

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

April 23, 2019

3:13 p.m.

**MEMBERS PRESENT**

Representative Ivy Spohnholz, Co-Chair  
Representative Tiffany Zulkosky, Co-Chair  
Representative Harriet Drummond  
Representative Geran Tarr  
Representative Sharon Jackson  
Representative Lance Pruitt

**MEMBERS ABSENT**

Representative Matt Claman

**COMMITTEE CALENDAR**

CS FOR SENATE BILL NO. 37(FIN)

"An Act relating to the statewide immunization program; and providing for an effective date."

- MOVED CSSB 37(FIN) OUT OF COMMITTEE

HOUSE BILL NO. 96

"An Act relating to Alaska Pioneers' Home and Alaska Veterans' Home rates and services."

- MOVED CSHB 96(STA) OUT OF COMMITTEE

HOUSE BILL NO. 133

"An Act relating to care of juveniles and to juvenile justice; relating to employment of juvenile probation officers by the Department of Health and Social Services; relating to terms used in juvenile justice; relating to mandatory reporters of child abuse or neglect; relating to sexual assault in the third degree; relating to sexual assault in the fourth degree; repealing a requirement for administrative revocation of a minor's driver's license, permit, privilege to drive, or privilege to obtain a license for consumption or possession of alcohol or drugs; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 89

"An Act relating to the prescription of opioids; relating to the practice of dentistry; relating to the practice of medicine; relating to the practice of podiatry; relating to the practice of osteopathy; relating to the practice of nursing; relating to the practice of optometry; and relating to the practice of pharmacy."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 37

SHORT TITLE: RENEWAL OF VACCINE ASSESSMENT PROGRAM

SPONSOR(s): SENATOR(s) GIESSEL

01/25/19	(S)	READ THE FIRST TIME - REFERRALS
01/25/19	(S)	HSS, FIN
02/06/19	(S)	HSS AT 1:30 PM BUTROVICH 205
02/06/19	(S)	Moved SB 37 Out of Committee
02/06/19	(S)	MINUTE(HSS)
02/08/19	(S)	HSS RPT 5DP
02/08/19	(S)	DP: WILSON, BEGICH, COGHILL, STEVENS, GIESSEL
02/13/19	(S)	FIN AT 9:00 AM SENATE FINANCE 532
02/13/19	(S)	Heard & Held
02/13/19	(S)	MINUTE(FIN)
03/12/19	(S)	FIN AT 9:00 AM SENATE FINANCE 532
03/12/19	(S)	Moved CSSB 37(FIN) Out of Committee
03/12/19	(S)	MINUTE(FIN)
03/13/19	(S)	FIN RPT CS 5DP 3NR NEW TITLE
03/13/19	(S)	DP: VON IMHOF, MICCICHE, SHOWER, WILSON, BISHOP
03/13/19	(S)	NR: STEDMAN, WIELECHOWSKI, OLSON
03/27/19	(S)	TRANSMITTED TO (H)
03/27/19	(S)	VERSION: CSSB 37(FIN)
03/29/19	(H)	READ THE FIRST TIME - REFERRALS
03/29/19	(H)	HSS, FIN
04/09/19	(H)	HSS AT 3:00 PM CAPITOL 106
04/09/19	(H)	-- MEETING CANCELED --
04/11/19	(H)	HSS AT 3:00 PM CAPITOL 106
04/11/19	(H)	-- MEETING CANCELED --
04/18/19	(H)	HSS AT 3:00 PM CAPITOL 106
04/18/19	(H)	Heard & Held
04/18/19	(H)	MINUTE(HSS)
04/23/19	(H)	HSS AT 3:00 PM CAPITOL 106

BILL: HB 96

SHORT TITLE: PIONEERS' HOME AND VETERANS' HOME RATES  
SPONSOR(s): REPRESENTATIVE(s) FIELDS

03/15/19 (H) READ THE FIRST TIME - REFERRALS  
03/15/19 (H) STA, HSS  
03/26/19 (H) STA AT 3:00 PM GRUENBERG 120  
03/26/19 (H) Heard & Held  
03/26/19 (H) MINUTE(STA)  
03/28/19 (H) STA AT 3:00 PM GRUENBERG 120  
03/28/19 (H) Heard & Held  
03/28/19 (H) MINUTE(STA)  
04/02/19 (H) STA AT 4:00 PM GRUENBERG 120  
04/02/19 (H) Moved CSHB 96(STA) Out of Committee  
04/02/19 (H) MINUTE(STA)  
04/03/19 (H) STA RPT CS(STA) 2DP 4NR  
04/03/19 (H) DP: SHAW, FIELDS  
04/03/19 (H) NR: LEDOUX, WOOL, STORY, KREISS-TOMKINS  
04/09/19 (H) HSS AT 3:00 PM CAPITOL 106  
04/09/19 (H) -- MEETING CANCELED --  
04/11/19 (H) HSS AT 3:00 PM CAPITOL 106  
04/11/19 (H) -- MEETING CANCELED --  
04/18/19 (H) HSS AT 3:00 PM CAPITOL 106  
04/18/19 (H) Heard & Held  
04/18/19 (H) MINUTE(HSS)  
04/23/19 (H) HSS AT 3:00 PM CAPITOL 106

