

**ALASKA STATE LEGISLATURE**  
**SENATE JUDICIARY STANDING COMMITTEE**

April 1, 2015

1:32 p.m.

**MEMBERS PRESENT**

Senator Lesil McGuire, Chair  
Senator John Coghill, Vice Chair  
Senator Mia Costello  
Senator Bill Wielechowski

**MEMBERS ABSENT**

Senator Peter Micciche

**COMMITTEE CALENDAR**

SENATE BILL NO. 23

"An Act relating to immunity for prescribing, providing, or administering opioid overdose drugs."

- MOVED CSSB 23(JUD) OUT OF COMMITTEE

CS FOR HOUSE CONCURRENT RESOLUTION NO. 3(RLS)

Urging the governor and the attorney general to pursue all legal and legislative options to open the coastal plain of the Arctic National Wildlife Refuge and areas of the Chukchi and Beaufort Seas to oil and gas exploration, development, and production.

- MOVED SCS CSHCR 3(JUD) OUT OF COMMITTEE

SENATE BILL NO. 82

"An Act relating to mitigating factors at sentencing."

- MOVED SB 82 OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: SB 23

SHORT TITLE: IMMUNITY FOR PROVIDING OPIOID OD DRUG

SPONSOR(s): SENATOR(s) ELLIS

01/21/15	(S)	READ THE FIRST TIME - REFERRALS
01/21/15	(S)	HSS, JUD

03/18/15 (S) HSS AT 1:30 PM BUTROVICH 205  
03/18/15 (S) Heard & Held  
03/18/15 (S) MINUTE(HSS)  
03/23/15 (S) HSS AT 1:30 PM BUTROVICH 205  
03/23/15 (S) Moved SB 23 Out of Committee  
03/23/15 (S) MINUTE(HSS)  
03/25/15 (S) HSS RPT 3DP 2NR  
03/25/15 (S) DP: STEDMAN, ELLIS, GIESSEL  
03/25/15 (S) NR: KELLY, STOLTZE  
04/01/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HCR 3

SHORT TITLE: ENDORSING ANWR/CHUKCHI/BEAUFORT LEASING

SPONSOR(s): RULES

02/02/15 (H) READ THE FIRST TIME - REFERRALS  
02/02/15 (H) RLS  
02/09/15 (H) RLS AT 5:00 PM CAPITOL 120  
02/09/15 (H) Moved CSHCR 3(RLS) Out of Committee  
02/09/15 (H) MINUTE(RLS)  
02/11/15 (H) RLS RPT CS(RLS) 6DP  
02/11/15 (H) DP: HAWKER, TUCK, CHENAULT, REINBOLD,  
KREISS-TOMKINS, JOHNSON  
02/11/15 (H) RETURNED TO RLS COMMITTEE  
03/11/15 (H) TRANSMITTED TO (S)  
03/11/15 (H) VERSION: CSHCR 3(RLS)  
03/13/15 (S) READ THE FIRST TIME - REFERRALS  
03/13/15 (S) JUD  
03/23/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
03/23/15 (S) Scheduled but Not Heard  
03/25/15 (S) JUD AT 1:30 PM BUTROVICH 205  
03/25/15 (S) Scheduled but Not Heard  
03/30/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
03/30/15 (S) Scheduled but Not Heard  
04/01/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 82

SHORT TITLE: ALCOHOL/SUBST ABUSE PROGRAM MITIGATION

SPONSOR(s): SENATOR(s) MCGUIRE

03/20/15 (S) READ THE FIRST TIME - REFERRALS  
03/20/15 (S) JUD, FIN  
04/01/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

PAULA COLESCOTT, MD, Addiction Specialist  
Providence Breakthrough  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 23.

SENATOR JOHNNY ELLIS  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of SB 23

MATTHEW MOSER, Staff  
Senator Johnny Ellis  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Introduced SB 23 on behalf of the sponsor.

KATE BURKHART, Executive Director  
Advisory Board on Alcohol and Drug Abuse and  
Alaska Mental Health Board  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of SB 23.

KARA NELSON, Director, Haven House;  
Executive Committee Member, Juneau Reentry Coalition;  
Member, Juneau Recovery Community  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of SB 23.

TOM WRIGHT, Staff  
Representative Mike Chenault  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Introduced HCR 3 on behalf of the sponsor.

