

**ALASKA STATE LEGISLATURE**  
**SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE**

April 6, 2018

1:30 p.m.

**MEMBERS PRESENT**

Senator David Wilson, Chair  
Senator Cathy Giessel  
Senator Tom Begich

**MEMBERS ABSENT**

Senator Natasha von Imhof, Vice Chair  
Senator Peter Micciche

**COMMITTEE CALENDAR**

SENATE CONCURRENT RESOLUTION NO. 18  
Proclaiming November 2018 as Diabetic Eye Disease Awareness  
Month.

- MOVED SCR 18 OUT OF COMMITTEE

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

**PREVIOUS COMMITTEE ACTION**

BILL: SCR 18

SHORT TITLE: NOVEMBER 2018: DIABETIC EYE DISEASE MONTH

SPONSOR(s): SENATOR(s) COSTELLO

02/19/18	(S)	READ THE FIRST TIME - REFERRALS
02/19/18	(S)	HSS
04/06/18	(S)	HSS AT 1:30 PM BUTROVICH 205

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

**WITNESS REGISTER**

DAKOTA ORM, Staff  
Senator Mia Costello  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented SCR 18 on behalf of the sponsor.

MICHAEL LEVITT, Staff  
American Academy of Ophthalmology  
Washington, D.C.

**POSITION STATEMENT:** Supported SCR 18.

SENATOR BERTA GARDNER  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of SB 134.

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

**POSITION STATEMENT:** Presented SB 134 on behalf of the sponsor.

NANCY MEADE, General Counsel  
Administrative Office  
Alaska Court System  
Anchorage, Alaska

**POSITION STATEMENT:** Testified on SB 134.

MILES CURTIS, Representing Self  
Petersburg, Alaska

**POSITION STATEMENT:** Supported SB 134.

**ACTION NARRATIVE**

1:30:56 PM

**CHAIR DAVID WILSON** called the Senate Health and Social Services Standing Committee meeting to order at 1:30 p.m. Present at the call to order were Senators Giessel, Begich, and Chair Wilson.

**SCR 18-NOVEMBER 2018: DIABETIC EYE DISEASE MONTH**

[1:31:42 PM](#)

CHAIR WILSON announced the consideration of SCR 18.

[1:31:57 PM](#)

DAKOTA ORM, Staff, Senator Mia Costello, Alaska State Legislature, presented SCR 18 on behalf of the sponsor. She said among adults with diabetes, more than one-fourth have diabetic retinopathy. According to the National Eye Institute, diabetic retinopathy is the leading cause of blindness in adults ages 20-74. With no early symptoms, it is vital to generate awareness to motivate people with diabetes to get regular eye exams. According to the National Eye Institute, early detection, timely treatment, and follow-up can reduce the risk of severe vision loss by 95 percent. Proclaiming November 2018 as Diabetic Eye Disease Month will raise awareness and lower the risk for those living with diabetes as they seek prevention and treatment.

SENATOR BEGICH asked what will be done in November if the resolution passes.

MS. ORM said November 2018 is Diabetes Awareness Month. Adding in Diabetic Eye Disease Month will further inspire events to include regular eye exams.

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CHAIR WILSON opened public testimony on SCR 18.

MICHAEL LEVITT, Staff, American Academy of Ophthalmology, supported SCR 18. He said this is part of a national observance. Of people age 40 and older, 7.7 million have diabetic retinopathy. This is the most prevalent complication of diabetes. In Alaska that is about 20,000 people. It is not an insignificant problem. It is expected to increase in coming years. If eye exams occur once a year, many problems can be treated.

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CHAIR WILSON closed public testimony on SCR 18.

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CHAIR WILSON entertained a motion to move the resolution out of committee.

[1:36:01 PM](#)

SENATOR GIESSEL moved to report SCR 18, Version 30-LS1445\D, from committee with individual recommendations and attached zero fiscal note.

[1:36:14 PM](#)

CHAIR WILSON found no objection and SCR 18 passed from the Senate Health and Social Services Standing Committee.

[1:36:26 PM](#)

At ease.

**SB 134-TERMINATION OF PARENTAL RTS;GUARDIANS**

[1:36:30 PM](#)

CHAIR WILSON reconvened the meeting and announced the consideration of SB 134.

