ALASKA STATE LEGISLATURE
HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE
March 8, 2022
3:13 p.m.

MEMBERS PRESENT

Representative Tiffany Zulkosky, Co-Chair
Representative Ivy Spohnholz
Representative Zack Fields
Representative Christopher Kurka
Representative Ken McCarty

MEMBERS ABSENT

Representative Liz Snyder, Co-Chair
Representative Mike Prax

COMMITTEE CALENDAR

HOUSE BILL NO. 297
"An Act relating to the duties of the Department of Health and Social Services; relating to child protection; and relating to children of active duty military members."

- HEARD & HELD

HOUSE BILL NO. 172
"An Act relating to admission to and detention at a subacute mental health facility; establishing a definition for 'subacute mental health facility'; establishing a definition for 'crisis residential center'; relating to the definitions for 'crisis stabilization center'; relating to the administration of psychotropic medication in a crisis situation; relating to licensed facilities; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 297
SHORT TITLE: MILITARY MEMBER CHILD PROTECTION
SPONSOR(s): REPRESENTATIVE(s) HOPKINS

01/31/22	(H)	READ THE FIRST TIME - REFERRALS
01/31/22	(H)	MLV, HSS
02/22/22	(H)	MLV AT 1:00 PM GRUENBERG 120

02/22/22	(H)	Heard & Held
02/22/22	(H)	MINUTE(MLV)
02/24/22	(H)	MLV AT 1:00 PM GRUENBERG 120
02/24/22	(H)	Moved CSHB 297(MLV) Out of Committee
02/24/22	(H)	MINUTE(MLV)
02/28/22	(H)	MLV RPT CS(MLV) 6DP
02/28/22	(H)	DP: CLAMAN, TARR, STORY, NELSON, SHAW, TUCK
03/08/22	(H)	HSS AT 3:00 PM DAVIS 106

BILL: HB 172
SHORT TITLE: MENTAL HEALTH FACILITIES & MEDS
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

04/12/21	(H)	READ THE FIRST TIME - REFERRALS
04/12/21	(H)	JUD, HSS, FIN
05/14/21	(H)	JUD AT 1:00 PM GRUENBERG 120
05/14/21	(H)	Heard & Held
05/14/21	(H)	MINUTE(JUD)
05/15/21	(H)	JUD AT 1:00 PM GRUENBERG 120
05/15/21	(H)	-- MEETING CANCELED --
02/14/22	(H)	JUD AT 1:00 PM GRUENBERG 120
02/14/22	(H)	-- MEETING CANCELED --
02/16/22	(H)	JUD AT 1:30 PM GRUENBERG 120
02/16/22	(H)	Heard & Held
02/16/22	(H)	MINUTE(JUD)
02/21/22	(H)	JUD AT 1:00 PM GRUENBERG 120
02/21/22	(H)	Heard & Held
02/21/22	(H)	MINUTE(JUD)
02/23/22	(H)	JUD AT 1:30 PM GRUENBERG 120
02/23/22	(H)	Heard & Held
02/23/22	(H)	MINUTE(JUD)
02/25/22	(H)	JUD AT 1:30 PM GRUENBERG 120
02/25/22	(H)	Moved CSHB 172(JUD) Out of Committee
02/25/22	(H)	MINUTE(JUD)
02/28/22	(H)	JUD RPT CS(JUD) NEW TITLE 3DP 1DNP 1NR 1AM
02/28/22	(H)	DP: DRUMMOND, SNYDER, CLAMAN
02/28/22	(H)	DNP: EASTMAN
02/28/22	(H)	NR: KREISS-TOMKINS
02/28/22	(H)	AM: VANCE
03/08/22	(H)	HSS AT 3:00 PM DAVIS 106

WITNESS REGISTER

TANIA CLUCAS, Staff
Representative Grier Hopkins

Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented a PowerPoint presentation, sectional analysis, and answered questions on CSHB 297(MLV) on behalf of Representative Hopkins, prime sponsor.

