

ALASKA STATE LEGISLATURE
HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

January 23, 2018

3:04 p.m.

MEMBERS PRESENT

Representative Ivy Spohnholz, Chair
Representative Bryce Edgmon, Vice Chair
Representative Sam Kito
Representative Geran Tarr
Representative David Eastman
Representative Jennifer Johnston
Representative Matt Claman (alternate)
Representative Dan Saddler (alternate)

MEMBERS ABSENT

Representative Colleen Sullivan-Leonard

COMMITTEE CALENDAR

PRESENTATION: ROLE OF CONTRACEPTIVE COERCION IN DOMESTIC
VIOLENCE

- HEARD

HOUSE BILL NO. 162

"An Act relating to criminal and civil history requirements and a registry regarding certain licenses, certifications, appeals, and authorizations by the Department of Health and Social Services; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 162

SHORT TITLE: DHSS CENT. REGISTRY;LICENSE;BCKGROUND CHK

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

03/08/17	(H)	READ THE FIRST TIME - REFERRALS
03/08/17	(H)	HSS, JUD
01/23/18	(H)	HSS AT 3:00 PM CAPITOL 106

WITNESS REGISTER

DANIELLE CAMPOAMOR
Brooklyn, New York

POSITION STATEMENT: Testified during a presentation on the role of contraceptive coercion in domestic violence.

GINNY WALSH, Program Coordinator
Arctic Women in Crisis
Utqiagvik, Alaska

POSITION STATEMENT: Testified during a presentation on the role of contraceptive coercion in domestic violence.

STACIE KRALY, Chief Assistant Attorney General
Statewide Section Supervisor
Human Services Section
Civil Division (Juneau)
Department of Law
Juneau, Alaska

POSITION STATEMENT: Presented HB 162 on behalf of the Rules Committee at the request of the Governor.

MARGARET BRODIE, Director
Director's Office
Division of Health Care Services
Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: Answered questions during discussion of HB 162.

ACTION NARRATIVE

[3:04:32 PM](#)

CHAIR IVY SPOHNHOLZ called the House Health and Social Services Standing Committee meeting to order at 3:04 p.m. Representatives Spohnholz, Tarr, Claman (alternate), Johnston, Saddler (alternate), Eastman, and Edgmon were present at the call to order. Representative Kito arrived as the meeting was in progress.

PRESENTATION: ROLE OF CONTRACEPTIVE COERCION IN DOMESTIC VIOLENCE

[3:05:40 PM](#)

CHAIR SPOHNHOLZ announced that the first order of business would be a presentation on the role of contraceptive coercion in domestic violence. She said that Representative Claman, sponsor

of HB 25 which related to contraceptives, would introduce the topic and then the committee would listen to invited testimony.

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REPRESENTATIVE CLAMAN, as sponsor of HB 25, explained the relationships of the proposed bill to the presentation, pointing out that the bill expanded access to birth control by giving women full access to birth control methods without barriers on cost or availability. The proposed bill would also allow women to have a one-year supply of contraceptives. He reported that, since then, there was an increased national and statewide awareness on domestic violence and sexual assault. He explained that contraceptive coercion was a form of domestic violence that was perpetuated by abusers, as abusers could dictate when and how contraceptives can and cannot be accessed as a means of gaining power and control. He listed hiding, withholding, or destroying the birth control to deliberately cause pregnancy, as well as lying about having had a vasectomy, forcing a partner to forego birth control, or forcing a partner to become pregnant or end a pregnancy against her will. He declared that this blatant disregard for women's health, women's rights, and women's autonomy was inexcusable. He stated that the presentation would further educate about issues such as contraceptive coercion, stressing that this was a serious form of domestic abuse. He emphasized that contraceptive coercion was a public health issue, as well as a public safety issue. He declared that access to affordable and reliable contraception would help current and potential victims of abuse.

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REPRESENTATIVE SADDLER (alternate) asked how, if an abusive partner kept oral contraception away from their partner for one, two, or three months, did extending that for one year make any qualitative difference in the level of abuse.