BILL: HB 133

SHORT TITLE: JUVENILES: JUSTICE, FACILITES, TREATMENT  
SPONSOR(s): REPRESENTATIVE(s) SPOHNHOLZ

04/15/19 (H) READ THE FIRST TIME - REFERRALS  
04/15/19 (H) HSS, JUD  
04/23/19 (H) HSS AT 3:00 PM CAPITOL 106

**WITNESS REGISTER**

SENATOR CATHY GIESSEL  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Speaking as the sponsor, reviewed [CSSB 37(FIN)].

KEN HELANDER, Alaska Director of Advocacy  
AARP Alaska  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support during the hearing of SB 37.

REPRESENTATIVE ZACK FIELDS  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Speaking as the sponsor, presented HB 96.

LAURA BONNER  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support during the hearing of HB 96.

VERNA ESPENSHADE  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the hearing of HB 96.

AVES THOMPSON  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support during the hearing of HB 96.

CHARLES MCKEE  
Anchorage, Alaska

**POSITION STATEMENT:** Provided comments not on topic with the published agenda.

TRACY DOMPELING, Director  
Division of Juvenile Justice  
Department of Health and Social Services  
Juneau, Alaska

**POSITION STATEMENT:** Testified and answered questions during the hearing of HB 133.

MEGAN HOLLAND, Staff  
Representative Ivy Spohnholz  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** On behalf of Representative Spohnholz, sponsor of HB 133, presented a Definition Reference Document and a sectional analysis during the hearing of HB 133, and answered questions.

MATT DAVIDSON, Social Services Program Officer  
Division of Juvenile Justice  
Department of Health and Social Services  
Juneau, Alaska

**POSITION STATEMENT:** Provided invited testimony during the hearing of HB 133.

## **ACTION NARRATIVE**

[3:13:26 PM](#)

**CO-CHAIR TIFFANY ZULKOSKY** called the House Health and Social Services Standing Committee meeting to order at 3:13 p.m. Representatives Drummond, Jackson, Tarr, and Zulkosky were present at the call to order. Representatives Spohnholz and Pruitt arrived as the meeting was in progress.

### **SB 37-RENEWAL OF VACCINE ASSESSMENT PROGRAM**

[3:14:00 PM](#)

CO-CHAIR ZULKOSKY announced the first order of business would be CS FOR SENATE BILL NO. 37(FIN), "An Act relating to the statewide immunization program; and providing for an effective date."

[3:14:40 PM](#)

SENATOR CATHY GIESSEL, Alaska State Legislature, sponsor of SB 37, paraphrased from the following sponsor statement [original punctuation provided]:

Senate Bill 37 reauthorizes the statewide immunization program in the Department of Health and Social Services, which is scheduled for repeal January 1, 2021. Established in 2014, via Senate Bill 169, the program monitors, purchases and distributes all childhood vaccines and select adult vaccines to providers, making access to vaccines universal for all Alaskans. By 2018, the program covered more than 333,000 Alaskans, 45 percent of the total population. Next to clean drinking water and good nutrition, vaccines have saved more lives than any other public health intervention. The statewide immunization program is fully funded by the state Vaccine Assessment Account through assessments (upfront fees) from health plans and insurers. There are no undesignated general funds needed for this program. The state leverages its buying power to purchase vaccines in bulk using the fees collected from healthcare payers. The state distributes that vaccine to providers who then administer them at no charge, improving health and wellbeing while lowering overall

vaccine costs by 20 -30 percent. Through the statewide immunization program, Alaska continues to demonstrate leadership in creating innovative solutions for difficult public health issues. Out of the 11 universal vaccine purchase programs in the United States, Alaska is the only state to allow providers to receive state supplied vaccine for uninsured adults, enabling greater vaccine access for Alaska adults. Alaska's immunization program is an example of a successful public-private partnership that ensures Alaskans a healthier future at the lowest possible cost. The department reduces vaccine - preventable diseases, and providers have improved health outcomes for their patients and easier vaccine stock management. The insurers pay less to vaccinate individuals; we all save more money in the long run due to decreased medical costs from vaccine-preventable diseases.