SENATOR BERTA GARDNER, Alaska State Legislature, sponsor of SB 134, said the bill is the termination of parental rights when a child is born of a rape with clear and convincing evidence, with court approval, and always in the best interests of the child.

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NATHANIEL GRABMAN, Staff, Senator Berta Gardner, Alaska State Legislature, presented SB 134 on behalf of the sponsor. He said that in 2015 the Rape Survivor Child Custody Act was passed into law as Title IV of Federal Justice for Victims of Trafficking Act. That law encouraged states to have statutes which allow parental rights to be terminated in cases where conception occurred involving clear and convincing evidence of rape. AS 25.23.180, originally passed into law in 1987, fulfills the requirements of this federal law and makes the state eligible for certain federal grant funding, which Alaska has received in the last two years. Section (c) of this law contains three subsections which allow for termination of parental rights for these distinct reasons: 1. Child in Need of Aid (CINA), 2. Adoption, and 3. Child conceived of rape. SB 134 clarifies the existing statute by explicitly stating that the relationship between parent and child may be terminated through the following:

An independent proceeding issued on the grounds that the parent committed an act constituting sexual assault, sexual abuse of a minor, or incest under the rules of this state, or a comparable offense under the laws of the state where the act occurred, that resulted in conception of the child and that

termination of the parental rights of the biological parent are in the best interests of the child.

MR. GRABMAN said Senator Gardner had intended to create legislation to allow for the termination of parental rights to a child born of rape before she discovered that it already existed. The issue is that the statute drafted is in Chapter 23 of Title 25, which is specific to adoption. Its existence is not well known, even to family law attorneys. Senator Gardner has heard of at least one case in which a judge interpreted the statute as not relevant to a case which did not involve adoption or Child in Need of Aid proceedings. As can be seen in supporting documents, the legislative intent was clear at the time: a desire to create a mechanism by which a woman could terminate the parental rights of a rapist father. Because the existing adoption statute already contained provisions relating to the termination of parental rights, the statute was inserted into that section of state law with additional references made to AS 47.10, the Child in Need of Aid section. While legally efficient, this placement within those statutes has hindered awareness of the statute as well as contributing to misinterpretations of the circumstances under which the law may be utilized. SB 134 aims to address both shortcomings. SB 134 has 18 sections, but only four make substantive changes to existing statute or court rules.

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MR. GRABMAN said almost every section references Section 11, so he will start the sectional there.

**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 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.

**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.

MR. GRABMAN said Sections 4-10 and 12-15 are conforming language.

**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.

MR. GRABMAN said Section 17 is conforming language.

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

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SENATOR BEGICH summarized that there is existing statutory authority to do this, but it is narrow and not clear to family law attorneys that they can do this termination. The bill clarifies the law and makes sure it applies to all the instances.

MR. GRABMAN said that is a good summary. They have asked family law attorneys about their knowledge of the statute and received a variety of responses, ranging from not knowing it existed to adamantly stating that termination of a parent's rights was not possible outside of Child in Need of Aid or adoption proceedings. A large part of the motivation for the bill is to increase awareness that this law exists and to clarify proceedings can be undertaken outside of those two categories.

CHAIR WILSON asked if it is correct that if this law were to pass, the state would not be leaving federal funding on the table.

SENATOR GARDNER replied she believes that the federal government recognizes that existing statute does do what SB 134 does. That is part of the problem because it is so unclear. The state has claimed grants from the federal government in 2016 and 2017. The

federal government says the state does have the statute but if the courts disagree and family law attorneys don't understand that that is in existence, this effort is needed to make sure that there is no dispute.

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SENATOR GIESSEL referenced the letter from Miles Curtis from Petersburg about SB 134 and asked if this was one of the cases that was brought to her attention.

SENATOR GARDNER said that is one of the cases that is not really black and white. It has confounding factors which are that both parents were very young and the father's family has been raising the child. It is a situation where the best interests of the child may be to not terminate parental rights, but that is for the court to decide.

MR. GRABMAN noted an article from the Juneau Empire dated May 1, 2016 that tells the story of Angelica Curtis and her family. She was 13 and in a romantic relationship with a man who was over the age of majority when she became pregnant. The biological father was convicted of statutory rape and spent several years in prison. The families have had an ongoing court battle. Part of the court case involves the statute the bill seeks to clarify.

