

**ALASKA STATE LEGISLATURE**  
**SENATE JUDICIARY STANDING COMMITTEE**

March 14, 2018

1:32 p.m.

**MEMBERS PRESENT**

Senator John Coghill, Chair  
Senator Mia Costello  
Senator Pete Kelly  
Senator Bill Wielechowski  
Senator Mike Shower

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 208

"An Act relating to trusts and powers of appointment; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 124

"An Act relating to the duties of physicians and health care practitioners when performing or inducing abortions; providing that a child removed from a pregnant woman's womb alive after an abortion may be surrendered and found to be a child in need of aid; and providing for an effective date."

- MOVED SB 124 OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: SB 124

SHORT TITLE: ABORTION PROCEDURES; CHILD SURRENDER

SPONSOR(S): SENATOR(S) GIESSEL

01/16/18	(S)	PREFILE RELEASED 1/8/18
01/16/18	(S)	READ THE FIRST TIME - REFERRALS
01/16/18	(S)	HSS, JUD
02/19/18	(S)	HSS AT 1:30 PM BUTROVICH 205
02/19/18	(S)	Moved SB 124 Out of Committee

02/19/18 (S) MINUTE(HSS)  
02/21/18 (S) HSS RPT 1DP 1DNP 3NR  
02/21/18 (S) NR: WILSON, VON IMHOF, MICCICHE  
02/21/18 (S) DP: GIESSEL  
02/21/18 (S) DNP: BEGICH  
02/21/18 (S) FIN REFERRAL ADDED AFTER JUD  
03/07/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
03/07/18 (S) Heard & Held  
03/07/18 (S) MINUTE(JUD)  
03/09/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
03/09/18 (S) -- MEETING CANCELED --  
03/12/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
03/12/18 (S) Heard & Held  
03/12/18 (S) MINUTE(JUD)  
03/14/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 208

SHORT TITLE: TRUSTS; COMM PROP TRUSTS; POWERS OF APPT  
SPONSOR(S): REPRESENTATIVE(S) JOHNSON

03/31/17 (H) READ THE FIRST TIME - REFERRALS  
03/31/17 (H) JUD  
04/10/17 (H) JUD AT 1:00 PM GRUENBERG 120  
04/10/17 (H) Scheduled but Not Heard  
04/12/17 (H) JUD AT 1:00 PM GRUENBERG 120  
04/12/17 (H) Heard & Held  
04/12/17 (H) MINUTE(JUD)  
04/14/17 (H) JUD AT 1:00 PM GRUENBERG 120  
04/14/17 (H) Moved HB 208 Out of Committee  
04/14/17 (H) MINUTE(JUD)  
04/15/17 (H) JUD RPT 2DP 5NR  
04/15/17 (H) DP: KOPP, CLAMAN  
04/15/17 (H) NR: EASTMAN, FANSLER, KREISS-TOMKINS,  
LEDOUX, REINBOLD  
05/10/17 (H) TRANSMITTED TO (S)  
05/10/17 (H) VERSION: HB 208  
05/11/17 (S) READ THE FIRST TIME - REFERRALS  
05/11/17 (S) L&C, JUD  
01/30/18 (S) L&C AT 1:00 PM BELTZ 105 (TSBldg)  
01/30/18 (S) Moved HB 208 Out of Committee  
01/30/18 (S) MINUTE(L&C)  
01/31/18 (S) L&C RPT 2DP 2NR  
01/31/18 (S) DP: COSTELLO, MEYER  
01/31/18 (S) NR: MICCICHE, GARDNER  
02/19/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
02/19/18 (S) Heard & Held  
02/19/18 (S) MINUTE(JUD)

02/21/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
02/21/18 (S) Heard & Held  
02/21/18 (S) MINUTE(JUD)  
02/26/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
02/26/18 (S) Scheduled but Not Heard  
03/14/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

KAREN LEWIS, Director  
Pro-Life Alaska  
MatSu, Alaska

**POSITION STATEMENT:** Testified in support of SB 124.

RICK SMALL  
Abolitionist Society of Anchorage  
Palmer, Alaska

**POSITION STATEMENT:** Suggested amending SB 124 and replacing it with HB 250.

BARBARA ANDERSON  
Accountability Alliance  
Seward, Alaska

**POSITION STATEMENT:** Testified in support of SB 124.

JEFF LANDFIELD, representing self  
Anchorage, Alaska

**POSITION STATEMENT:** During the hearing on SB 124, urged the committee to adopt policies that allow women to have access to contraception.