TAMMIE PERREAULT, Northwest Regional Liaison
State Liaison Office
U.S. Department of Defense
Anchorage, Alaska
POSITION STATEMENT: Provided information and answered questions during the hearing on CSHB 297(MLV).

JEREMY COMBS, Commander
Family Advocacy Officer
U.S. Air Force
Joint Base Elmendorf Richardson
Anchorage, Alaska
POSITION STATEMENT: Responded to questions during the hearing on CSHB 297(MLV).

TRAVIS ERICKSON, Division Operations Manager
Office of Children's Services
Department of Health and Social Services
Anchorage, Alaska
POSITION STATEMENT: Offered information and responded to questions during the hearing on CSHB 297(MLV).

STEVE WILLIAMS, Chief Executive Officer
Alaska Mental Health Trust Authority
Department of Revenue
Anchorage, Alaska
POSITION STATEMENT: Co-presented a PowerPoint presentation on CSHB 172(JUD) on behalf of the sponsor, House Rules by request of the governor.

HEATHER CARPENTER, Healthcare Policy Advisor
Department of Health and Social Services
Juneau, Alaska
POSITION STATEMENT: Co-presented a PowerPoint presentation on CSHB 172(JUD) on behalf of the sponsor, House Rules by request of the governor.

GENNIFER MOREAU-JOHNSON, Director
Division of Behavioral Health
Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: Answered questions on CSHB 172(JUD).

STACIE KRALY, Director
Civil Division
Department of Law
Juneau, Alaska
POSITION STATEMENT: Answered questions on CSHB 172(JUD).

MARK REGAN, Legal Director
Disability Law Center of Alaska
Anchorage, Alaska
POSITION STATEMENT: Provided invited testimony and answered questions during the hearing on CSHB 172(JUD).

HELEN ADAMS, MD
Emergency Medical Physician
Alaska Chapter of Emergency Physicians
Anchorage, Alaska
POSITION STATEMENT: Provided invited testimony during the hearing in support of CSHB 172(JUD).

JAMES COCKRELL, Commissioner
Department of Public Safety
Anchorage, Alaska
POSITION STATEMENT: Provided invited testimony during the hearing in support of CSHB 172(JUD).

ACTION NARRATIVE

3:13:12 PM

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

HB 297-MILITARY MEMBER CHILD PROTECTION

3:14:02 PM

CO-CHAIR ZULKOSKY announced that the first order of business would be HOUSE BILL NO. 297, "An Act relating to the duties of the Department of Health and Social Services; relating to child protection; and relating to children of active duty military members."

[Before the committee was CSHB 297(MLV).]

3:14:33 PM

TANIA CLUCAS, Staff, Representative Grier Hopkins, Alaska State Legislature, presented CSHB 297(MLV) on behalf of Representative Hopkins, prime sponsor. She stated that the proposed legislation is in response to the U.S. Department of the Interior's ongoing Tiger Team collaboration with the U.S. Department of Defense (DoD). In regard to child abuse identification and reporting, the proposed legislation responds to this as one of the ten key issues identified when DoD considers quality of life for military families. She stated that DoD uses these issues to make decisions related to [military] installations and extended missions. She added that currently there is no requirement in Alaska for civilian authorities to notify DoD when a military child is involved in a case of abuse or neglect. The proposed legislation would put this into statute. The legislation would also ensure that military families have access to resources with a local partner. She concluded that providing these services would allow military families to stay in Alaska.

3:17:03 PM

MS. CLUCAS introduced the sponsor statement for CSHB 297(MLV) [included in the committee packet], which read as follows [original punctuation provided]:

> Alaska has approximately 14,000 children who are classified as active-duty military dependents and over 5,000 children who are dependents of those who serve in the National Guard and Reserves. Our state has the 3rd highest per capita population of military children in the nation, coming in behind our sister state Hawaii and the District of Columbia.
>
> These young people are important to Alaska, and as leaders of our state we have a responsibility for their health and welfare. When unfortunate incidents occur that affect the health and welfare of a child of a military member requiring intervention by state authorities, there is not currently a legal protection to make sure that the appropriate officials within the military chain of command are notified. House Bill 297 would place into statute the requirement that the state agency who intercedes on behalf of a child's

welfare must notify the appropriate, identified, authorities at the affiliated duty station. This would allow for the creation of a coordinated and collaborative approach to protective and rehabilitative services can be offered to the child and the child's family.