SENATOR GIESSEL asked for clarification that this bill is not a remedy for that case.

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MR. GRABMAN said the bill aims to clarify in statute that termination of parental rights can be used in independent proceedings outside of Child in Need of Aid or adoption proceedings. It is not intended to be a hammer to break that case.

SENATOR GARDNER added that part of the problem for the mother in that case is the best interests of the child. The child has spent a considerable amount of time with the paternal grandparents.

SENATOR BEGICH summarized that by making the law clearer, it provides guidance to the court to put the best interests of the child forward and to clearly understand that the best interests of the child should be the determining factor in this kind of instance.

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SENATOR GARDNER said yes, that is exactly right. Alaska statute broadly attempts to always have the best interests of the child paramount.

SENATOR BEGICH said the letter from Miles Curtis supports an action like this because it would make it clear, similar to a Washington state law. The father is looking for that kind of clarity.

SENATOR GARDNER clarified that Miles Curtis is the maternal grandparent. She believes that is his intent. The language in Section 3 allows for appointment of guardian ad litem to advocate for best interests of the child.

SENATOR BEGICH summarized that Senator Gardner became aware that the law as originally written is not clear.

SENATOR GARDNER said that is exactly right. There is no intention to solve the problem of a specific case. Rather, the idea is to solve a problem for the entire category of people, usually women, raising a child from rape. It could apply to a father of a child.

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NANCY MEADE, General Counsel, Alaska Court System, introduced herself and offered to answer questions on SB 134.

CHAIR WILSON asked if SB 134 is necessary for family law, since the federal government recognizes that Alaska has this in statute.

MS. MEADE said the sponsor's goal is to clarify existing law. Whether it is necessary is the legislature's call. The Court is neutral. She understands this has been confusing. Perhaps it would be beneficial to attorneys, parties, and even judges, to have it more explicitly spelled out. SB 134 is more explicit than what is in current law.

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CHAIR WILSON opened public testimony on SB 134.

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MILES CURTIS, Representing Self, supported SB 134. He said this is something his family has had to go through for the past five years. Clarification is important because the courts have refused to allow a hearing to attempt to terminate the father's

rights. The child, who is now eight, has been in his and his wife's custody for the first six years of his life. The court just recently placed him with the paternal grandfather, who, ironically, wasn't even asking for custody. Judicial discretion is used quite liberally in cases like this. He has been asking Senator Gardner to change the law slightly to make it not so discretionary. They have been through the wringer. They have moved several times. They are thousands of dollars in debt to lawyers. It has been a hardship. His daughter has posttraumatic stress disorder (PTSD). Congress has recognized that PTSD is an issue for women who have to testify against their abusers in court, but Alaska courts have not and it is used against her. He would like to see a law like Washington state's that takes the state out of the equation. The problem now is not the abuser, it is Alaska and its court system.

MR. CURTIS said improve the bill so that rapists as parents are never in the best interests of the child. Laws should be clear and concise. That can benefit people in the future who have to go through this.

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CHAIR WILSON closed public testimony on SB 134.

CHAIR WILSON said he had looked at this concept before he was in the legislature. As part of a SART [Sexual Assault Response Team] response, forensic nurses ask victims if they would like Plan B [to prevent pregnancy]. When he asked why that was part of the response, he was astounded when told that fathers can still have parental rights to a child. This bill is not pro-life per se, but it gives another option to help limit a victim's connection to a perpetrator. He is supportive of this bill.

SENATOR GIESSEL said at first she could not believe that a law like this was not in place. She has been convinced that the legislature needs to substantiate and confirm that law.

SENATOR BEGICH said he also appreciates the bill. The legislature should be very clear that there ought to be a path to terminate the parental rights of rapists.

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SENATOR GIESSEL moved SB 134, Version 30-LS1182\A, from committee with individual recommendations and attached fiscal note.

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CHAIR WILSON found no objection and SB 134 was moved from the Senate Health and Social Services Standing Committee.

2:02:20 PM

At ease.

2:02:24 PM

There being no further business to come before the committee, Chair Wilson adjourned the Senate Health and Social Services Standing Committee at 2:02 p.m.