SENATOR GISSEL further explained the original program was voluntary, therefore, the bill removes the term "phase in program over a three-year period" and provisions for opting out of the program. She said the program has been highly successful and uses no general funds. Senator Gissel noted there is virtually no opposition to the bill albeit, initially, the bill was opposed because the program includes vaccines for adults and children.

[3:17:57 PM](#)

CO-CHAIR ZULKOSKY opened public testimony on SB 37.

[3:18:23 PM](#)

KEN HELANDER, Alaska Director of Advocacy, AARP Alaska, expressed AARP Alaska's continuing support for the original program and for SB 37. The assessment program is a proven and effective model for cost containment, efficiency, and sensitivity to rural needs. Also, AARP Alaska supports the inclusion of adults in the program because not being vaccinated is a threat to the health of older adults. He said the public health interests of the state are served by a coordinated universal vaccine access program; in addition, AARP Alaska believes the program gives more flexibility to the [commissioner of the Department of Health and Social Services (DHSS)] in response to an outbreak of communicable disease. He restated AARP Alaska's support for the passage of the bill.

[3:19:43 PM](#)

CO-CHAIR ZULKOSKY, after ascertaining no one further wished to testify, closed public testimony.

[3:19:52 PM](#)

REPRESENTATIVE TARR moved to report [CSSB 37(FIN)], labeled 31-LS0162\S, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, [CSSB 37(FIN)] was reported out of the House Health and Social Services Standing Committee.

[3:20:13 PM](#)

The committee took an at-ease from 3:20 p.m. to 3:23 p.m.

**HB 96-PIONEERS' HOME AND VETERANS' HOME RATES**

[3:23:54 PM](#)

CO-CHAIR ZULKOSKY announced the next order of business would be HOUSE BILL NO. 96, "An Act relating to Alaska Pioneers' Home and Alaska Veterans' Home rates and services."

[Before the committee was CSHB 96(STA), labeled 31-LS0646\U.]

[3:24:21 PM](#)

REPRESENTATIVE ZACK FIELDS, Alaska State Legislature, speaking as the sponsor of HB 96, offered to answer questions about CSHB 96 (STA).

[3:24:35 PM](#)

CO-CHAIR ZULKOSKY [opened] public testimony on HB 96.

[3:25:08 PM](#)

LAURA BONNER said she is a 47-year Alaska resident and voter. She said she is a retired construction worker living in Anchorage and expressed her strong support for HB 96, which would keep rates at the Pioneer Homes and the Alaska Veterans' Home affordable. She cautioned raising rates is an example of cost shifting. Further, the bill would show Alaskans value their veterans and seniors, as they have since 1913. Residents

of the homes need predictability of rates and she said she may need [said] predictability in the future. Ms. Bonner urged for the legislature to find other ways to raise revenue.

[3:26:36 PM](#)

VERNA ESPENSHADE said she is 88 years old and has lived at the Anchorage Pioneer Home for nine years. She used to be very happy at the Pioneer Home, but in the past years, the food and the atmosphere are "not all the way it used to be." Ms. Espenshade spoke in opposition to raising her rent. She said she can afford her Level 1 rent of \$2,588 but if the rent is raised, she would have to go on Medicaid, which the state would have to pay. She questioned how this could be the right thing to do, when she can afford to pay her rent at the present rate but could not afford to pay over \$3,000. She complained that the home has changed, and she is not happy with the rent situation.

[3:28:21 PM](#)

AVES THOMPSON said his wife lives at the Anchorage Pioneer Home and has been diagnosed with Alzheimer's disease. She resides in the Memory Care Unit and the current monthly cost of her residence and assistance is \$6,795 per month. The Division of Alaska Pioneer Homes [Department of Health and Social Services (DHSS)] is promulgating regulations that would increase [his wife's] rate to \$13,333 per month - which is an annual increase of \$78,456 - and is not a budget reduction but is only a change in funding sources. In fact, the governor's amended budget for the division is only \$4,200 less than the current budget. Mr. Thompson said he is a private payer and receives no subsidies from state or federal government; his long-term care insurance will lapse in approximately 13 months and the remainder of his wife's care is funded by retirement income and personal savings. The rate increase would force his wife out of the Pioneer Home and the final result would be that most or all of the Pioneer Homes' residents will be subsidized by public dollars. Mr. Thompson said this fails to benefit the citizens of Alaska. Although HB 96 would limit the fees, a 30 percent increase is excessive as the rate of inflation in Alaska has been relatively low. He suggested an increase of 10 percent to 20 percent may be appropriate. Mr. Thompson advised [the increase in rates] is not consistent with statements made by Representative Neal Foster, co-chair of the House Finance Committee. Mr. Thompson said without action to reduce the rate increase, the division

will implement the higher fees, which will be disruptive and destructive.

[3:32:16 PM](#)

The committee took a brief at-ease.

