

ALASKA STATE LEGISLATURE
SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

February 28, 2018

1:34 p.m.

MEMBERS PRESENT

Senator David Wilson, Chair
Senator Natasha von Imhof, Vice Chair
Senator Cathy Giessel
Senator Tom Begich

MEMBERS ABSENT

Senator Peter Micciche

COMMITTEE CALENDAR

SENATE BILL NO. 122

"An Act repealing the authority for a child abuse or neglect citizen review panel in the Department of Health and Social Services; and establishing the Child Protection Citizen Review Panel in the office of the ombudsman."

- MOVED SB 122 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 122

SHORT TITLE: OCS CITIZEN REVIEW PANEL

SPONSOR(S): SENATOR(S) COGHILL

05/17/17	(S)	READ THE FIRST TIME - REFERRALS
05/17/17	(S)	HSS, JUD, FIN
02/26/18	(S)	HSS AT 1:30 PM BUTROVICH 205
02/26/18	(S)	Heard & Held
02/26/18	(S)	MINUTE(HSS)
02/28/18	(S)	HSS AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

RYNNIEVA MOSS, Staff
Senator John Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 122 on behalf of the sponsor.

KATE BURKHART, State Ombudsman
Alaska Office of the Ombudsman
Juneau, Alaska

POSITION STATEMENT: Commented on SB 122.

THOMAS GARBER, Representing self
Kenai, Alaska

POSITION STATEMENT: Supported SB 122.

DIWAKAR VADAPALLI, Ph.D., Chair
Alaska Citizen Review Panel (CRP)
Assistant Professor of Public Policy
Institute of Social and Economic Research (ISER)
University of Alaska Anchorage
Anchorage, Alaska

POSITION STATEMENT: Commented on SB 122.

TRACY SPARTZ-CAMPBELL, Deputy Director
Office of Children's Services
Department of Health and Social Services (DHSS)
Juneau, Alaska

POSITION STATEMENT: Answered questions about SB 122.

ACTION NARRATIVE

[1:34:30 PM](#)

CHAIR DAVID WILSON called the Senate Health and Social Services Standing Committee meeting to order at 1:34 p.m. Present at the call to order were Senators Begich, von Imhoff, and Chair Wilson. Senator Giessel jointed shortly thereafter.

SB 122-OCS CITIZEN REVIEW PANEL

[^Includes a motion related to SB 72.]

[1:34:38 PM](#)

CHAIR WILSON announced the consideration of SB 122. [SB 122, version 30-LS0047\J, was before the committee.]

RYNNIEVA MOSS, Staff, Senator John Coghill, Alaska State Legislature, provided information on SB 122 on behalf of the sponsor. She said SB 122 moves the Citizen Review Panel (CRP), which was created in statute in 1990, from the Department of Health and Social Services (DHSS) to the Ombudsman's Office. Its purpose was make sure children did not languish in foster care,

but it was not funded until 1993. It was a pilot project specific to Anchorage. During a year and a half, it investigated over 200 cases.

MS. MOSS said because of the remoteness of much of Alaska and the cost of transportation to communities across the state, the federal panel was very limited in what it could do. While the Citizens Review Panel has been enacted several times in state statute going back to 1990, the current panel was mandated with the enactment of House Bill 53 in 2005. In that legislation the legislature not only recognized the importance of a citizen's review panel, but committed to help fund the process adequately. It started getting an annual budget, which is now \$100,000 a year. Most meetings are by teleconference, so the panel can use the money to visit as many areas as possible to meet with parents, Office of Child Services (OCS) case workers and ICWA [Indian Child Welfare Act] workers.

She said the CRP is required to examine the policies and procedures of OCS, evaluate the performance of OCS, and make annual reports to the legislature. The panel is subject to the Open Meetings Act and has produced 15 reports so far.

She said SB 122 transfers oversight of the Citizens Review Panel to the Ombudsman's Office in the legislative branch of government. There was discussion of locating it in the governor's office and with the court system, but the missions of the Ombudsman's Office and CRP complement each other well.

