

ALASKA STATE LEGISLATURE
HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

April 24, 2018

3:03 p.m.

MEMBERS PRESENT

Representative Ivy Spohnholz, Chair
Representative Tiffany Zulkosky, Vice Chair
Representative Sam Kito
Representative Geran Tarr
Representative David Eastman
Representative Jennifer Johnston
Representative Colleen Sullivan-Leonard

MEMBERS ABSENT

Representative Matt Claman (alternate)
Representative Dan Saddler (alternate)

COMMITTEE CALENDAR

SENATE BILL NO. 134

"An Act relating to the appointment of guardians ad litem; relating to petitions and proceedings for termination of parental rights; and amending Rules 1 and 6, Alaska Adoption Rules."

- MOVED SB 134 OUT OF COMMITTEE

SENATE BILL NO. 198

"An Act relating to a study of the effectiveness and cost of providing long-acting reversible contraception to women with substance abuse disorders."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: SB 134

SHORT TITLE: TERMINATION OF PARENTAL RTS;GUARDIANS

SPONSOR(S): SENATOR(S) GARDNER

01/16/18	(S)	PREFILE RELEASED 1/8/18
01/16/18	(S)	READ THE FIRST TIME - REFERRALS
01/16/18	(S)	HSS, JUD
04/06/18	(S)	HSS AT 1:30 PM BUTROVICH 205

04/06/18 (S) Moved SB 134 Out of Committee
 04/06/18 (S) MINUTE(HSS)
 04/09/18 (S) HSS RPT 3DP
 04/09/18 (S) DP: WILSON, BEGICH, GIESSEL
 04/10/18 (S) JUD WAIVED PUBLIC HEARING NOTICE, RULE
 23
 04/11/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 04/11/18 (S) Scheduled but Not Heard
 04/13/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 04/13/18 (S) <Bill Hearing Canceled>
 04/16/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 04/16/18 (S) Moved SB 134 Out of Committee
 04/16/18 (S) MINUTE(JUD)
 04/17/18 (S) JUD RPT 2DP 1NR
 04/17/18 (S) DP: COGHILL, WIELECHOWSKI
 04/17/18 (S) NR: SHOWER
 04/18/18 (S) TRANSMITTED TO (H)
 04/18/18 (S) VERSION: SB 134
 04/20/18 (H) READ THE FIRST TIME - REFERRALS
 04/20/18 (H) HSS
 04/24/18 (H) HSS AT 3:00 PM CAPITOL 106

WITNESS REGISTER

SENATOR BERTA GARDNER

Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Presented SB 134 as the sponsor of the bill.

NATHANIEL GRABMAN, Staff
 Senator Berta Gardner
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Presented the Sectional Analysis on behalf of the bill sponsor, Senator Gardner.

CARMEN LOWRY, Executive Director
 Alaska Network on Domestic Violence and Sexual Assault (ANDVSA)
 Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 134.

TRACY SPARTZ CAMPBELL, Deputy Director
 Central Office
 Office of Children's Services
 Department of Health and Social Services
 Juneau, Alaska

POSITION STATEMENT: Answered questions during discussion of SB 134.

NANCY MEADE, General Counsel
Administrative Staff
Office of the Administrative Director
Alaska Court System
Anchorage, Alaska

POSITION STATEMENT: Answered questions during discussion of SB 134.

MILES CURTIS
Petersburg, Alaska

POSITION STATEMENT: Testified in support of SB 134.

ACTION NARRATIVE

[3:03:02 PM](#)

CHAIR IVY SPOHNHOLZ called the House Health and Social Services Standing Committee meeting to order at 3:03 p.m. Representatives Spohnholz, Sullivan-Leonard, Kito, Eastman, Zulkosky, and Johnston were present at the call to order. Representative Tarr arrived as the meeting was in progress.

SB 134-TERMINATION OF PARENTAL RTS;GUARDIANS

[3:03:48 PM](#)

CHAIR SPOHNHOLZ announced that the only order of business would be SENATE BILL NO. 134, "An Act relating to the appointment of guardians ad litem; relating to petitions and proceedings for termination of parental rights; and amending Rules 1 and 6, Alaska Adoption Rules."

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SENATOR BERTA GARDNER, Alaska State Legislature, explained that SB 134 clarified existing policy, that currently under Alaska statute there were three reasons to terminate parental rights: if a child in need of aid has been subjected to abuse or abandonment; under certain circumstances, to free a child for adoption; and when a child is conceived in rape. She stated that the purpose of proposed SB 134 was to make this existing policy "abundantly clear" by adding language that a parent, whose child was conceived in rape, can terminate parental

rights. She emphasized that in all cases this had to be under a court order and deemed to be in the best interests of the child. She pointed out that this offered an important alternative and consideration for a woman who was pregnant following a rape, "that she doesn't have to be locked into a lifetime with the rapist."

