

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

March 4, 2013

1:38 p.m.

MEMBERS PRESENT

Senator John Coghill, Chair
Senator Lesil McGuire, Vice Chair
Senator Fred Dyson

MEMBERS ABSENT

Senator Donald Olson
Senator Bill Wielechowski

COMMITTEE CALENDAR

SENATE BILL NO. 49

"An Act defining 'medically necessary abortion' for purposes of making payments under the state Medicaid program."

- HEARD AND HELD

SENATE BILL NO. 56

"An Act relating to certain crimes involving controlled substances; and providing for an effective date."

- HEARD AND HELD

SENATE BILL NO. 22

"An Act relating to the commencement of actions for felony sex trafficking and felony human trafficking; relating to the crime of sexual assault; relating to the crime of unlawful contact; relating to forfeiture for certain crimes involving prostitution; relating to the time in which to commence certain prosecutions; relating to release for violation of a condition of release in connection with a crime involving domestic violence; relating to interception of private communications for certain sex trafficking or human trafficking offenses; relating to use of evidence of sexual conduct concerning victims of certain crimes; relating to procedures for granting immunity to a witness in a criminal proceeding; relating to consideration at sentencing of the effect of a crime on the victim; relating to the time to make an application for credit for time served in detention in a treatment program or while in other custody; relating to suspending imposition of sentence for sex

trafficking; relating to consecutive sentences for convictions of certain crimes involving child pornography or indecent materials to minors; relating to the referral of sexual felonies to a three-judge panel; relating to the definition of 'sexual felony' for sentencing and probation for conviction of certain crimes; relating to the definition of "sex offense" regarding sex offender registration; relating to protective orders for stalking and sexual assault and for a crime involving domestic violence; relating to the definition of 'victim counseling centers' for disclosure of certain communications concerning sexual assault or domestic violence; relating to violent crimes compensation; relating to certain information in retention election of judges concerning sentencing of persons convicted of felonies; relating to remission of sentences for certain sexual felony offenders; relating to the subpoena power of the attorney general in cases involving the use of an Internet service account; relating to reasonable efforts in child-in-need-of-aid cases involving sexual abuse or sex offender registration; relating to mandatory reporting by athletic coaches of child abuse or neglect; making conforming amendments; amending Rules 16, 32.1(b)(1), and 32.2(a), Alaska Rules of Criminal Procedure, Rule 404(b), Alaska Rules of Evidence, and Rule 216, Alaska Rules of Appellate Procedure; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 49

SHORT TITLE: MEDICAID PAYMENT FOR ABORTIONS; TERMS

SPONSOR(s): SENATOR(s) COGHILL

02/11/13	(S)	READ THE FIRST TIME - REFERRALS
02/11/13	(S)	JUD, FIN
02/15/13	(S)	SPONSOR SUBSTITUTE INTRODUCED-REFERRALS
02/15/13	(S)	JUD, FIN
02/27/13	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/27/13	(S)	Heard & Held
02/27/13	(S)	MINUTE(JUD)
03/04/13	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 56

SHORT TITLE: RECLASSIFYING CERTAIN DRUG OFFENSES

SPONSOR(s): SENATOR(s) DYSON

02/15/13	(S)	READ THE FIRST TIME - REFERRALS
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02/15/13 (S) JUD, FIN
03/04/13 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

JENNIFER ALLEN, Director of Public Policy
Planned Parenthood Votes Northwest
POSITION STATEMENT: Testified in opposition to SB 49.

LAURA EINSTEIN, Chief Legal Counsel
Planned Parenthood of the Great Northwest
POSITION STATEMENT: Testified in opposition to SB 49.

MYRTLE GOHRING, representing herself
Anchorage, AK
POSITION STATEMENT: Testified in opposition to SB 49.

JOANIE CLEARY, representing herself
Anchorage, AK
POSITION STATEMENT: Testified in opposition to SB 49.

ALAN SMITH, representing himself
Anchorage, AK
POSITION STATEMENT: Testified in opposition to SB 49.

DONNA STARK, representing herself
Anchorage, AK
POSITION STATEMENT: Testified in opposition to SB 49.