[3:32:48 PM](#)

CHARLES MCKEE provided comments not on topic with the published agenda.

[3:37:04 PM](#)

CO-CHAIR ZULKOSKY, after ascertaining no one else wished to testify, closed public testimony on HB 96.

[3:37:17 PM](#)

REPRESENTATIVE TARR moved to report CSHB 96(STA), labeled 31-LS0646\U, out of committee with individual recommendations and the accompanying fiscal note.

[3:37:36 PM](#)

REPRESENTATIVE PRUITT objected. He observed the bill was not referred to the House Finance Committee - although the bill affects state finances - and urged the committee to request the Speaker of the House to add a referral prior to moving the bill.

[3:38:24 PM](#)

The committee took an at-ease from 3:38 p.m. to 3:40 p.m.

REPRESENTATIVE PRUITT further explained because the financial nature of the bill would affect individuals and the state, the bill should be referred to the House Finance Committee. He remarked:

... there's kind of a delicate balance between the usurping of, kind of, our authority of controlling things, and giving that to the regulators as well as the times that we put things in statute because of the, the great challenge there is to change statute. ... You don't really want to give it all over to the regulators to make those decisions, at the same time, as we've seen this year, anytime that you're looking

to make a change ... it becomes very difficult if we find later that we need to make an adjustment that doesn't fit with the statutory guidelines that we've given ... I'll maintain the objection.

[3:41:49 PM](#)

CO-CHAIR SPOHNHOLZ recalled testimony by DHSS presenting "valid concerns" that rates at the Alaska Pioneer Homes have not been raised; however, she urged for "some reason and rational" to the process of raising rates. She disagreed that the methodology using the Consumer Price Index (CPI) restricts the ability of the department to raise rates and keep up with the cost of providing care. One of the problems has been that DHSS does not have a structure in place to allow for reasonable rate increases. Co-Chair Spohnholz agreed if the division tried to proceed with a dramatic increase that did not comport with the language in HB 96, it would have to return to the legislature for a policy decision, which would be appropriate if a [department/division] makes very extreme changes. She expressed her support for the bill.

[3:43:49 PM](#)

A roll call vote was taken. Representatives Zulkosky, Spohnholz, Drummond, and Tarr voted in favor of reporting CSHB 96(STA) out of committee. Representatives Pruitt and Jackson voted against it. Therefore, CSHB 96(STA) was reported out of the House Health and Social Services Standing Committee by a vote of 4-2.

[3:44:34 PM](#)

The committee took an at-ease from 3:44 p.m. to 3:47 p.m.

**HB 133-JUVENILES: JUSTICE, FACILITES, TREATMENT**

[3:47:09 PM](#)

CO-CHAIR ZULKOSKY announced the final order of business would be HOUSE BILL NO. 133, "An Act relating to care of juveniles and to juvenile justice; relating to employment of juvenile probation officers by the Department of Health and Social Services; relating to terms used in juvenile justice; relating to mandatory reporters of child abuse or neglect; relating to sexual assault in the third degree; relating to sexual assault

in the fourth degree; repealing a requirement for administrative revocation of a minor's driver's license, permit, privilege to drive, or privilege to obtain a license for consumption or possession of alcohol or drugs; and providing for an effective date."

CO-CHAIR SPOHNHOLZ, speaking as the sponsor of HB 133, explained the bill was introduced at the request of the Division of Juvenile Justice (DJJ), Department of Health and Social Services (DHSS), to address outdated language and other issues in statute. She paraphrased from the following sponsor statement[original punctuation provided]:

HB 133 is a statutory cleanup bill that updates the terms used to describe the facilities operated by the Division of Juvenile Justice (DJJ) and provides updated definitions for those terms. Current statutes contain references to facilities which DJJ does not operate, and facilities that do not exist in the state of Alaska. The bill also makes a clear distinction between the role of juvenile probation officers and adult probation officers in places where the difference is unclear. Additionally, HB 133 adds juvenile justice staff to the list of mandatory reporters of child abuse and neglect. These updates are necessary to provide statutory clarity to ensure the Division can manage its facilities effectively throughout the state. Currently, Alaska Statutes reference places like work camps and juvenile detention homes, which are not recognized or operating in the state of Alaska. HB 133 adds "juvenile treatment facility", "juvenile detention facility" and "temporary secure juvenile holding area" as facilities currently being operated by the division and provides clear definitions for each of these terms. Because references to these facilities occur in many places in statute, this bill also touches upon many sections of statute. These changes are necessary to provide the clearest regulation over facilities in existence and operated by the DJJ. HB 133 clarifies the role of juvenile and adult probation officers, first by distinguishing clearly between the two, and second by providing a clear definition for the term juvenile probation officer. These are meaningful changes to provide the best protection for juveniles in the custody of the Division of Juvenile Justice. Lastly, HB 133 adds DJJ staff to the list of mandatory

reporters. It is the Division's objective to engage in the rehabilitation of juvenile offenders. Adding DJJ staff to the list of mandatory reporters provides the best guarantee that when DJJ staff discover cases of child abuse and neglect, those cases are reported, investigated, and resolved for the best interest of the child. While these technical language updates touch many sections of statute, the changes in language do not substantially alter the authority of the Division over juveniles in its care. Rather, these updates protect juveniles by making it clear where juveniles can be placed and clearly defining the authority of DJJ, its staff, and facilities using current and relevant language.