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DANIELLE CAMPOAMOR stated that she had been born and raised in Eagle River, Alaska, and was currently living in Brooklyn, New York. She shared her background, that she grew up in a home with a physically, verbally, and financially abusive father. When her mother became pregnant, she had been forced to leave her work, and subsequently she was financially dependent on her husband, Ms. Campoamor's father. She reflected that her first memories were of extreme physical violence, and that, when she

was about 15 years of age, she experienced extreme pain when she started her period. She later found out that this was caused by endometriosis. Her mother was aware that birth control could mitigate some of the side effects of endometriosis, so she broached the topic with her father, only to be beaten as he believed that birth control had one purpose and would give her a freedom that he did not want to allow. As she and her mother were financially dependent on her abusive father, they had no idea what to do until they were made aware of the Planned Parenthood Clinic in Anchorage, Alaska. She was able to save money and buy her own birth control which helped with the effects of the endometriosis and allowed her to not miss any more school. She reported that she was only able to get three months of birth control at a time, which made it more difficult to navigate the complexities of procurement without her father's knowledge. She pointed out how scary it was to live in an abusive home where her life was controlled by the abuser. She declared that "every part of your day is riddled with fear. You have no idea what will set them off and you have no idea what kind of person you're going to be having to deal with day to day." She shared that she had no idea how she would continue to access the birth control, and that, when she was caught, she did suffer. She emphasized that she had seen the effects of domestic violence and that the ability to procure birth control allowed a victim, whether a child or an adult, a tiny bit of control and freedom over her own life.

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CHAIR SPOHNHOLZ asked how a 12-month supply of contraception would help someone experiencing contraceptive coercion.

MS. CAMPOAMOR allowed that, although a 3-month supply sounded so easy for someone not in an abusive situation, consistent trips to a pharmacy or place you don't want the abuser to know about was "extremely difficult and extremely scary." When women were able to make one trip for an entire year supply, this would keep women safer and would hopefully offer the next step toward leaving the abusive and dangerous situation.

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REPRESENTATIVE SADDLER (alternate) acknowledged the pain from endometriosis and asked how many women in Alaska used birth control for medical purposes versus contraception.

MS. CAMPOAMOR said that she was unable to answer the question as she was not privy to the medical history. She declared that 59 percent of adult women in Alaska experienced partner violence, and that 30 percent of Alaskans were not able to access victim services or encourage others to do so because there were not services available locally. She reported that the reasons women procure birth control ran "the gamut from endometriosis to" painful cramps to a wide variety of reasons.

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REPRESENTATIVE SADDLER (alternate) asked whether this was her personal story or whether she was an expert in the area of public health.

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MS. CAMPOAMOR replied that this was her personal story, and that, even though she lived in New York, she still cared about Alaska. She reported that she was an editor in New York, had been able to attend college and leave the abusive situation, and that she volunteered for many domestic violence related organizations trying to combat systemic sexual violence.

CHAIR SPOHNHOLZ asked if she believed long acting, reversible contraceptives could aid those suffering from contraceptive coercion.

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MS. CAMPOAMOR replied, "I do." She offered her belief that it was important for all forms of birth control to be considered, as those were easier to conceal from the abuser. As she had been beaten when caught with birth control, she offered her assumption that there were "plenty of other women in Alaska who have faced similar situations and circumstances."

CHAIR SPOHNHOLZ asked for any recommendations for consideration to prevent contraceptive coercion.

MS. CAMPOAMOR replied that this was the first step, that open dialogue and, as Alaska had a horrific domestic violence and sexual assault problem, affordable access to birth control was a big part.

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REPRESENTATIVE TARR spoke on the power individuals had over the ability to manage reproductive health care needs.

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REPRESENTATIVE SADDLER (alternate) asked to what degree were we trying to solve the problems of domestic violence and abusive parents, as opposed to the limitations on contraceptive prescriptions.

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MS. CAMPOAMOR opined that "they go hand and hand." She declared that domestic violence was insidious and the ways an abuser will try to control their victim were multiple. She acknowledged that, although it seemed that birth control was a minor part of a women's life, it was not. This was a way for a woman to protect herself from future abuse, as the majority of women in abusive situations were also raped. Birth control could help ensure that a woman did not have more children to keep her in an abusive situation. She declared that birth control was a vital part of a woman taking that first step. She offered her belief that if there was a desire to combat domestic violence in Alaska, it was necessary to investigate all avenues in which domestic violence was able to run rampant.

REPRESENTATIVE SADDLER (alternate) suggested that public health experts should testify and to not limit testimony to a single person's experience.