PAM CLEMENS representing herself
Anchorage, AK
POSITION STATEMENT: Testified in opposition to SB 49.

ELANN MOREN representing herself
Anchorage, AK
POSITION STATEMENT: Testified in opposition to SB 49.

ALBERT BOWLING representing himself
Anchorage, AK
POSITION STATEMENT: Testified in opposition to SB 49.

SUSAN PACILLO representing herself
Anchorage, AK
POSITION STATEMENT: Testified in opposition to SB 49.

MARIAM LANDAU representing herself
Anchorage, AK

POSITION STATEMENT: Testified in opposition to SB 49.

RHONDA WIDENER, representing herself
Fairbanks, AK

POSITION STATEMENT: Testified in opposition to SB 49.

CLOVER SIMON representing herself
Anchorage, AK

POSITION STATEMENT: Testified in opposition to SB 49.

KIME MCCLINTOCK representing herself
Anchorage, AK

POSITION STATEMENT: Testified in opposition to SB 49.

LISA EGAN LAGERQUIST, representing herself
Juneau, AK

POSITION STATEMENT: Testified in opposition to SB 49.

BETTYE DAVIS, representing herself
Anchorage, AK

POSITION STATEMENT: Asked the sponsor to withdraw SB 49.

PAMELA SAMASH representing herself
Nenana, AK

POSITION STATEMENT: Testified in support of SB 49.

JEAN JAMES representing herself
Fairbanks, AK

POSITION STATEMENT: Testified in opposition to SB 49.

HEATHER BRANDON representing herself
Juneau, AK

POSITION STATEMENT: Testified in opposition to SB 49.

PHILIP STEWART representing himself
Juneau, AK

POSITION STATEMENT: Testified in opposition to SB 49.

ACTION NARRATIVE

[1:38:54 PM](#)

CHAIR JOHN COGHILL called the Senate Judiciary Standing Committee meeting to order at 1:38 p.m. Present at the call to order were Senators Dyson, McGuire, and Chair Coghill.

SB 49-MEDICAID PAYMENT FOR ABORTIONS; TERMS

1:40:24 PM

CHAIR COGHILL announced the consideration of SB 49. [SSSB 49 was before the committee.]

1:41:48 PM

JENNIFER ALLEN, Director of Public Policy, Planned Parenthood Votes Northwest, introduced herself and Laura Einstein. She expressed appreciation for the opportunity to speak and respectfully asked the members to oppose SB 49. She said this is necessary to protect the freedom and privacy of all Alaska women, regardless of their income, and to ensure that they are able to make their own pregnancy decisions in consultation with their doctors.

MS. ALLEN stated that Planned Parenthood is uniquely qualified to speak to SB 49, because it is a healthcare provider whose mission is to ensure access to high-quality reproductive healthcare for all. She relayed that Planned Parenthood operates five health centers in Alaska, and the majority of services it provides to more than 7,000 Alaskans are preventative. These include cancer screening, birth control, and screening for sexually transmitted infections, including HIV. She said Planned Parenthood is committed to providing preventative services to ensure that women and men are supported in planning and spacing the pregnancies they have. When a woman makes the personal and often complex decision to end a pregnancy, Planned Parenthood is proud to be a place that provides safe and legal care for the woman.

MS. ALLEN explained that the first reason that Planned Parenthood is asking the committee to oppose SB 49 is because it puts women's health at risk. It may cause women to avoid or delay seeking abortion services, which may increase the chance of their continuing a health-threatening pregnancy or push their abortion into the second trimester. Pregnancy decisions should be made by women and their doctors, yet SB 49 puts politicians directly between women and their doctors. She emphasized that doctors, not government, are the right ones to decide what is medically necessary. The Alaska Supreme Court recognizes and the constitution requires that women's pregnancy decisions (whether to terminate or carry to term) be given equal protection under the law. Thus, abortion services must be provided to low-income women so that their pregnancy choices are not restricted by their economic status. In addition, the definition of "medically necessary" may not be further limited without discriminating

against women who rely on the government for healthcare. It is a simple matter of fairness, she said.