CO-CHAIR SPOHNHOLZ added another update is to correct an oversight revealed by [the recent court decision in State vs. Daniel M. Carey]. She explained state law directs that having sex with a person one has authority over is illegal; currently however, DJJ staff is exempt from this law, and HB 133 adds DJJ staff to the list of professionals who have authority over others and therefore could be found responsible for sexual abuse of a minor in certain circumstances. Generally speaking, HB 133 would make clarifications in language to describe DJJ facilities and staff and would update statute.

[3:51:46 PM](#)

TRACY DOMPELING, Director, DJJ, DHSS, listed the many state departments, agencies, and divisions, and other entities, that contributed to HB 133. She said updating the terms of DJJ facilities and staff has been a priority for DJJ as inaccuracies and outdated definitions complicate its work with the legislature, law enforcement, and the public. The changes would also clarify which statutes apply to the adult and juvenile systems of justice. Many of the definitions or clarifications within HB 133 are located throughout statute; also, as legislation directed at DJJ is "pretty rare," the bill creates an opportunity for other minor corrections and adjustments. Ms. Dompeling restated DJJ's concern about a "loophole in Alaska Statute" within the state's criminal code - regarding the prosecution of a significant crime - that is corrected by HB 133. She continued, noting areas of reporting for child abuse are considered mandatory in the policy of the division thus clarification in statute is warranted, as are other clarifications: charging documents filed by probation officers;

releases of information; victim notifications; the revocation of driver's licenses.

CO-CHAIR SPOHNHOLZ pointed out HB 133 is 21 pages long, so staff developed two sectional analyses, one that describes substantive policy changes and their affected statutes, and another which describes changes as they are located in the bill.

[3:55:38 PM](#)

MEGAN HOLLAND, Staff, Representative Ivy Spohnholz, Alaska State Legislature, on behalf of Representative Spohnholz, sponsor of HB 133, directed attention to a document entitled, "Definition Reference Document" provided in the committee packet. She said the majority of the bill repeals antiquated language, amends terminology, and creates new definitions where necessary. Ms. Holland said on page 1, the document enumerates repealed, amended, and new terms as directed by the bill. On page 2, in section 24, HB 133 repeals the definition and powers of youth counselors.

[3:56:49 PM](#)

The committee took an at-ease from 3:56 p.m. to 3:59 p.m.

MS. HOLLAND directed attention to changes in terminology that are made by the bill and are separate from the policy clarifications. The term "youth counselors" is repealed because it is antiquated and "youth counselor powers" is inaccurate. She noted the document is color-coded: terms being repealed have an orange background; terms amended have a green background; new terms have a blue background; locations in statute have a yellow background; references to relevant areas of statute have a white background. Additional terms being repealed in the bill are juvenile detention home, youth detention facility, juvenile work camp, and correctional school. She further explained juvenile detention home is replaced by juvenile detention facility and is defined to be a secure facility for the detention of minors under DJJ custody. Further indicated on page 2, for accuracy and consistency, the bill replaces the terms "juvenile detention home" and "youth detention facility" with "juvenile detention facility" in AS Title 9, Title 14, Title 17, Title 18, and Title 41.

[4:02:45 PM](#)

REPRESENTATIVE PRUITT asked if the new terminology allows flexibility for additional changes in statute should there be future policy changes.

MS. DOMPELING opined the new definitions are sufficiently broad unless there are unforeseen drastic changes.

MS. HOLLAND continued to [page 4], noting section 28 of the bill amends the definition of "minor" to include a person who was under [18 years of age] at the time an offense was committed. Section 27 amends the definition of "juvenile detention facility" to be a secure facility for the detention of minors under DJJ custody. Also, on [page 4 and continuing to pages 5 and 6] are the references to statute affected by the aforementioned definition.

[4:06:46 PM](#)

REPRESENTATIVE JACKSON asked, "If we change the definitions from a correctional school juvenile detention home, is that to say that we can never have one?"

MS. DOMPELING, in response to Representative Jackson's clarification of her question, said to her knowledge the state has never had a correctional school; DJJ partners with local school districts to provide youth with education in a locked facility, but not in a correctional school per se.