Getting families the help, guidance and support they need to keep families together is the most important thing we can do for the health of the child as they grow up. Alaska is renowned for its support of our military and for working with the Department of Defense to ensure the health and safety of our nation's military and Alaskan families are safe and secure is essential.

Please join me in supporting HB 297 to help ensure that military children and families are able to be offered the most comprehensive support they need to thrive.

MS. CLUCAS gave the sectional analysis on CSHB 297(MLV) [included in the committee packet], which read as follows [original punctuation provided]:

Section 1: Amended to reference new section added by this legislation

Section 2: Adds language authorizing and requiring communication of a report of harm to a military dependant [sic] to the appropriate designated military authority by civilian authorities.

3:19:20 PM

MS. CLUCAS directed the committee's attention to the PowerPoint presentation [included in the committee packet]. She began with [slide 2], stating that the legislation is being offered at the request of the DoD State Liaison Office to address one of the ten key issues listed. She provided that, of the listed issues, the state has already addressed military spouse licensure and the Purple Star Schools Program. The proposed legislation would address child abuse identification and move this piece forward. She said that Alaska's collaboration with DoD on these priorities would ensure the state is a place DoD could continue its mission. She stated that slide 3 exhibits the nationwide progress on DoD's mission. She explained that the military has

changed over the last 40 years, and members are no longer isolated on a base. She noted that over 70 percent of active-duty military live within local communities, so the chain of command may not be aware of any abuse issues; thus, a collaboration of civilian and military authority is needed.

3:22:06 PM

MS. CLUCAS, moving to the next slide, pointed out the significant number of military-affiliated children in Alaska and the high rate of reported abuse cases involving these children. She stated that, since [the terrorist attacks of September 11, 2001], the military has had more active deployments, and, with this increase, there have been more reported cases of abuse in stressed military families. She offered her understanding that, since the advent of the Family Advocacy Program (FAP) in 2019, DoD has recognized its extended responsibility to look after these children. She stated that civilian authorities working with FAP would not only help the DoD follow its own requirement, but it would also provide for the health and welfare of those vulnerable Alaskans.

3:25:47 PM

MS. CLUCAS, in response to a question from Representative McCarty, addressed DoD's considerations when deciding to open military bases and the state's efforts to make locations attractive. She stated that because of the realignment of DoD's criteria for mission locations, the interior of the state has made efforts, including the formation of the Tiger Team. In response to a follow-up question, she indicated that the decision on mission placement would be made at a high level in the DoD.

3:30:06 PM

TAMMIE PERREAULT, Northwest Regional Liaison, State Liaison Office, U.S. Department of Defense, shared that she works for the Under Secretary of Defense for Personnel and Readiness. She stated that DoD relies on collaboration with local and state governments to fulfill the statutory obligation to address child abuse and neglect. She said DoD is grateful for the opportunity to support the policies in [CSHB 297(MLV)]. She expressed hope that Alaska would join the 31 other states with similar legislation on this issue. She explained that the military services have an obligation to understand what is happening with military members, and she said information sharing between DoD

and local authorities must be accomplished at the start of an abuse or neglect investigation, not after the adjudication.