GENEVIEVE WOJTUSIK, Staff  
Senator McGuire  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Introduced SB 82 on behalf of the sponsor.

BILL MICKELSON  
24/7 Sobriety Program  
South Dakota

**POSITION STATEMENT:** Testified in support of SB 82.

DENNIS JOHNSON  
Alaska Pretrial Services

Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 82.

TONY PIPER, Social Services Program Coordinator  
Department of Health and Social Services  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 82.

#### **ACTION NARRATIVE**

[1:32:52 PM](#)

**CHAIR LESIL MCGUIRE** called the Senate Judiciary Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Coghill, Costello, and Chair McGuire.

#### **SB 23-IMMUNITY FOR PROVIDING OPIOID OD DRUG**

[1:33:23 PM](#)

**CHAIR MCGUIRE** announced the consideration of SB 23. "An Act relating to immunity for prescribing, providing, or administering opioid overdose drugs."

[1:33:38 PM](#)

**DR. PAULA COLESCOTT, MD, Addiction Specialist, Providence Breakthrough,** testifying via teleconference, spoke about unintentional drug overdoses from prescription opiates and heroin. [Due to a poor connection, the testimony was indiscernible. The sponsor noted that Dr. Colescott supported the legislation.]

[1:35:46 PM](#)

**SENATOR JOHNNY ELLIS, Alaska State Legislature,** sponsor of SB 23, said he and former Senator Dyson talked about the growing problem of opioid addiction for over a decade. It has reached epidemic proportions in the state and the problem is growing. Fatal drug overdoses have increased more than six-fold in the past three decades and now claim the lives of over 36,000 Americans every year. According to the Anchorage Police Department, heroin-related overdoses are claiming more young lives than traffic fatalities. The 2014 Alaska State Troopers' Drug Report identified an increase in heroin abuse and the continued use of other opiates as significant concerns for law enforcement.

He reported that the abuse and overdose epidemic was largely driven by addiction to prescription opioids such as OxyContin,

Oxycodone, and Vicodin. Because these drugs have grown more expensive over time, abusers and addicts have sought cheaper alternatives, such as black tar heroin which is imported to Alaska by the Mexican drug cartel.

SENATOR ELLIS said that heroin abuse crosses all economic levels and has left no community untouched. This trend is troubling because prescription opioids are popular among young Alaskans. According to 2011 data from the Centers for Disease Control and the Prevention Youth Risk Behavior Survey, 15.8 percent of Alaska students reported having used prescription drugs without a prescription. These drugs are more popular among high school students than alcohol, tobacco, and marijuana. Fortunately, opioid overdose is reversible through the timely administration of the medication Naloxone, but that medication is often not available when needed. Friends and family members are often the ones who are best situated to save the life of a person who has overdosed, but medical professionals are wary of prescribing Naloxone and lay persons are wary of administering it due to potential civil liability.

SB 23 removes the civil liability from doctors and trained bystanders. He expressed hope that Alaska would be the 29th state to provide this protection. The bill has attracted bipartisan support along with the Alaska State Medical Association, the Alaska Police Department Employees Association, the Alaska Mental Health Trust Authority, the Alaska Mental Health Board and Advisory Board on Alcoholism and Drug Abuse, the Narcotic Treatment Center, and countless families and addicts. He noted that during a previous committee hearing, Rick Svobodny testified that the Department of Law (DOL) and the Administration support the legislation.

CHAIR MCGUIRE stated her intention to become a co-sponsor.

[1:43:58 PM](#)

SENATOR COGHILL moved to adopt the proposed committee substitute for SB 23, labeled 29-LS0058\E, as the working document.

SENATOR COSTELLO objected for discussion purposes.

[1:44:37 PM](#)

MATTHEW MOSER, Staff, Senator Johnny Ellis, described the changes in version E. Bill sections 1 and 2 change the definition of "opioid overdose program" so that it is not limited to state, federal or municipally funded programs. Sec. 09.65.340(a)(1)(A) authorizes health care providers to prescribe

an opioid overdose drug directly or to a person who is in a position to administer an opioid overdose drug to a person at risk of experiencing an opioid overdose. Sec. 09.65.340(a)(1)(B) authorizes an employee or volunteer of an opioid overdose program, or other person in a position to administer the opioid overdose drug, to receive a supply, possess, and supply opioid overdose drugs to persons at risk of experiencing an opioid overdose.