REPRESENTATIVE JACKSON asked whether the state has ever had a juvenile detention home.

MS. DOMPELING explained there are many definitions for the same thing and so the name juvenile detention home could have been used to describe a certain facility; the bill seeks to clarify the statute by providing one definition for various facilities. In further response to Representative Jackson, she said DJJ operates two types of secure facilities: juvenile detention facilities and juvenile secure treatment facilities.

REPRESENTATIVE JACKSON surmised, were the state to operate a correctional school, it would be included in the "generic name."

MS. DOMPELING said yes.

MS. HOLLAND returned attention to [page 6] and noted section 29 defines "juvenile treatment facility" as a secure facility for treatment of minors adjudicated delinquent and committed by a

court to the care and custody of DJJ under a "(b) 1 order." Current statute defines juvenile treatment institutions, which is an inaccurate connotation of DJJ's facilities, thus throughout the bill "institution" is replaced with "facility." Further, the bill clarifies "secure residential psychiatric center" is a separate institution that would not be operated by DJJ, for example, the Alaska Psychiatric Institute (API).

[4:11:25 PM](#)

MS. DOMPELING, in response to Representative Jackson, explained DJJ requested changes to the language [in statute] not because it sounds too strict, but because it does not reflect DJJ's mission. Youth are ordered by the court into DJJ juvenile secure treatment programs; however, DJJ facilities are not jails: youth are required to participate in school, substance abuse treatment, family therapy, and other treatment.

CO-CHAIR ZULKOSKY expressed her understanding the intent of the bill is to bring alignment and consistency into all related definitions in order to more accurately reflect the activities within DJJ.

MS. DOMPELING said correct.

[4:12:58 PM](#)

REPRESENTATIVE JACKSON said, "... you're saying we're doing the same things, but we just want to call it a facility."

MS. DOMPELING advised DJJ has two different types of secure facilities: detention facilities are for youth alleged to have committed a crime but who have not been convicted, and therefore are put in a short-term holding situation without treatment; secure treatment facilities are for youth who have been adjudicated for a crime and sentenced to treatment for up to two years. In further response to Representative Jackson, she confirmed youth were sent to a detention home prior to sentencing.

[4:15:00 PM](#)

REPRESENTATIVE JACKSON cautioned, "What I'm just trying to clarify ... as a kid I don't want to go to a detention home ... but a facility doesn't sound so bad."

CO-CHAIR ZULKOSKY asked Ms. Dompeling to discuss the mission of DJJ as it differs from that of the Department of Corrections (DOC).

MS. DOMPELING explained the mission of DJJ is to hold youth accountable for their actions, to promote the safety and restoration of victims and communities, and to provide competency and development for youth in order to prevent them from committing crimes in the future.

CO-CHAIR ZULKOSKY asked how DOC completes its work.

MS. DOMPELING said DOC is also aware of research that indicates incarceration for a sentenced period of time is not a strong deterrent against recidivism. In fact, research has shown, in both juvenile and adult systems, that addressing the root cause of why one is committing a criminal or delinquent offense is more likely to prevent recidivism. In juvenile facilities, youth do not have an option as to whether they participate in treatment programs so they can progress to release; however, DOC does not have the ability to provide [a similar level of mandatory individual treatment].

[4:18:10 PM](#)

CO-CHAIR SPOHNHOLZ, in response to Representative Jackson, explained HB 133 does not make broad-ranging policy restructuring by changing the names used by DJJ. The intent of the bill is to conform law with changes that have been made over the last several decades related to changes in DJJ operations and changes in the treatment of youth that have occurred over several decades, but the law and language in statute have not kept up with the pace of the changes. In fact, outdated nomenclature has created problems for DJJ, the court system, and law enforcement; she stressed the bill does not propose to make "facilities more or less strict ... and I would argue that the term facility isn't more or less strict - or more or less scary - than previous names, it's just that those institutions like homes, juvenile detention homes, just don't exist anymore so it's more appropriate to have a broader definition ...."

REPRESENTATIVE JACKSON asked for an example of how the [current language in statute] interfered with law enforcement.

MS. DOMPELING gave an example of a law enforcement officer who seeks to place a juvenile in a juvenile detention home but finds Johnson Youth Center is a juvenile detention facility.

4:22:05 PM

MS. HOLLAND returned attention to [page 6 and continuing through page 8] which listed the statutes affected by the new definition "juvenile treatment facility." She continued to [page 9], noting section 29 creates a new definition for the term "temporary secure juvenile holding area": separate quarters used for temporary detention of a delinquent pending court order or transportation to a juvenile detention facility. Ms. Holland explained the reason for the new term is that existing statute relates only to short-term detention in a city jail, which is not an option in many rural communities in Alaska. On [page 10], section 24 creates a new definition for "juvenile probation officers" and repeals the definition for "youth counselors." Section 24 also gives juvenile probation officers the powers of probation officers and describes the duties of juvenile probation officers.