MS. PERREAULT offered that the proposed legislation would ensure child abuse and neglect within a military family is reported to the appropriate military installation and the Office of Public Advocacy. The legislation would enable the determination of a family's military status when medical and counseling services are sought through the military installation. She informed that there would be minimal requirements for information sharing, noting that, currently in Alaska, the framework relies on individualized, local memorandums of understanding (MOUs) to guarantee communication between local authorities and the military community. She cautioned that many MOUs are not regularly updated, and military families could possibly live outside the area MOU's cover. She said that specific, state-level guidance, which directs information sharing with the military, would provide consistency among all branches of the services and state and local agencies. Further, when there is an allegation of abuse or neglect involving the military family, the proposed policy, which draws on the best practices nationwide, would provide consistency to support the MOU process. She clarified that this would not be a military law enforcement matter; it would be a victim-advocacy measure to protect vulnerable children. She expressed gratitude for the support Alaska has shown for military families in the state, and she urged the committee to pass [CSHB 297(MLV)].

3:33:27 PM

MS. PERREAULT, in response to a question from Co-Chair Zulkosky, said the proposed legislation is similar to legislation in other states. She said that the legislation would provide foundational groundwork to ensure there is coordination, by statute. She reinforced that legislation would maintain DoD's obligation to support military children.

3:35:08 PM

REPRESENTATIVE KURKA, in reference to reporting abuse of a child by a member of the armed forces, questioned who is authorized by law to have the reported information.

MS. PERREAULT deferred to Commander Jerry Combs.

3:36:32 PM

JEREMY COMBS, Commander, Family Advocacy Officer, U.S. Air Force, Joint Base Elmendorf Richardson (JBER), explained that when a report comes to the FAP office, the staff is required to immediately notify the chain of command, which begins the safety assessment process. He listed the entities that are notified: the Office of Children's Services (OCS), the chain of command, the local law enforcement, the Department of the Army, and the U.S. Air Force Office of Special Investigations.

3:37:56 PM

TRAVIS ERICKSON, Division Operations Manager, Office of Children's Services, Department of Health and Social Services, said when OCS receives a report of child abuse or neglect, it coordinates with a variety of other authorities. He said, "If we know that there's a military duty member, we will alert the Family Advocacy office, and if a crime has been committed, we will also be coordinating with the Office of Special Investigations and other local law enforcement, as indicated."

REPRESENTATIVE KURKA asked for further information regarding who in the chain command would be authorized by law to share information. He questioned whether this would involve federal law.

MS. PERREAULT, to answer this question, offered to meet with Representative Kurka after the hearing to provide details.

3:40:05 PM

MS. PERREAULT, in response to a question from Representative Fields regarding the notification period, explained that the previous committee of referral amended the legislation to include a 15-day requirement, which was coordinated with OCS. She offered her understanding that in other states a specific timeline has not been mandated, but sometimes an issue that has not come to the forefront becomes "stale." She added that, conversely, some issues are emergent and come to FAP via a police report or emergency room visit.

COMMANDER COMBS added that, in terms of domestic violence, time is of the essence. He clarified that the staff at FAP are "experts" and can act as consultants to the commanders. Only those commanders, first sergeants, have the authority to issue "no contact" or "protective" orders. He noted that as soon as FAP receives a referral, one option would be to link the family

with a professional victim advocate within the office. He added that office staff can also work with local authorities.

MR. ERICKSON remarked that the 15 days would be the outside response time used to report to OCS. He offered his understanding that the language in the proposed legislation is "within 15 days". He said the typical OCS response time is from immediate to a maximum of 7 days. He opined that the office should be responding based on the urgency necessary to the circumstance.

REPRESENTATIVE FIELDS suggested if 7 days would be outside of the timeframe, the committee should consider an amendment to change the 15 days [to fewer days].

3:45:14 PM

MS. CLUCAS, in response to Representative McCarty, noted the last committee of referral had put forward the amendment to change the requirement to 15 days. It concerned a committee member that no outside limit for reporting had been made. The intent would be to have an outside timeframe for reporting.

3:46:26 PM

CO-CHAIR ZULKOSKY announced that HB 297 was held over.

HB 172-MENTAL HEALTH FACILITIES & MEDS

3:46:57 PM

CO-CHAIR ZULKOSKY announced that the final order of business would be HOUSE BILL NO. 172, "An Act relating to crisis stabilization centers, crisis residential centers, and subacute mental health facilities; relating to evaluation facilities; relating to representation by an attorney; relating to the administration of psychotropic medication in a crisis situation; relating to the use of psychotropic medication; relating to licensed facilities; relating to psychiatric patient rights; amending Rule 6(a), Alaska Rules of Civil Procedure; and providing for an effective date."