[1:45:24 PM](#)

LAURA EINSTEIN Chief Legal Counsel, Planned Parenthood of the Great Northwest, said she would talk about why the bill isn't needed, why it isn't constitutional given the holdings in the 2001 decision in *State of Alaska v. Planned Parenthood*, and how similar efforts to oppose a more stringent test for Medicaid coverage of abortions than for other procedures have failed. She noted that the sponsor statement says the bill is needed because the term "medically necessary abortion" has "acquired a constitutional component of unknown scope." Planned Parenthood respectfully disagrees, she said.

First, the Medicaid rules have a definition of "medically necessary" that is used for nearly all services covered by Medicaid. That definition focuses on physician standards of practice and trusts Alaska physicians to evaluate their patients' needs and provide appropriate care. Second, the U.S. Supreme Court has articulated a definition that is helpful for physicians in determining medical necessity. The U.S. Supreme Court stated that whether an abortion is necessary is a professional judgment that takes into account all factors relevant to the wellbeing of the patient including physical, emotional, psychological, familial, and age. This allows the attending physician the latitude needed to make the best medical judgment. Third, the Alaska courts have defined "medically necessary" for abortions. In the 2001 Medicaid funding case, the Alaska Superior Court defined "medically necessary" in its order compelling the state to start paying for medically necessary abortions. The court stated that an abortion is deemed medically necessary if it prevents the death or disability of a woman or to ameliorate a condition harmful to the woman's physical or psychological health. The Alaska Supreme Court affirmed the trial court decision, effectively affirming that definition.

MS. EINSTEIN stated that SB 49 is unnecessary because the Alaska courts and the Medicaid rules already provide the parameters for determining what a medically necessary abortion is. In addition, the court made several findings that are relevant to SB 49 and prove that the bill is not constitutional. The court framed the issue as the protection of either continuing or terminating pregnancy from discriminatory governmental treatment. SB 49 requires a higher bar for abortion than any other service paid for by Medicaid. It is therefore discriminatory treatment of abortion, which is a fundamental right in Alaska.

The Alaska Supreme Court in the Medicaid funding case also made it clear that any rule involving a fundamental right, as SB 49 does, must be neutral. That means a definition cannot be based on the fact that some people oppose abortion. The court held that when the state government seeks to provide medical care for the poor, it is obliged to do so in a neutral manner so as not to infringe on the constitutional rights of Alaska citizens. The state is prohibited from using criteria that imposes a discriminatory burden on the exercise of a fundamental right.

MS. EINSTEIN maintained that SB 49 is not a neutral bill because it contains a definition for "medically necessary" that is beyond the standards applied for other Medicaid services. Because it favors continuing a pregnancy over termination, it is not a neutral bill.

She said the court also framed the equal protection violation that occurs when a woman who terminates her pregnancy is treated differently compared to a woman who continues her pregnancy. The court stated that a woman who carries her pregnancy to term and a woman who terminates her pregnancy exercise the same fundamental right to reproductive choice. The equal protection clause in the Alaska Constitution does not permit the government to discriminate against either woman. They must be granted access to state health care under the same terms as any similarly situated person. She pointed out that the equal protection analysis in the 2001 decision is applicable to SB 49. The bill has the effect of governmental discrimination because it imposes a more onerous definition on abortion than is required for the treatment of pregnancy.

MS. EINSTEIN explained that if there is a constitutional challenge of this legislation, it will be up to the state to prove that there is a compelling need for this definition of "medically necessary." She noted that the sponsor statement justifies the bill as filling a gap, but it doesn't explain why this particular definition is necessary. It appears that the only possible justification is to limit women's access to abortions, but the Alaska Constitution does not permit that.

[1:51:34 PM](#)

MS. EINSTEIN stated that since 2001 there have been four attempts to limit Medicaid paid abortions. In 2002 legislation was introduced that sought to define "medically necessary" almost exactly the same as SB 49 does. The attorney general's office evaluated that bill and determined it would likely be

found unconstitutional and result in costly litigation. In both 2010 and 2012 Legislative Legal Services was asked about the power of the legislature to limit the definition of "medically necessary." In both instances legislative counsel stated that if the Alaska Supreme Court adheres to its findings in *State of Alaska v. Planned Parenthood of Alaska*, the state would not be able to burden the right of abortion services unless the same burden is placed on medical services to continue a pregnancy. If there is no comparable burden on the continuation of a pregnancy, the state cannot burden the right to abortion services. She emphasized that that opinion fully applies to SB 49.