REPRESENTATIVE JACKSON asked for the difference between a youth counselor and a probation officer.

MS. DOMPELING explained DJJ no longer has youth counselors but has juvenile justice officers who are staff who work in DJJ's twenty-four hour, seven day-per-week facilities providing direct care and supervision of youth who have been ordered by the court into secure treatment or secure detention. Probation officers are DJJ staff who receive and respond to allegations of delinquency, and work with youth, families, and victims to determine appropriate formal or informal action. Furthermore, after a court finding, probation officers work directly with youth and families, seeking to prevent recidivism. In addition, if youth are in violation of terms of probation, probation officers intercede.

4:27:02 PM

MS. HOLLAND turned attention to the [\*Edited 4/23\* sectional analysis] in order to review the policy clarifications within HB 133. She noted the document is color-coded: new, amended, and repealed definitions have an orange background; policy clarifications have a blue background; references to updated terminology in relevant areas of statute have a white background. As indicated in blue on [page 2], section 5 of the bill clarifies employees of juvenile treatment institutions, and juvenile and adult probation officers, qualify as legal guardians; legal guardians are defined as persons who exercise

supervision over a minor, or other person committed to DHSS custody. To address the aforementioned [State of Alaska vs. Daniel M. Carey] court decision, section 6 adds correctional employees and DJJ staff to the list of individuals defined as being in a position of authority over a minor when applied to charges of sexual abuse of a minor in the first, second, and fourth degree.

CO-CHAIR ZULKOSKY surmised this policy change is to address the aforementioned loophole in statute.

MS. HOLLAND said yes.

REPRESENTATIVE PRUITT asked for an explanation of the current loophole in statute.

MS. HOLLAND explained there are two issues, the first of which is the inaccurate definition of juvenile probation officer - which is repealed in section 3 of HB 133 - that defines a juvenile probation officer as one who is assigned to supervising individuals 18 or 19 years of age. This inaccurate definition is part of the reason the [defendant in the lawsuit] was not successfully prosecuted for sexual abuse of a minor.

REPRESENTATIVE PRUITT asked, "... can you clarify we're getting rid of a different terminology than they highlighted in, in a court case?"

MS. HOLLAND further explained the current definition of position of authority does not clearly list DJJ staff, parole officers, or employees of DJJ, even though the definition does include "or a substantially similar position to examples such as guardian ad litem, babysitter, teacher, et cetera ...." She restated section 6 of the bill clearly lists DJJ facility staff members under the definition of position of authority so they can be included in charges of sexual abuse of a minor in the first, second, and fourth degree.

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REPRESENTATIVE PRUITT asked about the second issue, which is "the under 18 challenge" and surmised the [DJJ] employee would have had to be over the age of 18 and thus would have fallen "within other statutory designations of rape, even." He discussed several other related scenarios.

CO-CHAIR SPOHNHOLZ suggested there is confusion between the perpetrator and the victim: the perpetrator was an adult and the victim was underage. She remarked:

The way that the statute was written is that a juvenile probation officer means a person assigned to supervise another person 18 or 19 years of age when, in fact, they are supervising people that are ... the age of 19 and under. ... And, the juvenile probation officer was not identified in statute as being a person who has authority over the victim. For those two reasons, this person was able to demonstrate that they should not be held accountable for sexually abusing this minor. ... They were able to demonstrate in a court of law because our, because our language hadn't kept up with what was really happening, they were able to get him off.

CO-CHAIR ZULKOSKY inquired as to the minimum age required for an individual who works as a juvenile justice officer or a juvenile probation officer within DHSS.

MS. DOMPELING answered usually 21 years of age; although job classes differ, probation officer staff are usually a little older because they are required to have a bachelor's degree or five or six years of prior experience.

CO-CHAIR ZULKOSKY, in response to Representative Pruitt, advised the bill will be referred to the House Judiciary Standing Committee and returned attention to aspects of the bill germane to the House Health and Social Services Standing Committee.