[3:06:18 PM](#)

NATHANIEL GRABMAN, Staff, Senator Berta Gardner, Alaska State Legislature, shared the history of AS 25.23.180(c)(3), enacted by the Alaska State Legislature in 1987, and declared that the legislative intent had been to create a legal mechanism to allow a mother to terminate the parental rights of a rapist father. In 2015, Congress passed the Rape Survivor Child Custody Act, which allocated annual grant funding to states which qualified by having existing statute which allowed for termination of parental rights in those instances. He shared that, even with federal approval of this grant funding to Alaska, within the state there was still confusion about the law. He explained that, in 1987, as there was already termination of parental rights language in statute, it was thought to be more efficient to "nest the termination of parental rights in cases where the child was conceived through rape within the adoption section of law." This made the law less obvious and more difficult to find. As it was not a well-known law, the goal of the proposed bill was to raise understanding that this could be done through an independent proceeding which did not involve adoption of a child in need of aid proceeding.

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

Section 1. Conforms a cross-reference for purposes of court venue for the termination of parental rights on the grounds that the parent has committed an act constituting sexual assault, sexual abuse of a minor, or incest that resulted in the conception of the child, consistent with section 11 of this bill.

Section 2. Conforms a cross-reference for purposes of the exception to consent to adoption required consistent with section 11 of this bill.

[3:09:53 PM](#)

Section 3. Authorizes the court to appoint a guardian ad litem for cases involving petitions for the termination of parental rights of a parent who has committed an act constituting sexual assault, sexual abuse of a minor, or incest that resulted in the conception of a child under section 11 of this bill.

Section 4. Conforms a cross-reference for purposes of a decree terminating parental rights on the grounds specified under section 11 of this bill.

Section 5. Conforms a cross-reference for purposes of inheritance rights retained after termination of parental rights on the grounds specified under section 11 of this bill.

Section 6. Conforms a cross-reference for purposes of appeal limitations consistent with section 11 of this bill.

Section 7. Conforms a cross-reference for purposes of restricting the inspection of papers and records relating to a proceeding for the termination of parental rights on the grounds specified under section 11 of this bill.

Section 8. Conforms a cross-reference for purposes of the confidentiality of a child who is the subject of a petition for the termination of parental rights or a biological parent whose parental rights have been terminated on the grounds specified under section 11 of this bill.

Section 9. Conforms a cross-reference for purposes of preventing the disclosure of a natural parent's identity when the parent's rights were terminated on the grounds specified under section 11 of this bill.

Section 10. Conforms a cross-reference for purposes of a court order for the preparation of a new birth certificate without reference to a parent whose parental rights have been terminated on the grounds specified under section 11 of this bill.

Section 11. Restructures AS 25.23.180(c) to clarify that termination for parental rights may be ordered in

an independent proceeding on the grounds that a parent committed an act constituting sexual assault, sexual abuse of a minor, or incest that resulted in the conception of a child.

Section 12. Conforms a cross-reference for purposes of providing the parties who may initiate a proceeding for the termination of parental rights on the grounds specified under section 11 of this bill.

Section 13. Conforms a cross-reference for purposes of allowing the court, with certain limitations, to vacate a decree terminating parental rights on the grounds specified under section 11 of this bill.

Section 14. Conforms a cross-reference for purposes of providing counsel for a respondent to a petition for the termination of parental rights on the grounds specified under section 11 of this bill.

Section 15. Conforms a cross-reference for purposes of establishing that proceeding for termination of parental rights on the grounds specified under section 11 of this bill do not affect civil remedies.

Section 16. Adds a new subsection to AS 25.23.180 to clarify that a petition for termination of parental rights for the grounds specified in section 11 of the bill may be filed to initiate an independent proceeding not connected to a petition for adoption or a proceeding under AS 47.10.

Section 17. Conforms the citation for purposes of legal representation and guardian ad litem services through the office of public advocacy for the termination of parental rights on the grounds specified under section 11 of this bill.

Section 18. Describes how AS 25.23.180, as amended by this bill, has the effect of changing court rules.

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REPRESENTATIVE EASTMAN asked, if the parental rights were terminated for a rapist father, would this also result in termination of any obligation for child support.

SENATOR GARDNER explained that once parental rights were terminated, then the obligations were also terminated. She reported that the mother could choose to bring a civil case for inheritance rights or parental payments.

[3:12:44 PM](#)

CARMEN LOWRY, Executive Director, Alaska Network on Domestic Violence and Sexual Assault (ANDVSA), stated that they were in support for the proposed bill. She reported that ANDVSA had been working with the bill sponsor for two years to clarify options available to rape survivors. She shared a brief which described why they got involved in this work, which read:

As a collective voice for survivors of domestic violence and sexual assault, ANDVSA has an interest in representing the needs of survivors of sexual assault in demonstrating the impact of any law on those survivors and their families and ensuring that current and future survivors are not negatively impacted by law precedent. At the coalition level and through our member programs and affiliates, we work to help survivors' recovery, protect their autonomy, and end an intergenerational nature of violence and limit barriers to justice.

MS. LOWRY reiterated how important it was to expand and clarify options. She declared support for the proposed bill.