[Before the committee was CSHB 172(JUD).]

CO-CHAIR ZULKOSKY noted there would be no public testimony today at the first hearing of HB 172.

3:48:38 PM

STEVE WILLIAMS, Chief Executive Officer, Alaska Mental Health Trust Authority (AMHTA), Department of Revenue, co-presented a PowerPoint presentation on CSHB 172(JUD) on behalf of the sponsor, House Rules by request of the governor. He stated that currently Alaskans in mental health crises are reliant on first responders and others to address their needs and access available resources to resolve these crises. He said that, while police officers ensure public safety, they are not trained in the area of mental health, and emergency room or correctional facility staff are not necessarily trained either. He noted, if there are no other resources in the community to address an individual's behavioral health crisis, that person may end up in a correctional facility.

3:50:19 PM

HEATHER CARPENTER, Healthcare Policy Advisor, Department of Health and Social Services (DHSS), co-presented a PowerPoint presentation on CSHB 172(JUD) on behalf of the sponsor, House Rules by request of the governor. She showed slide 2 of the PowerPoint ["Transforming a Behavioral Health Crisis System of Care", included in the committee packet]. She echoed that the state has a limited amount of designated evaluation and treatment facilities. She explained that these facilities are designated by DHSS for inpatient care of individuals experiencing an acute level of crisis, and they serve involuntary and voluntary individuals. Currently these facilities only exist in the following Alaska communities: Juneau, at Bartlett Regional Hospital, with 12 beds; Fairbanks, at Fairbanks Memorial Hospital, with 20 beds; the Matanuska-Susitna Valley, at Matsu Regional Medical Center, with 16 beds; and Anchorage, at the Alaska Psychiatric Institute (API). She noted that hospital emergency rooms are often used to serve individuals when other facilities are full. She described emergency rooms as being "hectic" and not being "a therapeutic environment." She pointed out that the information graphic on slide 2 depicts the current flow for involuntary commitment. She stressed that the state's behavioral health crisis fits poorly into the system depicted.

MR. WILLIAMS stated when someone is in a physical health emergency, it is a given the system will respond and the person will be taken care of medically. He insisted this is what needs to happen when someone experiences a behavioral health emergency. Continuing to slide 3, he stated that the proposed

legislation would put into action a "no wrong door" approach to stabilization services, and DHSS would be able to designate facilities for lower levels of care for early intervention during a behavioral health crisis. He described the two levels of facilities as a 23-hour and 59-minute crisis stabilization center and a short-term residential center for care up to 7 days. He stated that the legislation would not only address the care of people in crisis, but it would also ensure their rights are protected.

MS. CARPENTER stated that DHSS and AMHTA have been working together for the last six years to improve the system of care. She pointed out the building blocks for the system on slide 4. She mentioned Senate Bill 74, passed during the Twenty-Ninth Alaska State Legislature, as being a "huge step." To improve the department's behavioral health system of care, Senate Bill 74 directed DHSS to apply for a Section 1115 Medicaid waiver ("1115 waiver"). She said the 1115 waiver "was a game changer," driving down the cost of health care by enabling payment to providers of critical behavioral health support, which includes crisis stabilization and crisis residential services. Through the waiver, gaps are filled, and individuals can be diverted to the appropriate level of care, instead of the higher level of care at hospitals. By leveraging the 1115 waiver, she said that, instead of flying individuals to one of four inpatient treatment centers, the goal would be to have more treatment options in all regions of the state. In the end, this would save the state money. She added that most individuals in a mental health crisis are treated on a voluntary basis, but there needs to be an improved crisis response system for those who cannot seek care on a voluntary basis.