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MS. HOLLAND directed attention to section 8, which adds treatment institutions and juvenile treatment facilities to the list of facilities excluded from the legal definition of "private exposure." Private exposure occurs when an individual exposes their body or part of their body in a place and under circumstances where they believe that no one would see or photograph them, however, private exposure does not occur within correctional facilities and [by provisions in HB 133], within juvenile justice treatment facilities. Section 9 clarifies DJJ facilities and treatment facilities are places where public education must be provided. [On page 3], section 11 clarifies juvenile detention facilities and treatment facilities are included in the list of facilities operated by the state that

are not required to provide medical marijuana. Section 16 inserts "juvenile" before "probation officers" to clarify duties are specific to juvenile probation officers, and not correctional officers. Section 17 clarifies DJJ may file amended or supplemental petitions if new information is received. [On page 4], section 22 inserts the term "juvenile" to clarify the authority to arrest a minor rests specifically with juvenile probation officers. Section 23 clarifies the authority to detain a minor rests specifically with juvenile probation officers. Section 25 adds "secure residential psychiatric treatment centers" to the list of facilities from which, at the victim's request, they will receive notification upon release of a juvenile. [On page 5], section 26 corrects language authorizing the department to disclose confidential information related to the offense at the time a minor has received an adjudication, and not at the time of an allegation. [On page 6], section 38 adds juvenile probation officers, DJJ office staff, and staff of juvenile facilities to the list of mandatory reporters of child abuse or neglect. Section 39 repeals revocation of driver's licenses for non-driving offenses that are adjudicated informally - a provision which was absent from 2016 legislation - and Ms. Holland gave an example.

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CO-CHAIR ZULKOSKY returned attention to sections 5 through 7 and asked DJJ to provide an executive summary to the committee to clarify how the bill would resolve the issues related to DJJ staff who are in a position of authority. Further, she asked that the executive summary include references to the [State vs. Daniel M. Carey] court case.

REPRESENTATIVE PRUITT concurred.

REPRESENTATIVE TARR returned attention to section 22 and asked for clarification of "parole officers" and "juvenile probation officers."

MS. DOMPELING explained there are no juvenile parole officers in Alaska, and all are juvenile probation officers [who are assigned] whether a youth is placed on probation by the court, or after release from a DJJ secure treatment facility.

REPRESENTATIVE TARR asked whether juvenile probation officers are involved at pre-trial, during custody, and after a youth is released.

MS. DOMPELING said yes. She informed the committee in most areas, the probation officer involved with the first report alleging delinquency will usually stay with that youth and family all the way up through their period of probation. Furthermore, a youth ordered into a secure treatment facility is assigned a transitional services probation officer who works with the youth on reentry and during their time of supervised probation.

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MATT DAVIDSON, Social Services Program Officer, DJJ, DHSS, in further response to Representative Pruitt's questions, related the Department of Law drafted the provisions of HB 133 intended to close the [loophole] that allowed for the acquittal in the State vs. Daniel M. Carey court case, and he offered to provide further information in this regard. He said part of the confusion [about the remedy] is that the victim was almost 18 and was not a resident of the facility at the time of the offense. He remarked:

But while the victim was in the facility, Mr. Carey used his position of authority to develop the relationship and then upon release, this under-18-year-old minor developed a relationship with Mr. Carey. It was not a sexual assault because of, some of the consensual natures because she was a 16-year-old. ... So, the provisions of sexual assault don't apply in that case. ... So, that's why you see that definition in the bill where there's 18- and 19-year-olds under juvenile probation officers ... that's about these young adults who are supervised, and we want to make sure that our staff are not allowed to engage in consensual or not, you know, consensual relationships with people they are supervising.

MR. DAVIDSON said the provisions of sexual assault did not apply in the State vs. Daniel M. Carey case, so the prosecutor charged sexual abuse of a minor - also a very serious felony - however, to support that argument, the definition in statute must be amended to "juvenile justice facility staff" because position of authority under current statute says "counselor"; thus the judge and defense attorneys in the case argued successfully that the [statute] did not apply because the defendant was not a counselor, or in a substantially similar position, but was a juvenile justice officer, "and so, that's what we're trying to

fix here ...." He further reviewed both of the changes within HB 133.

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REPRESENTATIVE PRUITT expressed his understanding of portions of the preceding testimony related to the State vs. Daniel M. Carey case and observed [HB 133] intends to address not the charge that there was sexual abuse of a minor in the second degree, but the abuse of a position of authority, which is "that small loophole, and it is a small loophole, from which we have make that slight adjustment."

MR. DAVIDSON confirmed that the position of authority was the loophole that was the basis for the court ruling even though it was intended to be a broad definition [of position of authority]. He pointed out the term youth counselor was used to define staff in the past; however, after the creation of DJJ in 1998, a new job class of juvenile justice officers was developed.

REPRESENTATIVE PRUITT surmised the broad terminology changes within HB 133 are necessary because of the State vs. Daniel M. Carey court case and its ramifications.

MR. DAVIDSON acknowledged DJJ was working on the bill prior to the judgement on State vs. Daniel M. Carey, and said, "We cannot allow another case like this to move forward."

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CO-CHAIR ZULKOSKY opened public testimony on HB 133. After ascertaining no one wished to testify, public testimony was closed.

[HB 133 was held over.]

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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 4:57 p.m.