REPRESENTATIVE TARR asked if there were financial resources to support the family outside of the traditional social safety net programs.

[3:16:07 PM](#)

TRACY SPARTZ CAMPBELL, Deputy Director, Central Office, Office of Children's Services, Department of Health and Social Services, said that there were public assistance resources and other programs to help with support. She said that she was not aware of any available programs other than community-based resources.

REPRESENTATIVE TARR asked if her division interfaced with the violent crimes compensation board.

MS. SPARTZ CAMPBELL replied that they did have clients involved with that program, although it was primarily initiated through the legal system.

[3:17:40 PM](#)

NANCY MEADE, General Counsel, Administrative Staff, Office of the Administrative Director, Alaska Court System, in response to questions from Representative Tarr, explained that once parental rights were terminated, the responsibilities were also terminated; and therefore the probability, even though there had not been a Supreme Court decision, was that child support would expire. However this termination did not affect the rights of anyone to obtain legal and equitable civil remedies for any injuries and damages arising out of the offender's conduct. She noted the victim of a violent act could come to the Violent Crimes Compensation Board to receive bridging funds until there was resolution, at which point the offender would need to pay the funds back to the board.

REPRESENTATIVE TARR asked about a circumstance when a woman did not want to press criminal charges but would otherwise want to proceed with the termination of parental rights and a civil case for damages.

MS. MEADE said that was correct and explained that the proposed bill did not require any criminal finding.

REPRESENTATIVE SULLIVAN-LEONARD directed attention to page 4 of the Legislative Legal Services report and asked about the federal dollars to Alaska for two formula grant programs, the Stop Violence Against Women and the Sexual Assault Services. She asked for an overview to the available funding, and how a victim may be able to attain any of this funding.

MS. MEADE replied that federal funding was not her area of expertise.

[3:22:32 PM](#)

MR. GRABMAN reported that, in FY17, Alaska had been awarded an additional \$34,575 for having AS 25.23.180(c)(3) which allowed for termination of parental rights in such cases. He shared that the total of federal funds given to Alaska through the sexual assault services and the violence against women programs was about \$1.2 million.

[3:23:34 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD asked if it was necessary for the victim to request the grants.

MR. GRABMAN opined that this money was for generalized purposes as opposed for specific victim compensation.

[3:24:39 PM](#)

REPRESENTATIVE TARR shared that the non-profit organization "Victims for Justice" had wanted to split the funds because they worked with individual victims.

MS. LOWRY confirmed that the federal funds that were specific to the Stop Violence Against Women grant and to the Sexual Assault Services grant went directly to the council, which were then bundled with other funds and allocated to grantees. She stated that the Sexual Assault Services funds had to be used and tracked correctly for services to sexual assault survivors and for trainings and things related to sexual assault.

[3:26:08 PM](#)

REPRESENTATIVE EASTMAN asked if there would likely be weight given for this in a civil action for damages if someone had already lost their parental rights under this provision.

MS. MEADE explained that the proposed bill did not create a civil remedy to sue, but that in a civil action there would be information about the history of the parties. She pointed out that this civil action had a much lower burden of proof than what was necessary to terminate the parental rights.

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REPRESENTATIVE EASTMAN asked how this law would be applied in an indirect situation, such as if a parent hired someone to rape their child.

MS. MEADE said that she could not speculate on the answer.

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EPRESENTATIVE TARR asked if the rape of a child by a parent, resulting in a child, happened very often.

MS. MEADE pointed out that Alaska had never had a case in the 30 years since the provision was in Alaska law.

[3:31:01 PM](#)

CHAIR SPOHNHOLZ offered her belief that the proposed bill would not necessarily allow Alaska to attract additional federal funds.

MS. LOWRY expressed her agreement.

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CHAIR SPOHNHOLZ opened public testimony on SB 134.

[3:32:04 PM](#)

MILES CURTIS said that he was the father of a rape survivor who had conceived a child through rape. He stated that he was in support of SB 134. He shared a personal story, reporting that they had been in a custody trial for five years. He declared that the courts and many attorneys were in error for determining that the existing law did not apply or that there was not any such law. He expressed his hope that this would allow people to better understand it. He offered his belief that a fact-finding case should be separate from a custody case. He noted that the victim, in this case his daughter, commonly suffered from post-traumatic stress disorder. He declared that the proposed bill would help a few people.

CHAIR SPOHNHOLZ thanked him for his work to find a solution so that others in a similar situation would have a more direct and expedient route to justice.

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CHAIR SPOHNHOLZ closed public testimony.

SENATOR GARDNER shared stories of people contacting her with similar stories to Mr. Curtis. In response to an earlier question by Representative Eastman, she pointed to page 5, line 2 of the proposed bill, which referenced the biological parent. For an incident where a rapist was hired, she opined that this would be a different type of crime, with a different story.

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REPRESENTATIVE ZULKOSKY moved to report SB 134, Version 30-LS1182\A, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, SB 134 was moved from the House Health and Social Services Standing Committee.

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ADJOURNMENT

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 3:38 p.m.