MS. EINSTEIN said that in 2012, the Department of Health and Social Services (DHSS) added a certification process for physicians, but left the determination of whether an abortion is medically necessary in the purview of the physician. This is as it should be. She urged the committee to maintain the current status and rule.

[1:54:37 PM](#)

SENATOR DYSON asked if Planned Parenthood finds it acceptable for abortion to be used as birth control.

MS. EINSTEIN said she believes that a woman's decision to have an abortion is a very complex decision with many factors, and the idea that a woman uses abortion as birth control is....

SENATOR DYSON interjected that it is repulsive.

MS. EINSTEIN continued to say that as a matter of policy and belief, those at Planned Parenthood do not judge any woman. Her life may be very complicated and she may have any number of reasons for her decision.

MS. ALLEN added that she and Ms. Einstein do not work in the health centers, but the health center staff would probably say that is not the reality of what they see. It's a deeply personal decision that women make and a lot of factors go into it that no one else knows about.

[1:56:48 PM](#)

SENATOR DYSON asked if a woman would be turned away if she said she had changed her mind and did not want to continue her pregnancy.

MS. ALLEN said Planned Parenthood supports women in exercising their safe and legal right to make whatever pregnancy decision is right for the woman, including abortion. She added that Planned Parenthood doesn't walk in the woman's shoes and doesn't know why she may have changed her mind.

SENATOR DYSON asked if she said that all medical procedures should have comparable medical screening processes

MS. EINSTEIN clarified that she was talking about the Alaska Supreme Court decision that said that a different, more adverse burden cannot be placed on a woman who decides to terminate a pregnancy compared to a woman who decides to continue a pregnancy. She noted that she also cited legislative counsel who said the standards for defining "medically necessary" for coverage of abortion would have to be the same for coverage of pregnancy.

SENATOR DYSON asked how Planned Parenthood would define an elective abortion as opposed to one for which there was a medical necessity.

MS. EINSTEIN said she understands there is this concept of elective abortion, but she doesn't know what it means. She continued that a woman can get in a situation where she has a medical condition of pregnancy and for many reasons related to health she may decide that the best decision is to have an abortion. In addition, the determination of medically necessary will be made by a physician. He or she will sign the certificate attesting that the woman's health was an important factor and therefore justified the state paying for that service, just as the physician could ask the state to pay for other services.

[2:00:32 PM](#)

SENATOR DYSON asked at what point a right conveys an obligation on others to pay for a service that some people find morally repugnant. He noted that the Runaway Slave Act was a similar issue. People were forced to pay for law enforcement and the courts to send escaped slaves back, even those who found slavery morally repugnant.

MS. EINSTEIN said the Alaska Supreme Court answered that question in *State of Alaska v. Planned Parenthood of Alaska*. It said the state doesn't have to pay for anything, but once it commits to paying for a program like health care for low income persons, it must do so in a neutral and nondiscriminatory way.

[2:03:17 PM](#)

SENATOR MCGUIRE asked if she was aware of instances at Planned Parenthood where a woman was denied coverage for a Medicaid paid abortion because she was unable to qualify based on medical necessity.

MS. ALLEN replied that she wasn't aware of that, but she wasn't involved in the billing process.

MS. EINSTEIN added that if the physician certified that the abortion was medically necessary, Medicaid would pay for it. Whether there have been situations where a physician decided an abortion wasn't medically necessary isn't something she or Ms. Allen would know about, but a claim would not be submitted to Medicaid in that circumstance.

SENATOR MCGUIRE said she was trying to understand what advice Planned Parenthood gives a woman and what other safety nets are available in Alaska both for carrying to term and for termination.

MS. EINSTEIN explained that an abortion is never performed at Planned Parenthood without the woman going through an education process so that she understands all her options. She acknowledged that many women call Planned Parenthood having already made up their minds, but they still go through the education process. Every woman is asked questions to determine how confident she is in her decision, and to make sure that it truly is her decision.