[1:38:34 PM](#)

MS. MOSS said the Ombudsman's Office accepts citizen complaints on a case-by-case basis. The CRP has never reviewed individual cases, although it has the authority to do that. It has encouraged the use of the grievance process and contact with the Ombudsman's Office. She related that of the 250 complaints the Ombudsman's Office about OCS in 2017, the Ombudsman's Office investigated 136, or 54 percent. The others were declined because the person had not complained to OCS or the complaint was being litigated or otherwise subject to a judge's decision.

She said the agencies complement each other. The role of the ombudsman is to help ensure that federal, state, and municipal governments are serving Alaskans as efficiently, effectively, and equitably as possible. They do this through case-specific investigations.

[1:40:05 PM](#)

MS. MOSS said the role of the Citizens Review Panel has been to help ensure that the Office of Children's Services is serving Alaska's families as efficiently, effectively and equitably as possible. They do this through outreach and advocacy. She said SB 122 is not intended to criticize the Office of Children's Services or the Citizens Review Panel. They both can work better. Senator Coghill introduced the bill to start a dialogue about strengthening the public acceptance of a review process for child protection services that should be a review process that is external to OCS.

SENATOR VON IMHOF noted that the fiscal note for FY 19 is \$143,000 which is \$43,000 more than has been budgeted for the panel.

MS. MOSS said the fiscal note assumes a permanent full-time position. She said the fiscal note will be discussed in Finance.

CHAIR WILSON suggested Ms. Burkhart address the additional expense.

KATE BURKHART, State Ombudsman, Alaska Office of the Ombudsman, commented on SB 122. She said her office prepared the fiscal note to reflect the expanded duties of the CRP under SB 122. As written, the CRP would be co-located in the Office of the Ombudsman for budgetary purposes only. That creates a fiscal agent relationship and not a supervisory relationship. The staffing contemplated in the fiscal note is for a professional level staff that has the experience, expertise, and authority to operate with minimal supervision from the CRP chairperson. It is a more expensive way to staff, but the bill is written so that the ombudsman is the holder of the resources and is not engaged in supervision of staff. If there is a more supervisory role, then staff could be a paraprofessional.

[1:43:57 PM](#)

CHAIR WILSON opened public testimony on SB 122.

[1:44:05 PM](#)

THOMAS GARBER, representing self, supported SB 122. He said he supports SB 122 but has some concerns. He paraphrased from page 15 of the CRP annual report:

Despite many attempts by the CRP to be involved in conversations and participate in the federal Child and Family Services Review(CFSR) process, the panel was only informed of the progress being made within OCS,

but was not invited to participate. Since CFSSR is a significant review exercise, CRP received an invitation to attend a quarterly stakeholder teleconference scheduled in April (but was not able to participate).

MR. GARBER referred to the investigative report for Ombudsman Complaint A2016-0923, in which she was requesting a worker's case be reviewed because of her neglect that resulted in a child being harmed. The OCS responded that the quality assurance unit does not have the capacity to undertake that type of review. Furthermore, given that the office has the highest caseload in the state it is more likely than not that some cases are not getting the attention they should. In 2011 the ombudsman investigated the OCS grievance process and determined that upper level management did not know how to implement the grievance process. The CRP annual report three years later stated the grievance process was not functioning properly. The ombudsman and CRP pointed out that normal citizens accused of abuse cannot challenge substantiated findings.

MR. GARBER said in 2011 his son threatened to kill either himself or his father because his mother would not let him play video games. His mother called the police, who came to the house and directed them to take him to the hospital. The next day OCS interviewed him, his wife, and their 13-year-old and 18-year-old sons and then interviewed a son in Anchorage. He tried to file a grievance but could not because there was no grievance process. Tom Wagoner's office helped him get an administrative review. During the review he asked for subpoenas, but there is no subpoena authority; therefore, OCS cannot be challenged. He recommends that more be done to protect people's due process and civil rights. He opined that the Office of the Ombudsman and CRP need more help to do so.

Representative Tammi Wilson said in her request for a grand jury investigation that OCS has become a protected empire built on taking children and separating families. Poor children are often targeted because parents do not have the means to hire lawyers and fight the system. Parents are victimized by a system that makes a profit by holding children longer and bonuses for not returning children. Case workers and social workers are often guilty of fraud. They withhold and fabricate evidence and seek to terminate parental rights. OCS can hide behind [a] confidentiality clause in order to protect their decisions and keep the funds flowing. Social workers are the glue that holds the system together and funds the courts and children's

attorneys and multiple other jobs. The ombudsman and CRP need their support; more needs to be done to protect due process and civil liberties.