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GINNY WALSH, Program Coordinator, Arctic Women in Crisis, stated her support for HB 25, as contraceptive coercion was, in part, about victims not having the understanding that this form of coercion counted as an abuse tactic in the cycle of power and control. She said that contraceptive coercion was especially dangerous because it often built on mental, economic, physical, and sexual abuse. She reported on stories from her shelter about the sabotage of birth control and the threats from violent partners. She declared that education, medical screening, and other prevention tools were urgently needed. She stated that comprehensive insurance coverage of contraceptives offered victims a great variety of options, including access to a 12-month supply of contraceptives for use in safety planning and healthy relationships. Harm reduction intervention for this group of women needed to include steps which ensured affordable

access to emergency contraception and forms of contraception that were less susceptible to detection and tampering. She declared that access to affordable birth control and avoidance of pregnancy were steps toward freedom and safety.

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REPRESENTATIVE TARR acknowledged the concerns expressed by Representative Saddler that much of this would be considered anecdotal unless a university researcher had collected the data. She asked about the frequency for hearing these concerns as part of the cycle of abuse being personally experienced.

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MS. WALSH reported that she could not give exact statistics. She shared a conversation with a young woman who was forced to continue with a pregnancy which she did not want, as she was afraid of an escalation of violence in the relationship. She opined that once a month someone spoke with her about access to birth control and a desire to either terminate or continue a pregnancy from which they did not feel self-determination.

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REPRESENTATIVE TARR mused that the people working with this every day could give better information, and that she believed this was a regular occurrence with all types of abuse being under reported.

MS. WALSH expressed her agreement that it was underreported, noting that it took a long time to create a relationship whereby someone would feel comfortable with sharing.

REPRESENTATIVE SADDLER (alternate) expressed caution that this was an important issue and it was important to ensure that the committee was informed by evidence and defensible statistics and sampling, and "not driven or guided by hand chosen assumptions."

CHAIR SPOHNHOLZ asked whether Representative Saddler was suggesting that these experiences were not valid.

REPRESENTATIVE SADDLER (alternate) replied that he was not saying that.

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CHAIR SPOHNHOLZ asked if she was familiar with the HB 25, which was being considered by the legislature.

MS. WALSH said that she was.

CHAIR SPOHNHOLZ asked how this proposed bill would affect women who experienced domestic violence, and how would it empower them to respond to contraceptive coercion.

MS. WALSH offered some examples of self-determination, including access to emergency contraception and forms of contraception which were less susceptible to detection and tampering. She declared that this offered more freedom and many more options for choice about pregnancy.

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REPRESENTATIVE TARR shared her personal experience as the director of group that helped women access services. She suggested that it was good to remember that many of these women already had children and wanted to keep them safe in these abusive situations. She opined that this was part of the conversation to give women more ability to leave the abusive situation, as well as protect the children.

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MS. WALSH shared a story from a participant who was forced into a pregnancy that impacted her health and family. She reiterated the importance for women to have options and access to birth control.

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The committee took a brief at-ease.

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CHAIR SPOHNHOLZ brought the committee back to order.

HB 162-DHSS CENT. REGISTRY;LICENSE;BCKGROUND CHK

[3:35:45 PM](#)

CHAIR SPOHNHOLZ announced that the final order of business would be HOUSE BILL NO. 162, "An Act relating to criminal and civil history requirements and a registry regarding certain licenses,

certifications, appeals, and authorizations by the Department of Health and Social Services; and providing for an effective date."

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STACIE KRALY, Chief Assistant Attorney General, Statewide Section Supervisor, Human Services Section, Civil Division (Juneau), Department of Law, offered a brief overview of HB 162. She noted that participation in many federal programs such as Medicaid and foster care required that states conduct criminal background checks before licensure or payment for services. Department of Health and Social Services has been doing background checks for many years, and, in 2005, the Legislature passed a bill which codified a background check process for all persons who were paid for in-whole or in-part by the Department of Health and Social Services, as noted in AS 47.05.300. Since then, the background check was conducted in two parts: first, a fingerprint based criminal history check for all state and federal criminal offenses; second, a civil history check of various data bases, some federal and some state. This was required for anyone applying to be a foster parent or a personal care attendant, among others. She reported that several gaps, overlaps, and inconsistencies had been identified and addressed through the regulatory process. The remainder of these issues needed to be fixed in statute.

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MS. KRALY explained that the proposed bill clarified that a civil history check was a check of already existing registries, and that a stand-alone registry or database was not being created as it was not operationally or fiscally feasible. It also clarified that background checks were required of licensed entities, as well as the owners and the workers. She said that the proposed bill further renamed the two existing registries, one of which was currently called the central registry and the other was called the centralized registry. These two registries would be renamed the civil registry and the child protection registry. She added that the proposed bill made amendments to AS 47.32, the licensing provisions of the Department of Health and Social Services. She explained that this allowed licensing investigators to share licensing investigations with law enforcement when there were concurrent investigations. She added that another change would allow the three licensing divisions to share information.