She addressed the effect of SB 49. If it passes with the current language, very few women would qualify for coverage under Medicaid. Some of those women may be able to raise the money to pay for an abortion, but it might take longer. Right now, there are no physicians in Alaska who perform second trimester abortions, so any woman past 14 weeks will have to fly to Washington state. That means she'll have to raise even more money to have the procedure. The majority of women who otherwise qualify for Medicaid services would not meet the standard.

[2:07:41 PM](#)

SENATOR MCGUIRE asked under what aspect of the medically necessary standard are most poor women able to qualify for Medicaid abortions today.

MS. EINSTEIN explained that Planned Parenthood physicians have been provided with the language from the court decisions, which

is to ameliorate a condition harmful to a woman's physical or psychological health. That is the standard of harmful, whereas SB 49 talks about a serious risk to the life or health of the woman, which means either death or impairment of a major bodily function. That is an extremely high bar, and most people don't get that sick in a pregnancy.

MS. ALLEN said it isn't possible to create an exhaustive list of all the conditions that might result in harm to a woman's life or health, and that speaks to why Planned Parenthood believes that a more general medical necessity certification by a doctor is the appropriate standard.

[2:10:41 PM](#)

SENATOR MCGUIRE asked how often women come to Planned Parenthood seeking treatment after attempting to self-abort.

MS. EINSTEIN said she has been with Planned Parenthood for five years and was not aware of that happening.

SENATOR MCGUIRE asked the sponsor to consider the potential unintended consequences of narrowing the definition too much. She questioned whether some women may attempt a self-induced abortion and whether that might ironically result in a medical situation that would allow her to qualify.

[2:12:33 PM](#)

CHAIR COGHILL acknowledged that his view of the equality issue was different than Planned Parenthood, and the fact that there isn't unlimited health care for Alaskans generally shows that there will be limitations. He also offered his belief that the Alaska Supreme Court gave good criteria, but left open the difference between elective and medically necessary. The bill seeks to follow those guidelines closely, but there will be debate about the emotional side, he said.

CHAIR COGHILL noted that former Senators Davis and Lincoln were present.

[2:14:47 PM](#)

MYRTLE GOHRING, representing herself, Anchorage, AK, testified in opposition to SB 49. She said that in nine days she will be 90 years old and her experience of bridging a time of illegal back-alley abortions and life after Roe v. Wade will perhaps clarify her position. She relayed that illegal abortions, despite the risk, were often the only family planning available for her generation. The consequences were often serious but only

then could the family doctor be called in to clean up the damage. She questioned why anyone would want to go back to that. She highlighted that the Alaska Supreme Court has ruled that women's pregnancy decisions, whether to terminate or carry the pregnancy to term, are to be given equal protection under the law.

MS. GOHRING stated support for the court's decision not only for the health and wellbeing of the mothers, but also for the sake of the children involved. She explained that for more than 30 years she worked as a teacher and guidance counselor and it wasn't difficult to identify the children with low self-esteem, and overall feelings of being unwanted. Unfortunately, her work with many of their mothers or care takers confirmed this. She said that the human and social cost of denying abortion rights is too high for everyone, and emphasized the importance of continuing to give women and their doctors the freedom to plan their families without governmental interference.

[2:17:42 PM](#)

JOANIE CLEARY, representing herself, Anchorage, AK, testified in opposition to SB 49. She said she is a social worker who has worked in the field of child abuse and neglect for more than 10 years, and she believes that every child has the right to be born wanted and cared for. She characterized SB 49 as another attempt to chip away at a woman's right to choose abortion, even though the procedure is still legal in this country. She emphasized that the legislature should not get involved in the personal and medical decisions that should be between a woman and her doctor. At a time when services for poor people are being eroded, passage of SB 49 would further harm poor women's ability to make appropriate decision about care for themselves and their families. Referring to the question about whether taxpayers should be forced to pay for services they find repugnant, she pointed out that in a society ruled by law, many people end up paying for services they don't agree with. She cited examples and urged the committee to oppose SB 49.