SENATOR COSTELLO removed her objection and version E was before the committee.

CHAIR MCGUIRE asked if the Alaska State Troopers and local police would be authorized to carry the opioid overdose drug in their care kits.

MR. MOSER replied it's already a common part of the EMT tool kit and he suspects this would allow troopers to carry it.

SENATOR COGHILL asked how broad the interpretation will be for "at risk" in this context.

SENATOR ELLIS replied it's a good question, but it doesn't matter because there are no negative side effects if a person is administered Naloxone when they're not in jeopardy of heroin or opioid overdose.

SENATOR COGHILL asked what it takes to be trained to administer the overdose drug.

MR. MOSER explained that the drug may be administered as a nasal spray or by injection that is similar to an EpiPen, which is commonly used for allergic reactions. The lay person would also be made aware of the symptoms of an overdose.

SENATOR ELLIS added that the prescription EpiPen with Naloxone has the injection instructions are on the pen. That is basically when the training would occur. He said that for years he and former Senator Dyson pointed out to their colleagues the gross underfunding of the Methadone clinics in Fairbanks and Anchorage. Those programs are still underfunded and the waiting lists are even longer in light of the current epidemic. He said he's heard from some parents who are taking desperate measures to help their teenage daughter or son at home because they can't get them into a treatment program.

SENATOR COGHILL asked what the procedure is for getting a prescription.

MR. MOSER replied it would be available through a prescription from a doctor or an opioid overdose reversal program. He offered to follow up with information from a program in Massachusetts that reported about 2,000 overdose reversals.

[1:55:10 PM](#)

CHAIR MCGUIRE referenced the presentation the committee heard [on 2/4/15 about medication assisted treatment (MAT), specifically Vivitrol, to treat opioid addictions. It blocks the effects of opioids and removes the pleasure index.]

MR. MOSER replied it sounds like a promising tool to address the addiction itself as opposed to Naltrexone that treats an overdose.

SENATOR ELLIS added that his staff member Amory LeLake is the expert and she would follow up with specifics.

CHAIR MCGUIRE said she understands that the group that delivered the MAT presentation is looking at a million dollar grant for the treatment of opioid addiction.

SENATOR ELLIS agreed that Vivitrol holds promise for the future. He noted that a doctor in the MatSu Valley is currently prescribing Vivitrol within his practice.

CHAIR MCGUIRE said she found it particularly interesting that someone with an opioid addiction could receive an injection of Vivitrol when they leave prison and they would be protected from the craving for 30 days. They wouldn't be looking for their drug dealer immediately.

SENATOR ELLIS agreed that without treatment in prison or the community the addict would be looking for their dealer right away.

[1:58:41 PM](#)

KATE BURKHART, Executive Director, Advisory Board on Alcohol and Drug Abuse and Alaska Mental Health Board, stated support for SB 23 on behalf of the boards. She said the bill speaks directly to the concerns raised by physicians engaged in medication assisted treatment to help people recover from opioid addiction. These physicians asked if it was within their professional ethics to prescribe this medication when it could be viewed as promoting

illicit drug use. SB 23 provides the guidance these physicians were looking for. Prescribing this drug is within the scope of practice to take care of their patients. It will save lives.

[2:03:07 PM](#)

KARA NELSON, Director, Haven House, Executive Committee, Juneau Reentry Coalition, and Member, Juneau Recovery Community, testified in support of SB 23. She described her personal history with drug addiction and overdose. She related how important the drug Naloxone is. She pointed out that addiction does not discriminate. She testified how important one saved life is. She said the bill will keep people from worrying about going to jail for trying to save a life. It is not a criminal issue. She described her work with Haven House. She stressed that Narcan is very important to recovery and so is community support. Vivitrol is a good product but it has to be surrounded with recovery-oriented systems of care, she said.

[2:18:27 PM](#)

CHAIR MCGUIRE thanked Ms. Nelson for coming forward.

SENATOR COGHILL referenced page 3, lines 2-3, and noted that an opioid overdose drug may be prescribed directly or by standing order or protocol to a person at risk. He asked if "protocol to a person at risk" includes an addict who says he/she is trying to recover and needs to have the drug available in case of relapse.