**ACTION NARRATIVE**

[1:32:54 PM](#)

**CHAIR JOHN COGHILL** called the Senate Judiciary Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Wielechowski, Costello, Shower, Kelly, and Chair Coghill.

**HB 208-TRUSTS; COMM PROP TRUSTS; POWERS OF APPT**

[1:33:48 PM](#)

**CHAIR COGHILL** announced the consideration of HB 208. He advised that several new amendments came to the committee very recently

and he hadn't been able to review them. He would take public testimony but would hold the bill.

1:35:48 PM

RICHARD HOMPESCH, representing self, Hompesch Evans & Averett, Fairbanks, Alaska, said he was prepared to testify against the five proposed amendments. He'd hold his comments if more amendments are forthcoming.

CHAIR COGHILL said his intention is to share the amendments with interested parties and act on the bill during the next meeting.

1:36:37 PM

MATTHEW BLATTMACHR, Vice President and Trust Officer, Peak Trust Company, Anchorage, Alaska, said he was prepared to discuss the proposed amendments, but would hold his comments until the next hearing.

CHAIR COGHILL asked Senator Wielechowski if he was contemplating more than two amendments.

1:37:11 PM

SENATOR WIELECHOWSKI said his office has been working with Mr. Shaftel to address the concerns he articulated [on February 21]. His advised that he had five amendments drafted and he met via teleconference with other trust lawyers and came away with an agreement on two of the amendments. However, about 40 minutes ago he received an email from those trust attorneys saying they did not support any of the amendments. He said it's a complex area of law and he relies on the experts in the field to ensure that any proposed legislation protects Alaskans and those who are beneficiaries. He said he would continue the discussions to see if consensus is possible on any of the issues.

SENATOR WIELECHOWSKI summarized the proposed amendments.

Amendment 3 amends bill Section 14 using language of the Uniform Trust Decanting Act and requiring a trustee have full fiduciary obligations to all beneficiaries instead of just one.

Proposed Amendment 4 amends bill Section 20 and requires the fiduciary to give notice to each beneficiary.

Proposed Amendment 5 amends the new language in bill Section 21 and clarifies that only the settlor may authorize the trustee to exercise the power to decant without notice to any beneficiaries.

SENATOR WIELECHOWSKI said the theme behind all three amendments is to protect the beneficiaries by making sure they have notice and that the trustee is acting in a fiduciary capacity.

CHAIR COGHILL said the amendments would be considered in a future meeting. He commented that the decanting provision seems to be the most contentious issue.

[1:41:33 PM](#)

CHAIR COGHILL held HB 208 in committee for future consideration.

**SB 124-ABORTION PROCEDURES; CHILD SURRENDER**

[1:41:54 PM](#)

CHAIR COGHILL announced the consideration of SB 124 and noted that public testimony was open.

[1:42:47 PM](#)

KAREN LEWIS, Director, Pro-Life Alaska, MatSu, Alaska, testified in support of SB 124. She opined that it's insanity to discuss a bill that "would give babies a chance while their mother and attending abortionists are trying to kill them." She spoke against abortion and against Planned Parenthood. She said abortion is a billion-dollar industry and she looks forward to the day that Roe is overturned.

[1:45:38 PM](#)

RICK SMALL, Abolitionist Society of Anchorage, Palmer, Alaska, said he was representing the Lord Jesus Christ. He argued that the Supreme Court is not God, that Roe v. Wade is not law, and that it has no jurisdiction and is of no effect in Alaska. "They were wrong in 1857 with the Dred Scott decision and they were wrong in 1973 and we need to ignore it." He suggested that if the committee was interested in true justice it would amend SB 124 to adopt the exact language of HB 250. He concluded saying, "God is real he is there, and he is neither silent nor sitting still. He is doing something, and you are either with him or you are against him."