[2:19:44 PM](#)

ALAN SMITH, representing himself, Anchorage, AK, testified in opposition to SB 49. He stated agreement with the previous comments and offered his belief that the bill second-guesses the professional judgment of medical providers in determining what is medically necessary. SB 49 is not needed.

DONNA STARK, representing herself, Anchorage, AK, testified in opposition to SB 49 and stated agreement with all the previous

testimony today. She pointed out that in 2005 the legislature passed AS 18.05.032 that created the informed consent website regarding pregnancy and pregnancy alternatives. It requires any woman seeking an abortion to sign an affidavit verifying that she has had access to the information. She continued that the statute provides that the website contain objective, unbiased information that describes abortion procedures, medical risks and possible complications, and possible physical and psychological effects that have been associated with pregnancy and having an abortion.

The website further states that risks increase as the pregnancy advances. Ms. Stark said that in Alaska, the risk of dying from pregnancy is 7.4 per 100,000 live births. Between 1990 and 1999 there were 8 pregnancy-related deaths. High blood pressure, blood clots, and heavy bleeding were responsible for those deaths. Under the heading "high blood pressure risk" it states that a woman with high blood pressure has a higher risk of complications. More importantly, it states that a woman who has never had high blood pressure can develop it during pregnancy. Under the section on abortion risks, it states that the overall risk of a woman dying as a direct result of illegal abortion is less than 1 per 100,000. It also states that the earlier in the pregnancy that the abortion is performed the safer it is for the woman. A review of the stages of embryonic and fetal development would also indicate that if a woman does not want to face the higher risk of death associated with the complications of pregnancy, it is necessary for her safety to have an abortion early and not wait for further fetal development.

MS. STARK said that SB 49 contradicts the information provided on the informed consent website. It takes a medical decision out of the individual woman's and her doctor's control and places it in the hands of legislators, which is in direct violation of the constitution. She asked which legislator who votes for the bill is prescient enough to know which pregnancy will lead to complications. She reiterated her opposition to SB 49.

PAM CLEMENS representing herself, Anchorage, AK, testified in opposition to SB 49. She said she opposes the legislation because similar legislation has been deemed unconstitutional, and because she believes that all Alaskans should have equal access to health care, including abortion. She urged the members to listen to their constituents and oppose the legislation.

[2:24:45 PM](#)

ELANN MOREN representing herself, Anchorage, AK, testified in opposition to SB 49. She stated agreement with the foregoing testimony and added that the bill is blatantly biased against poor women. It will open the door to the return of back-alley abortionists that Alaska put out of business in 1970, four years before *Roe v. Wade* passed. She shared her experience while in high school of being raped and finding herself pregnant. She described the horror of undergoing old wives remedies for miscarriage, an illegal abortion that didn't work, and her attempted suicide. She said she is sharing this story to illustrate the many ways that an unplanned pregnancy can occur. SB 49 would take away a poor woman's ability to seek a safe, legal abortion from a properly trained professional. She said she is thankful for the lawmakers in 1970 that put illegal abortionists out of business, and believes that there is no more need for government involvement on the issue. Alaska has trusted doctors to work with their patients to determine what is best for the patient. Pregnancy decisions should be left up to a woman in consultation with her doctor, her family, and her faith.

[2:29:12 PM](#)

ALBERT BOWLING representing himself, Anchorage, AK, stated that he was speaking in opposition to SB 49, which would limit the definition of what is medically necessary by prohibiting any mental health evaluations of women seeking abortions covered by Medicaid funds. He relayed that he has suffered from a mental illness in the past and can clearly state that when a person is confronted with an extreme crisis in their social situation, their mental health is of significant consequence. He said he can imagine that the mental health issues of a woman finding herself with an unintended and unwanted pregnancy could be momentous. He observed that the state seems to think that the mental health issues of poor women to be markedly inconsistent with those of other women. It's an argument he doesn't buy into and believes it is an attack on poor women. He concluded that access to abortion in the U.S. is legal and constitutionally protected, and he finds this attempt to deny poor women access to the same level of health care available to other citizens very objectionable.