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MS. KRALY stated that this would allow the division to investigate individuals who were accused of abusing, neglecting, or exploiting an individual in care.

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MS. KRALY paraphrased from the Sectional Analysis [Included in members' packets], which read:

Section 1. This section would make conforming edits to rename the centralized registry to the civil registry to avoid confusion under the current law with the centralized registry (AS 47.05.330) and the central registry in AS 47.17.040 (see section 14).

Sections 2 and 3. These sections would amend AS 47.05.310(d) and 47.32.310(d) to clarify that barrier crimes apply to individuals as well as entities.

Section 4. This section would amend AS 47.53.310(e) to allow an individual to seek a background check; under the current law only entities can seek a background check. This section would also remove, at the request of the Department of Public Safety, the designation of the Department of Health and Social Services (DHSS) as a criminal justice agency for purpose of the background check program.

Section 5. This section would amend AS 47.05. 310(f) to make it clear that the DHSS may, in addition to exceptions to the barrier crime provisions, approve a variance for a barrier crime.

Section 6. This section would amend AS 47.05.310(h) to address how a non-licensed provider, such as a relative who is receiving payment by the Office of Children's Services, is treated under the statute. This amendment would make it clear that such providers, while not being paid by DHSS, are still subject to background checks prior to placement.

Section 7. This section would make a conforming edit to AS 47.05.310(i) to rename the centralized registry to the civil registry (similar to section 1).

Section 8. This section would add a new section to AS 47.05.310 to address immunity from civil or criminal liability for reporting during the background check process.

Section 9. This section would provide a similar framework for the civil registry checks as background checks (see AS 47.05.310). This means that the same process applies to a person who is found to have a barring criminal conviction under AS 47.05.310 as well as a barring civil finding under AS 47.05.330.

Section 10. This section would be repealed and reenacted to outline how the department will review existing registries, rather than create yet another separate database. This section would also identify what DHSS will be looking for in terms of civil findings that are inconsistent with licensure or payment (e.g., CINA findings, terminated from DHSS for assaultive/neglectful or exploitative behavior). Information contained or obtained via the registry would be confidential and not subject to a public records request.

Section 11. This would amend the current immunity section to reflect the change to civil registry from centralized registry.

Section 12. This would establish a new section to address the ability to seek a variance for any finding under this chapter and how to appeal a decision if you disagree with any decision made by DHSS.

Section 13. This section would amend AS 47.05.390(6) to expand the definition of entity to include an individual service provider.

Section 14. This section would rename the central registry maintained by the Office of Children's Services to the child protection registry to avoid confusion. It also clarifies what is maintained on this registry, including substantiated findings under AS 47.10 or AS 47.17.

Section 15. This new subsection would clarify that before a substantiated finding can be placed on the child protection registry the person must have been

afforded notice of the finding and the opportunity to challenge the finding.

Section 16. This section would make a conforming edit to AS 47.32.010(c) replacing centralized registry with civil registry (similar to section 1).

Section 17. This section would amend AS 47.32 to provide authority for DHSS to consider prior adverse licensing findings in determining whether to grant or deny a license or whether to place a condition on a license.

Section 18. This would add a new section to make it clear that when there is an allegation that an employee or individual affiliated with a licensed entity is alleged to have engaged in any behavior that would impact the safety or welfare of a resident, the department may investigate that individual and issue a report on the findings of that investigation. This section would further provide that if a finding of abuse or neglect is substantiated then that finding will be part of the civil registry process and may result in a person being prohibited from employment or licensure in the future. This section would also make it clear that before such a finding can be used, due process must be afforded.

Section 19. This is technical fix that would clarify when formal hearings are required when an enforcement action is taken after a licensing investigation.

Section 20. This would add a new section to clarify that that when law enforcement is investigating a crime that is also the subject of a licensing investigation, the material gathered by DHSS may be shared with the law enforcement as a matter of law.

Section 21. This section would clarify that all divisions who implement AS 47.32 may share information with each other for the purpose of administering the licensing programs at DHSS.

Section 22. This section would repeal reference to provisions of the current law that are no longer necessary or have been determined to be superfluous. Specifically, the section would repeal the reference

to the civil registry when doing a background check, references to DHSS as criminal justice agency, and statutes stating an administrative hearing is not required when the enforcement action sought is a plan of correction.