[1:49:37 PM](#)

BARBARA ANDERSON, Accountability Alliance, Seward, Alaska, put her child on phone and had a conversation about babies relative to SB 124. She summarized that her daughter was explaining that her mother had told her about abortion and she didn't think that should ever happen. Ms. Anderson told the committee that God had ordained them as authority in the state. She asked them to fear

God rather than men and stop regulating murder. She urged the committee to amend SB 124 and replace it with HB 250.

[1:52:42 PM](#)

JEFF LANDFIELD, representing self, Anchorage, Alaska, urged the committee to adopt policies that allow women to have access to contraception. He read the definition of abortion from the "Merriam Webster Dictionary" and said he understands what the sponsor is trying to do, but if the goal is fewer abortions the government should focus on improving access to contraception.

CHAIR COGHILL noted who was available to answer questions.

CHAIR COGHILL closed public testimony and solicited a motion.

[1:54:47 PM](#)

SENATOR COSTELLO moved to report SB 124, version U, from committee with individual recommendations and attached fiscal note(s).

[1:55:10 PM](#)

SENATOR WIELECHOWSKI objected. He said this bill is unusual in that it has opposition from both Alaska Right to Life and Planned Parenthood, although the reasons are different. He said he has received over 100 emails regarding the bill and at least 95 percent were opposed to the legislation. Similarly, people on both sides testified on the bill and his calculation shows that 95 percent opposed the bill. From a legal perspective, which is this committee's focus, he can't imagine that it is in any way constitutional. He said he recognizes that some people disagree, but the U.S. Supreme Court and the Alaska Supreme Court have found that abortion is constitutional. Because it is a constitutional right, it is important to look carefully on impeding on that right. The bill forces a physician who is terminating a pregnancy to use "the best opportunity for the child to survive." The committee heard there are two ways a child could survive an abortion. One is induced labor and according to the 2016 "Alaska Induced Pregnancy Statistics" that is not a form of abortion.

The one form of abortion an unborn child could survive is a hysterotomy or cesarean section ("C-section"). Arguably, the bill requires every woman who has an abortion in the state of Alaska to undergo a C-section. He said that is major surgery and there is no way that the Supreme Court will say it's constitutional. The litigation will be very expensive, just as it has in past challenges.

He pointed out that the youngest a fetus has survived is 21 weeks and four days, and that information in the packet from the Department of Health and Social Services says that "99.5 percent of induced terminations in Alaska were performed at 13 weeks or less gestational age." Looking at the numbers of abortions in the last five years shows that this would apply in very few instances. In most years it would be zero.

SENATOR WIELECHOWSKI said he believes that SB 124 is unconstitutional, and it enjoys wide opposition on both sides of the abortion issue. Respectfully, it should not move forward.

[1:59:32 PM](#)

SENATOR COSTELLO asked for clarification of the definition of "abandoned the child" because it seems inconsistent that the language on page 2 says abortion is not abandoning the child.

CHAIR COGHILL offered his perspective that the court can find the child is abandoned and the statutory direction is that the child can be surrendered as a child in need of aid. That is the choice of the person giving birth.

SENATOR COSTELLO said she understands that is the choice, but it seems that that decision was made prior to seeking the abortion. She said it's not enough to hold the bill but the way it's drafted is confusing.

CHAIR COGHILL said his staff will track that and all committee members will be apprised.

He opined that the opposition from Right to Life people is because the bill does not go far enough. He continued,

For those of us who live in the land where the courts have made laws and we're trying to live under that law, we have to do what we can under that law. So it's incremental movement, that is true. It's trying to value a life, that is true. But it's also trying to value the choice of the woman that has been given that right. But we're also trying to value the life the best we know how as I understand it under this law.

Those who oppose it think that an abortion should always result in the death of the fetus as they call it. There's just many of us that disagree with that so we're looking for every way we can - I say we because

I'm going to support this bill - to give the doctor tools to say that that life could be valued and be surrendered for a chance to live even if it's under the state protection.

2:04:04 PM

CHAIR COGHILL called for a roll call vote on SB 124.

A roll call vote was taken. Senators Shower, Kelly, Costello, and Coghill voted in favor of moving SB 124 from committee and Senator Wielechowski voted against it. Therefore, SB 124 moved from the Senate Judiciary Standing Committee by a 4:1 vote.

2:05:10 PM

There being no further business to come before the committee, Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 2:05 p.m.