[2:31:24 PM](#)

SUSAN PACILLO representing herself, Anchorage, AK, stated that she absolutely opposes SB 49 and was appealing to the committee to do what is right based on the Alaska Constitution. If the bill were to pass, the state would spend a lot of money in court when it could instead spend the money on birth control or

education or to feed poor children. It will be a waste of both time and money, because the constitution says that funding for poor women for abortion services is required.

[2:32:32 PM](#)

MARIAM LANDAU representing herself, Anchorage, AK, urged the committee to oppose SB 49. She said the definition of "medically necessary" has already been decided by the constitution and subsequent court decisions. From her perspective it is a question of equal access, which is a basic right in the constitution. Abortion should not be singled out and treated any different than any other medical procedure. The discussion last week about what should be included in the list [of medical conditions] illustrates that politicians are not the best people to make these decisions. In cases where a woman's health is at risk, the woman and her doctor should be the ones to decide [whether to continue the pregnancy or not.]

[2:34:03 PM](#)

RHONDA WIDENER, representing herself, Fairbanks, AK, stated that for a variety of reasons she absolutely opposes SB 49. She stated that she is a married, working mother and if she found herself unexpectedly pregnant tomorrow she would have difficulty paying for both child care and her astronomical fuel bill. She suggested that the legislature should spend time addressing her energy expenses rather than her reproductive decisions. She said she doesn't come close to qualifying for Medicaid, but she has difficulty obtaining family planning resources with the health insurance she pays for. Being a low income woman in the state of Alaska and relying on Medicaid has to be unimaginably difficult. Abortion is never an easy decision for a woman, but it's not an area that elected officials should interfere in. She further asserted that passing the bill won't save a dime.

[2:37:05 PM](#)

CLOVER SIMON representing herself, Anchorage, AK, characterized SB 49 as yet another attempt to narrow the circumstances in which a poor woman can access abortion services. To actually reduce abortion rates in Alaska, she suggested looking at the options for providing family planning services for low-income citizens. She noted that for citizens under the 250 percent of the federal poverty level there is a 90/10 match program through Medicaid that Alaska could be taking advantage of but isn't. She urged the committee to look at putting something like that into effect and to begin looking at what can be done to make sure that the children born in Alaska are wanted and coming into a family that is prepared to raise them as best they can. She

offered her opinion that SB 49 is unconstitutional and expressed hope that instead of wasting money on lawsuits, the state would spend money on birth control services and education for people across Alaska to try and reduce the number of abortions.

[2:40:09 PM](#)

KIME MCCLINTOCK representing herself, Anchorage, AK, testified in opposition to SB 49. She said she was born and raised in Alaska, and plans to bring the skills she is learning back to Alaska once she completes her master's degree in public health. She offered her belief that doctors, not politicians, should determine what is medically necessary. From her perspective SB 49 essentially tries to create two classes of women, and that is wrong. As stated earlier, limiting access won't actually reduce the number of abortions in Alaska. She suggested the legislature instead ensure that all women have access to affordable family planning.

[2:42:03 PM](#)

LISA EGAN LAGERQUIST, representing herself, Juneau, AK, stated that she, too, was testifying to urge the committee to oppose SB 49. Noting that testimony during the first hearing was that having an abortion could be harmful to a woman's mental health, she said it's important to understand that having a child and being pregnant isn't easy either. She characterized SB 49 as an attempt to take decision-making power away from women, and offered her belief that this medical decision should be between only a woman and her doctor. She urged the committee to vote no on SB 49 and spend time on more important issues.

BETTYE DAVIS, representing herself, Anchorage, AK, said she appreciates the need to define medically necessary but from her perspective the discussion should not take place in the form of a bill. She reviewed her efforts as former chair of the Health and Social Services Committee to initiate the discussion with the Department of Health and Social Services (DHSS), and asked if the committee had solicited input from either the department or physicians. She asked the sponsor to consider withdrawing the bill and holding the discussion in another venue, because a court challenge would ensue if it were to pass. She urged bringing the right people to the table to come to a clear understanding of what "medically necessary" means in order for the state to pay.

CHAIR COGHILL said he would take her words to heart and continue the conversation, but he would not withdraw the bill.

