

ALASKA STATE LEGISLATURE
HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

February 20, 2018

3:08 p.m.

MEMBERS PRESENT

Representative Bryce Edgmon, Vice Chair
Representative Sam Kito
Representative Geran Tarr
Representative David Eastman
Representative Jennifer Johnston
Representative Colleen Sullivan-Leonard
Representative Matt Claman (alternate)

MEMBERS ABSENT

Representative Ivy Spohnholz, Chair
Representative Dan Saddler (alternate)

COMMITTEE CALENDAR

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."

- MOVED CSHB 162 (HSS) OUT OF COMMITTEE

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
01/23/18	(H)	Heard & Held
01/23/18	(H)	MINUTE (HSS)
01/30/18	(H)	HSS AT 3:00 PM CAPITOL 106
01/30/18	(H)	Heard & Held
01/30/18	(H)	MINUTE (HSS)
02/15/18	(H)	HSS AT 3:00 PM CAPITOL 106
02/15/18	(H)	-- MEETING CANCELED --
02/20/18	(H)	HSS AT 3:00 PM CAPITOL 106

WITNESS REGISTER

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

POSITION STATEMENT: Answered questions during discussion of HB 162.

THOMAS GARBER
Kenai, Alaska

POSITION STATEMENT: Testified during discussion of HB 162.

ACTION NARRATIVE

[3:08:49 PM](#)

REPRESENTATIVE TARR called the House Health and Social Services Standing Committee meeting to order at 3:10 p.m. [Representative Tarr was the acting Chair during the absence of Chair Spohnholz] Representatives Tarr, Edgmon, Claman (alternate), Johnston, Sullivan-Leonard, and Eastman were present at the call to order. Representative Kito arrived as the meeting was in progress.

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

[3:09:38 PM](#)

REPRESENTATIVE TARR announced that the only 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."

[3:10:20 PM](#)

REPRESENTATIVE EDGMON moved to adopt the proposed committee substitute (CS) for HB 162, labeled 30-GH1676\J, Glover, 2/15/18, as the working draft.

[3:10:34 PM](#)

REPRESENTATIVE TARR objected for discussion.

[3:10:41 PM](#)

STACIE KRALY, Chief Assistant Attorney General, Statewide Section Supervisor, Human Services Section, Civil Division (Juneau), Department of Law, paraphrased from the Summary of Changes in CS [Included in members' packets], which read:

Section 1 contains the amendment requested by the Department of Public Safety to ensure compliance with federal laws relating to the sharing of criminal history information with the Department of Health and Social Services.

Section 2 contains a technical fix that removes the word "registry" and instead refers to databases to avoid the concern raised by the Ombudsman regarding confusion over the term "registry."

Old Section 7 was deleted as it was determined in consultation with legislative legal the section was redundant. It was determined that keeping what is now section 7 in the CS was sufficient to require relative placement to have background checks.

Section 10 is re-written to address the concerns raised by the Ombudsman's office. Specifically, the rewrite:

- Removes the confusion caused by using the word "registry." Similar to Sections 2, 8, 18, and 21, the change redefines registry to "databases";
- Clarifies that we are looking to evaluate health, safety, and welfare issues when reviewing databases related to licensed entities, not technical violations that may lead to a nonrenewal, suspension or revocation of a license;
- Clarifies that we are looking to identify persons whose children are subjects of a child in need of aid petition;
- Clarifies that we are looking to evaluate health, safety, and welfare issues when reviewing databases

related to licensed providers (occupational licensing under AS 08), not unrelated technical violations;

- Adds that a person who works for the state - not just the Department of Health and Social Services - is subject to a barring condition if they are terminated from employment for a substantiated allegation of assaultive, neglectful, or exploitive behavior.

Section 12 is amended as requested by the Ombudsman's Office to clarify persons who are seeking variances have access to information they need to pursue a variance.

Section 14 adds a new section to effectuate the access of information under AS 47.10 for variance committees.

Section 17 (former Section 16) contains a technical fix that remove the word "registry" that refer to databases to avoid confusion as articulated by the Ombudsman.

Section 19 (former Section 18) removes the qualifier of "unsupervised" before "volunteer" as to persons who can be investigated. The Department wants to be able to investigate any volunteer - unsupervised or otherwise - who has engaged in abusive, neglectful, or exploitive behavior against a child or adult in care.

Sections 20 is added to this CS to amend AS 47.32.140(d) to remove the word "registry" and instead refer to databases to avoid the concern raised by the Ombudsman regarding confusion over the term "registry."

Section 22 (former Section 20) is amended to add a new subsection to clarify that information can be shared with law enforcement if that information is from a concurrent investigation.

[3:15:53 PM](#)

REPRESENTATIVE EASTMAN referenced the concurrent investigations mentioned in Section 22 of the proposed bill and asked about the ability of the department to share information with law

enforcement if it was not yet a concurrent investigation, although there was the possibility.

MS. KRALY explained that, under the current statutory scheme, it was necessary to obtain a search warrant signed by a judge or a court order to share any confidential information with law enforcement. She explained that, as the amendment contemplated a criminal allegation or offense in a licensed facility, and, as the police and licensing were both called, there would be an intersection of the investigations. She stated that an allegation from the past could not be turned into a concurrent investigation.

REPRESENTATIVE EASTMAN offered an example and asked if there was anything that would keep the department from reaching out to law enforcement if there was the possibility of a concurrent investigation.

MS. KRALY offered her belief that should the department have the impression that a crime had been committed and felt that a report should be made to law enforcement, there would not be anything to preclude them from making that report.

REPRESENTATIVE EASTMAN asked if there was a specific benchmark that determined at what point it became an investigation.

MS. KRALY explained that the department could receive a number of calls or reports of allegations that something had happened in a licensed facility. At that point, the department would go through a qualitative evaluation of the report to determine whether there was probable cause for an investigation. She stated that not all reports required an investigation. She explained that there would be a formal process that could trigger an investigation, and the agency would then inform the license provider that there was an investigation to an allegation.

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REPRESENTATIVE TARR asked about the new name for the civil registry.

MS. KRALY explained that the civil registry was now the civil history portion of the criminal background check, and that the centralized registry was the database managed by the Office of Children's Services (OCS), which kept track of all the reports of harm and protective services reports identifying when an

event had happened. She stated that this centralized registry had been renamed the Child Protection database. She reported that civil databases had been identified through statute and regulation for review.

REPRESENTATIVE TARR asked if civil databases was the umbrella term for these various data bases. She directed attention to page 10 of the proposed committee substitute (CS), Version J, which still spoke about a child protection registry.

MS. KRALY explained that this was one of the data bases to be reviewed for purposes of the civil history data base check.

[3:23:01 PM](#)

REPRESENTATIVE TARR removed her objection. There being no further objection, Version J was adopted as the working draft.

[3:23:26 PM](#)

REPRESENTATIVE TARR opened public testimony.

[3:24:07 PM](#)

THOMAS GARBER expressed his concern with the due process of civil rights and shared a personal anecdote about his challenge and interaction with the judicial law and OCS systems.

[3:30:15 PM](#)

REPRESENTATIVE TARR closed public testimony.

[3:30:42 PM](#)

REPRESENTATIVE EDGMON moved to report CSHB 162, Version 30-GH1676\J, Glover, 2/15/18, out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHB 162(HSS) was moved from the House Health and Social Services Standing Committee.

[3:31:08 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 3:31 p.m.