention to the amendment to the proposed legislation. It provides an alternative that says that any adult that sees a child being sexually abused has an obligation to report.

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SENATOR WIELECHOWSKI said he can see both sides of the reporting issue, but he continues to believe that to effectively target child abuse it's important to address the root cause. The education system should be involved, which means the state has to figure out its goals for education. Kids need to learn math,

science, and reading, but they also have to be taught how to be good citizens and how to break the cycle of abuse.

MR. JANIDLO agreed with the foregoing sentiments.

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CHAIR COGHILL thanked the presenters and the members of the task force.

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At ease

SJR 6-OPPOSE EXECUTIVE ORDERS ON GUN CONTROL

[2:42:11 PM](#)

CHAIR COGHILL reconvened the meeting and announced the consideration of SJR 6. He opened public testimony.

[2:43:26 PM](#)

BRYCE WRIGLEY, representing himself, Delta Junction, Alaska, testified in support of SJR 6. He said some people question why anybody would need an assault rifle or large magazine for hunting or enjoyment of shooting sports, but the Second Amendment was not put in place to protect hunting or skeet shooting. It was to protect the citizens against those who would take away their freedoms. George Washington made this clear when he said, "A free people ought not only be armed and disciplined, but they should have sufficient arms and ammunition to maintain a status of independence from any who may attempt to abuse them, which would include their own government."

MR. WRIGLEY said he supports the resolution, but would prefer less timid language and more fire and brimstone.

CHAIR COGHILL said the sponsor was listening.

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BOB NEELEY, representing himself, Gakona, Alaska, testified in support of SJR 6. He said he is an Alaskan Indian and military veteran, and in his culture you're not a man if you don't own your own gun. He lives off the land using his gun and he supports protecting the Second Amendment.

CHAIR COGHILL thanked him for his service and testimony.

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SCOTT HAMANN, representing himself, Kenai, Alaska, testified in strong support of SJR 6 as a lifelong Alaska who has lived around guns all his life. He believes the state is under attack from Washington, D.C. and he supports everything that the people of Alaska can do to say no.

CHAIR COGHILL said he knows those sentiments are felt by a lot of people. Finding no further testimony or discussion, he solicited a motion.

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SENATOR DYSON moved to report SJR 6 from committee with individual recommendations and attached fiscal note(s).

CHAIR COGHILL stated that SJR 6 was reported from the Senate Judiciary Standing Committee without objection.

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There being no further business to come before the committee, Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 2:49 p.m.