[2:47:11 PM](#)

PAMELA SAMASH representing herself, Nenana, AK, testified in support of SB 49. She stated that the government has the important job of keeping the public safe at all stages of life. She asked the committee to remember that when a pregnant woman is harmed or murdered, the criminal is prosecuted for harming two people, not just one. A video called silent scream shows an abortion of the very people that are being decided on today, she said. Referring to the concern about emotional distress, she recounted her terror when she faced an unplanned pregnancy. The experience at Planned Parenthood was different than was testified to earlier, she said. There was no education process, not even an ultrasound. She asked the committee to pass the bill, because taxes should not pay for the death of children unless it is a medical emergency to the mother.

[2:49:47 PM](#)

JEAN JAMES representing herself, Fairbanks, AK, testified in opposition to SB 49. She said she grew up during the time that abortions were illegal, and it did nothing to stop them. It made it worse for everyone because a lot of women were maimed. By contrast, countries with liberal abortion laws, easy access to birth control, and excellent sex education have abortion rates that are lower than the U.S. She said it is her strong belief that the decision of a medically necessary abortion should be made by a medical doctor and not by legislative mandate. In fact it's ironic that people who do not want government in their lives can support this bill. She urged the committee to vote no on SB 49 and instead focus on options that reduce the need for abortions and other more pressing issues such as energy, air pollution, the economy, and education.

[2:52:17 PM](#)

HEATHER BRANDON representing herself, Juneau, AK, testified in opposition to SB 49. She said that last year in Ireland a woman died because the physicians were afraid to give her an abortion. She asked if a woman in Alaska would have to die like the woman in Ireland for people to understand that this is not a decision for politicians to make.

[2:54:17 PM](#)

PHILIP STEWART representing himself, Juneau, AK, said he was appalled that SB 49 was being considered because equal opportunity under both state and federal law is mandated to all women to make their own health and reproductive choices. However, that opportunity does not exist without the resources necessary to pursue that opportunity. SB 49 would deny those

resources and the opportunity to poor women. Passing SB 49 will force poor women to bear and raise children they can't afford, he said. This may condemn those children and their children's children to continuing poverty. He maintained that everyone knows that if SB 49 is enacted it will be in violation of the Alaska Constitution and will end up before the Alaska Supreme Court. He characterized the bill as cruel and wrong and a grandstanding ploy to appeal to a small but vocal voting bloc.

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SENATOR DYSON stated that he takes great offense at being told that he is grandstanding, because his opinions are deeply held.

MR. STEWART apologized.

[2:56:50 PM](#)

CHAIR COGHILL observed that it's easy to impugn the motives of people standing on either side of this issue.

MR. STEWART reiterated his apology.

[2:57:13 PM](#)

CHAIR COGHILL held SB 49 in committee and kept public testimony open.

SB 56-RECLASSIFYING CERTAIN DRUG OFFENSES

[2:58:40 PM](#)

CHAIR COGHILL announced the consideration of SB 56.

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SENATOR FRED DYSON, sponsor of SB 56, explained that this legislation reduces the penalty for possession of Schedule IA and Schedule IIA drugs from an automatic class C felony to a class A misdemeanor. The bill makes it clear that the reduced penalty is only available if the evidence shows no intent to distribute and nobody is harmed. Using these addictive drugs is a bad behavior, but in his view that does not rise to the level of a felony. The intention is to stop overloading the prisons with people whose crimes are nonviolent. According to the commissioner of corrections, another \$250 million Goose Creek prison will be needed all too soon if prison populations continue to rise at the current rates. The state can't afford that.

CHAIR COGHILL mentioned the talk about gateway drug issues and expressed concern that these substances would enter the realm of scofflaw.

SENATOR DYSON characterized the concern as unwarranted. He relayed that the penalty for a class A misdemeanor can be up to one year in jail and a \$10,000 fine, which sends a signal that it's a dangerous activity. The bill also clarifies that three arrests for the same crime is a felony. He said the intention is to gain more efficient use of public resources.

CHAIR COGHILL held SB 56 in committee.

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There being no further business to come before the committee, Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 3:02 p.m.