3:56:06 PM

MR. WILLIAMS, referring to slide 5, pointed out the comparison between the systems of care for physical and behavioral health emergencies. He spoke about the work done between the department and stakeholders to redesign the crisis system of care to serve physical and mental needs. He offered that the [Crisis Now] model is supported nationally. He listed multiple organizations that have voiced support and offered that the model has been proven in other states. He showed slide 6 regarding stakeholder engagement, stating that many individuals and organizations have come forward in support of this issue. He stressed that this is vital for the transformation of the system and improving access to care, as "it's going to take everyone," not just DHSS and AMHTA.

3:58:05 PM

MS. CARPENTER discussed slide 7, which shows the model for the new crisis services. She stated that adding these services would speed up care and leave open emergency room beds for [physical medical emergencies].

MR. WILLIAMS addressed slide 8, which outlines the features of the 23-hour and 59-minute crisis stabilization center. He reinforced this would be the lowest level of intervention for an individual in an actual facility. The services would be provided by medical and mental health professionals, as well as peers and others with real-life experience. The individual would be received at the door by these providers, who would take over the care and responsibility from a mobile crisis team, law enforcement, or emergency medical services (EMS). This transfer has been reported from other states as being less than 10 minutes. He stated that the goal would be to provide a safe place to resolve a crisis without unnecessarily using the highest level of care.

MR. WILLIAMS, moving on to slide 9, stated that short-term crisis residential centers would be for individuals who require more treatment because of an acute crisis. These centers would be similar in terms of team makeup to the crisis stabilization centers. He stated this would be a higher level of care to hopefully resolve the crisis and reconnect the individual with community services and support to maintain the gains made. He reiterated that a key element would be services provided by people with lived experience, who could relate to the individual and help them understand the care that he/she would be receiving at the location.

4:01:21 PM

He described the graphic [on slide 10] which depicts ten years of data on the outcomes from the system in Georgia. The data shows 90 percent of crisis calls were resolved over the phone with a healthcare professional. For the remainder of the crisis calls, a mobile crisis team had been dispatched to the individual to assess the situation. The data shows seven out of ten of those responses had been resolved in the community, with no higher level of care or law enforcement needed. For the three mobile crisis team responses that remained unresolved, those individuals had been taken to a short-term stabilization center. He continued that data shows only one out of three of

these situations had been transferred to the crisis residential center for the seven days of access to treatment. He explained that, with a system intentionally designed, resources would be realigned into traditional roles: law enforcement would protect public safety, investigate cases, write reports, and appear in court, while mental health professionals would respond to individuals in crisis.

4:04:03 PM

MS. CARPENTER stated that the involuntary commitment statutes are found in Title 47 of the Alaska Statutes. The goal with [CSHB 172(JUD)] would be to add new levels of care without rewriting Title 47. She stated that DHSS, AMHTA, and stakeholders had worked to identify the Crisis Now model as the best path forward for Alaska. The team identified weaknesses and strengths in the current system and reviewed the model in action in other states. She stated that AMHTA has worked on the implementation process of the Crisis Now model within Alaska, while DHSS has implemented services from the 1115 waiver. She referenced a lawsuit that DHSS settled with the Disability Law Center of Alaska. The lawsuit concerned individuals in crisis who had been held at correction facilities involuntarily. As part of the settlement, DHSS had been directed to advocate for statutory changes, as in the proposed legislation. She listed key points of the proposed legislation: provide for less restrictive and more immediate systems of care for patients; create more facilities for patients; take the responsibility for care away from hospital emergency rooms; provide law enforcement with more options; and expand the types of first responders. She clarified that the legislation would not interfere with a police officer's authority, change the statutory authority to administer medication, change the statutory authority for who can order an involuntary commitment, or reduce the rights of an adult or juvenile in crisis.

MR. WILLIAMS explained the graphic on slide 13, illustrating the "current flow" for involuntary commitment. He noted that law enforcement is currently the default response to an emergency call. At this point, the choices for law enforcement for these individuals are a hospital emergency room, jail, or emergency hold. He explained that an emergency hold entails putting the individual in handcuffs in the back of a police vehicle until an appropriate place for the individual is found. He stated that none of these options are productive. He expressed confidence that the proposed legislation would redesign the system. He clarified that law enforcement and EMS would not be taken out of

the system, but they would not be the default. He suggested that the implementation of the system would not have to be linear, as the resources in communities would be diverse.