Section 23. This is an applicability section for purposes of applying the criminal and civil background checks before, on or after the effective date of this act.

Section 24. This section would advise the revisor regarding title changes to reflect amendments in this act, including the change to include the civil history registry.

Section 25. This provides for an immediate effective date.

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REPRESENTATIVE EASTMAN directed attention to Section 20 of the Sectional Analysis and asked how it would work for sharing information between multiple investigations.

MS. KRALY, in response, said that the most obvious circumstance was a crime committed at a licensed entity, such as an assisted living home, resulting in an immediate response by multiple agencies and a concurrent investigation. Currently, in such a case, law enforcement would ask for the licensing files although the provisions that were confidential could not be shared even though there was an ongoing criminal investigation.

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REPRESENTATIVE KITO expressed his concern for privacy. He mused that it was necessary to attain a formal legal document to get information, and, as this document would have provisions for accountability, the individual receiving information would be aware of the confidentiality and privacy requirements for this information. He asked, if this privacy requirement were removed, who would ensure that the individual requesting information was accountable.

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MS. KRALY, in response, explained that confidential information existed throughout the Department of Health and Social Services, although she was not aware of how the DHSS dealt with this.

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REPRESENTATIVE KITO expressed his concern that any situation which authorized "more eyes to see particular pieces of information" was "making the opportunity for the release of that information increase." He asked to ensure that, as there was no side of accountability for individuals to request legal documents, there were provisions in place to maintain the privacy and confidentiality.

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MARGARET BRODIE, Director, Director's Office, Division of Health Care Services, Department of Health and Social Services (DHSS), explained that the department had many different types of security, that the background check was from the Federal Bureau of Investigation (FBI), and this was all contained in a log to ensure that "people have only gone where they need to go." She reported that should any document be missing, this would be reported to the Office of the Attorney General and to the Department of Public Safety. She added that a full investigation would be conducted through Department of Health and Social Services and the "state's IT office," as well as the Department of Public Safety and the FBI. The Office of the Attorney General would "wrap it all up."

REPRESENTATIVE KITO asked if the individual accountability procedures were applicable if "we remove the firewall of having to request information from another silo through a legal process."

MS. BRODIE replied that there were still the same requirements and accountability.

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REPRESENTATIVE SADDLER (alternate) asked, "How many bad apples are now slipping through the cracks... how many people are getting licensed that having more consistent, broader, and efficiently applied licensing background checks is going to fix." He requested a description of the seriousness of the problem.

MS. BRODIE, in response, explained that if an individual had any finding in their background check, they were denied clearance. She noted that they could then go through a variance process involving all the divisions within the Department of Health and Social Services to show mitigating circumstances and to allow explanations for why this finding was no longer an issue. She explained that this explanation was reviewed by a committee, a recommendation was made to the division director, and a recommendation was then brought to the commissioner.

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REPRESENTATIVE SADDLER (alternate) asked Ms. Kralley how many people this bill would catch.

MS. KRALY offered some individual statistics for FY17, reporting that 23,175 individuals submitted information for the background check process at DHSS. Of those, about 3.2 percent, 556 individuals, had barring conditions. Of these 556 individuals, 185 individuals had requested variances and 158 of those individuals had received approval for variance.

REPRESENTATIVE SADDLER (alternate) asked how big was the problem that was being addressed by the proposed bill.

MS. KRALY acknowledged that there was not a problem for that purpose, as those with criminal and civil histories that were inconsistent with licensure and had a predictive factor for use, neglect, or exploitation were being identified. She opined that the program, as it was designed, worked exceptionally well. She declared that the proposed bill was designed to clean up some language and some confusion within the statute and within the process, so this was more understandable for the applicants. She added that this allowed a clean-up for language and identified gaps. She noted that these issues had been identified many years earlier.

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REPRESENTATIVE SADDLER (alternate) pointed out that this was not a huge problem that needed to be addressed although it was making a system work better.

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REPRESENTATIVE TARR asked about the limitations to the multiple state data bases for integrated information sharing.

4:03:20 PM

MS. KRALY said that efficiency was a good topic although it was beyond the scope of the proposed bill. She explained that the criminal background checks were performed by stand-alone data bases, and she opined that these were not integrated and did not access each other. She stated that the data bases accessed for civil history purposes were civil findings unless you were convicted of Medicaid fraud. She declared that these were efficient registries although they were not interactive.

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CHAIR SPOHNHOLZ said that HB 162 would be held over.

4:05:55 PM

ADJOURNMENT

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 4:05 p.m.