MR. MOSER said that's his understanding. The standing order of protocol can also relate to a pharmacist who has authority from a physician to prescribe the drug. He suggested that Ms. Burkhardt might be able to supplement the answer.

[2:20:26 PM](#)

MS. BURKHARDT said her reading of prescription by standing order or protocol would allow the medical director of a treatment program to have a standing order that all patients that are receiving treatment for opioid addiction could receive the prescription. It would also allow a physician to prescribe the drug individually.

SENATOR COGHILL expressed satisfaction with the explanation.

SENATOR COSTELLO interpreted the language on page 2, line 13, to mean that a person who received education and training in the administration of the drug would not be civilly liable, but an

untrained person who had no training doesn't have that protection.

MR. MOSER agreed that proper education and training is a required component of administering the drug.

MS. BURKHARDT added that the training that's anticipated is very similar to the patient education a person receives for other prescription medications. She noted that the EpiPen for allergic reactions was referenced earlier.

SENATOR COSTELLO said she was envisioning a bystander administering the drug.

MR. MOSER offered his belief that the civil liability is extended to both the physician and someone who has received training to administer the drug. He noted that other states have removed the civil liability altogether. He said it speaks to the safety of the drug that it's been available in Italy without a prescription since the 1990s.

CHAIR MCGUIRE described the bill as a first step.

[2:26:19 PM](#)

SENATOR COGHILL motioned to report the CS for SB 23(JUD) from committee with individual recommendations and attached zero fiscal note.

[2:26:51 PM](#)

CHAIR MCGUIRE announced that without objection, CSSB 23(JUD) is reported from the Senate Judiciary Standing Committee.

[2:26:56 PM](#)

At ease

### **HCR 3-ENDORSING ANWR LEASING**

[2:27:41 PM](#)

CHAIR MCGUIRE announced the consideration of HCR 3, Urging the governor and the attorney general to pursue all legal and legislative options to open the coastal plain of the Arctic National Wildlife Refuge and areas of the Chukchi and Beaufort Seas to oil and gas exploration, development, and production.

[2:27:58 PM](#)

TOM WRIGHT, Staff, Representative Mike Chenault, introduced HCR 3 on behalf of the sponsor speaking to the following sponsor statement:

**HOUSE CONCURRENT RESOLUTION 3:** Urging the governor and the attorney general to pursue all legal and legislative options to open the coastal plain of the Arctic National Wildlife Refuge and areas of the Chukchi and Beaufort Seas to oil and gas exploration, development, and production.

House Concurrent Resolution 3 urges the Governor and the Attorney General to "pursue all legal and legislative options to open the coastal plain of the Arctic National Wildlife Refuge and areas of the Chukchi and Beaufort Seas to oil and gas exploration and development."

This resolution is being offered in response to actions taken by the Obama administration that requests Congress to designate the coastal plain of ANWR as wilderness and designating 9.8 million acres in the waters of the Beaufort and Chukchi Seas off Alaska's coast as off limits to consideration for future oil and gas leasing.

The Alaska Statehood Act recognized the need for resource development to ensure the economic viability of the state; section 6(i) of the Act ensured that the state would have the right to minerals on land received from the federal government and 30 U.S.C. 191 provides for the sharing of federal royalties with the state from federal lands in the state.

[2:29:58 PM](#)

CHAIR MCGUIRE motioned to adopt Amendment 1, labeled 29-LS0452\H.1.

AMENDMENT 1

OFFERED IN THE SENATE BY SENATE JUDICIARY COMMITTEE  
TO: CSHCR 3(RLS)

Page 1, line 3, following "**production**":

Insert "; and urging the governor and the Legislative Budget and Audit Committee to work with the United States Congress to enact measures necessary to prevent President Barack Obama and other federal agencies from implementing regulations that place landscape characteristic restrictions on the Arctic National Wildlife Refuge that are equivalent to the restrictions placed on land given a wilderness designation"

Page 5, following line 4:

Insert new material to read:

"**FURTHER RESOLVED** that the Alaska State Legislature urges the governor and the Legislative Budget and Audit Committee to work with the United States Congress to enact measures necessary to prevent President Barack Obama, the United States Fish and Wildlife Service, the Department of the Interior, and other federal agencies from implementing regulations that place landscape characteristic restrictions on the Arctic National Wildlife Refuge that are equivalent to the restrictions placed on land given a wilderness designation; and be it"

SENATOR COGHILL objected for discussion purposes.