[1:50:10 PM](#)

DIWAKAR VADAPALLI, Ph.D., Chair, Alaska Citizen Review Panel (CRP), Assistant Professor of Public Policy, Institute of Social and Economic Research (ISER), University of Alaska Anchorage, commented on SB 122. He said the difference in missions needs to be addressed. CRP has a clear advocacy and public outreach role. He is hopeful that all those elements will be preserved. The CRP in Alaska has an autonomy that other CRPs in the country do not. It must be preserved, enhanced, and sustained. The level of access to OCS leadership and the legislature that CRP has helps with accountability, although there are still gaps that need to be enhanced. He said he wanted to address the comment about the current budget not being utilized to the full extent. He explained that over the last several years, the budget was not used because several times the panel felt it was not receiving enough support from the staff at the time. Since the volunteers took over many of the functions of coordinator, the coordinator could not charge for time. The current coordinator is more efficient. This year they will use all the budget and will be struggling at the end to make sure they can perform all the functions they need to.

[1:53:46 PM](#)

CHAIR WILSON closed public testimony on SB 122.

CHAIR WILSON asked what OCS's position was on the bill.

TRACY SPARTZ-CAMPBELL, Deputy Director, Office of Children's Services, Department of Health and Social Services (DHSS), answered questions about SB 122. She said the administration is neutral on SB 122.

MS. MOSS said she discussed the comments Senator Giessel made on Monday about the structure of the CRP with Kate Burkhart and Senator Giessel's staff. They decided to focus on adding more structure to the panel in Judiciary.

[1:54:59 PM](#)

CHAIR WILSON asked if there were amendments. There being no amendments, he entertained a motion to move SB 122 out of committee.

[1:55:10 PM](#)

SENATOR VON IMHOF moved to report SB 122, version 30-LS0047\J, from committee with individual recommendations and attached fiscal note(s).

[1:55:43 PM](#)

CHAIR WILSON found no objection and SB 122 was reported from the Senate Health and Social Services Standing Committee with the understanding that Legislative Legal was authorized to make any necessary technical or performing adjustments.

[1:55:57 PM](#)

At ease.

[1:57:16 PM](#)

CHAIR WILSON reconvened the meeting and reviewed upcoming schedules. He recognized Senator Begich.

[1:57:44 PM](#)

SENATOR BEGICH moved to report SB 72, version LS0615\A, from committee with individual recommendations and accompanying zero fiscal note.

CHAIR WILSON objected.

SENATOR BEGICH said the committee recently passed out another piece of legislation [SB 124] it felt was not germane to its purview. SB 72 relates to the Office of Equal Opportunity and Employment and discrimination against transgender people. That would be more appropriately fall under the purview of Judiciary. That particular piece of legislation had tremendous testimony over a day and half. There has been a request that it be heard again. The public testimony was closed over his objection. He removed his objection with an on-the-record assurance from the chair that there would be action on the bill. Based on the comments in the hearing of the other piece of legislation that passed out, it is clear to him that if a bill is not within the purview of this committee, it should be moved to the next committee of referral to be appropriately addressed. There was tremendous support from the public on that legislation, while there was also opposition, unlike the bill they did pass out. He asked that there be due consideration to move SB 72 to the next committee of referral.

[1:59:23 PM](#)

CHAIR WILSON said he had spoken to the sponsor of SB 72 and his understanding was that that the [State Commission for Human Rights] was going through the regulatory process. He has not had

an official response on the process of moving that legislation. He maintained his objection and asked for a roll call.

2:00:46 PM

A roll call vote was taken. Senator Begich voted in favor of the motion to move SB 72 from committee and Senators von Imhoff, Giessel, and Wilson voted against it. Therefore, the motion failed by a 1:3 vote.

SENATOR BEGICH thanked Chair Wilson for considering the request.

There being no further business to come before the committee, Chair Wilson adjourned the Senate Health and Social Services Standing Committee at 2:00 p.m.