[2:30:23 PM](#)

REPRESENTATIVE BOB HERRON, sponsor of HCR 3 explained that the amendment recognizes the new federal code phrase for wilderness called "landscape characteristics." The amendment also gives the Legislative Budget and Audit Committee the authority to hire the right people to further the intent of the resolution.

[2:31:58 PM](#)

SENATOR COGHILL removed his objection.

CHAIR MCGUIRE found no further objection and announced that Amendment 1 is adopted. Finding no public testimony, she closed it.

[2:32:38 PM](#)

SENATOR COGHILL moved to report CS for HCR 3, as amended, from committee with individual recommendations [and zero fiscal note.]

CHAIR MCGUIRE announced that without objection, SCS CSHCR 3(JUD) is reported from the Senate Judiciary Standing Committee.

**SB 82-ALCOHOL/SUBST ABUSE PROGRAM MITIGATION**

2:33:05 PM

CHAIR MCGUIRE announced the consideration of SB 82. "An Act relating to mitigating factors at sentencing."

2:33:31 PM

GENEVIEVE WOJTUSIK, Staff, Senator McGuire, introduced SB 82 on behalf of the sponsor. She explained that the bill allows a judge to consider participation in the 24/7 sobriety program as a mitigating factor at the time of sentencing. She highlighted that this program is very cost effective at less than \$30 per day, whereas it costs over \$140 per day to house an inmate. The bill has zero fiscal notes from the Alaska Court System and the Department of Health and Social Services.

2:35:05 PM

BILL MICKELSON, Consultant, 24/7 Sobriety Program, South Dakota, testified in support of SB 82. He explained that he developed and implemented the 24/7 program in South Dakota had it's been operating successfully for about 11 years. He currently is overseeing implementation in other states and has visited Alaska several times to discuss implementation. The 24/7 program brings discipline and SB 82 provides a reward for successful participation in the program.

CHAIR MCGUIRE observed that it makes sense to give a judge the opportunity to consider participation in the program as a mitigating factor. It's a savings to the state, communities, and families.

2:37:43 PM

DENNIS JOHNSON, Director, Alaska Pretrial Services, testified in support of SB 82. He described the 24/7 program as revolutionary to pretrial and the criminal justice system. He shared a story to illustrate why SB 82 is so important. A young man who entered the 24/7 program as he awaited sentencing found housing and held down a fulltime job while meeting the twice daily testing regime plus three random tests each week. He did this successfully for almost five months. At sentencing he took ownership for what he'd done and told the judge what he'd accomplished while he was out of custody. Because there was no way for the judge to give him credit for what he'd done, he was sentenced to 90 days incarceration. He lost his job.

MR. JOHNSON said we're asking people to change their behavior and when they do they aren't given credit. This flies in the face of the efforts to reduce the number of nonviolent offenders in prison and decrease the need to build another prison. He pointed out the success of the 24/7 program in Anchorage. There have been just three alcohol fails in 6,544 tests and two drug fails in 791 tests. He encouraged the members to pass the bill.

CHAIR MCGUIRE thanked Mr. Johnson for the work he does.

SENATOR WIELECHOWSKI expressed appreciation and support for the work that Mr. Johnson has done for the Anchorage community.

CHAIR MCGUIRE asked Mr. Piper if the Department of Health and Social Services had taken a position on SB 82.

[2:44:26 PM](#)

TONY PIPER, Social Services Program Coordinator, Department of Health and Social Services (DHSS), said he didn't know if the department had taken a stand on the bill but they do believe that the program is working. He echoed Mr. Johnson's testimony that people on the 24/7 program invest effort to be successful in the program and it seems logical that they should receive benefit at sentencing.

[2:45:19 PM](#)

CHAIR MCGUIRE found no further testifiers and closed public testimony.

[2:45:36 PM](#)

SENATOR COGHILL motioned to report SB 82 from committee with individual recommendations and two zero fiscal notes.

CHAIR MCGUIRE announced that without objection, SB 82 is reported from the Senate Judiciary Standing Committee.

[2:46:04 PM](#)

There being no further business to come before the committee, Chair McGuire adjourned the Senate Judiciary Standing Committee meeting at 2:46 p.m.