4:11:26 PM

MR. WILLIAMS moved to slide 15 which outlines the flow for the statutory changes. He reiterated that law enforcement and EMS would still be part of the equation, but these resources would not be the default. He stated that the goal would be to take the individual to the appropriate care to resolve the crisis in a way that is less restrictive.

MS. CARPENTER spoke to the changes made in the committee substitute in the last committee of referral [exhibited on slide 16]. She said a key change had been made to the definition of "peace officer," aligning it with current definitions found elsewhere in the statutes. The language removed from this definition has been used to create a new definition for a "health officer". She listed some of the other changes which include: the length of stay at a short-term crisis residential center would change from five to seven days; concerning patient rights, the 72-hour clock would start when an individual enters any crisis center; the court would be required to notify any guardian if a patient had a hearing; the seven-day hold would begin at the time of initial retainment, no matter the facility; and DHSS and AMHTA would collect data and issue reports on patient harm, restraint, and resolution. She added that these reports would bring together a group of diverse stakeholders to investigate and discuss the topic and the process in Alaska and other states. The group would propose needed changes to regulations and statute. She said a key part of this process would include robust public comment. She stated that, once the legislation is signed into law, there would be one year to come back to legislature with recommendations and an action plan forward.

4:15:54 PM

CO-CHAIR ZULKOSKY asked committee members to exercise some restraint with questions, as three invited testimonies were yet to be heard.

4:16:22 PM

REPRESENTATIVE SPOHNHOLZ expressed enthusiasm for the legislation. While the committee's focus has been the

stabilization centers, she questioned how the crisis call centers and mobile crisis teams would fit into the funding stream with the 1115 waiver.

4:17:57 PM

GENNIFER MOREAU-JOHNSON, Director, Division of Behavioral Health, Department of Health and Social Services, stated that the 1115 waiver reimbursement would currently be for the mobile crisis response and both types of crisis centers but not for the call center. She indicated that work needs be done to understand the access to the Medicaid administration funding for the call center. She affirmed that the call center would not be funded.

4:19:34 PM

REPRESENTATIVE KURKA expressed concern about taking freedom from someone who is having a mental crisis. He expressed interest in the comparison of due process rights proposed in the legislation with the due process rights in the criminal justice system.

4:20:52 PM

STACIE KRALY, Director, Civil Division, Department of Law, explained that she does not practice law in the civil justice system, and a more concrete answer on an "apples to apples" comparison between civil commitment for the Crisis Now model and the criminal justice system would need to be supplied after the hearing. She stated that the civil commitment process is a constitutional exercise of the federal government to empower the police at the state and federal level. Due process is provided at all different levels within this system. In the proposed legislation due process would include the right to an attorney and a court hearing. She suggested that the similarities would be, at the time of admission, counsel would be appointed, and a judicial review of the decisions would be made. In addition, the individual would receive a list of entitled rights, and the guardian or parents would be notified. She continued that due process protections would be added and included in this system, as they exist under Title 47 of the Alaska Statutes. She stated that it is important to note one major difference: an attorney would always be appointed, present, and available in the civil commitment arena, while in the criminal arena it would be based on indigency, and some individuals may not be eligible for court appointed counsel.

4:23:27 PM

REPRESENTATIVE MCCARTY, addressing slide 13, questioned whether currently an ex parte order would be needed to move an individual from a [23-hour and 59-minute] hold to the next level of care.

MR. WILLIAMS answered in the affirmative.

REPRESENTATIVE MCCARTY addressed slide 15 and the timeframe. He voiced the understanding that, if needed, an individual would be put on a 72-hour hold, but he/she must leave the crisis stabilization center within the 23-hour and 59-minute limit. He questioned the location of the individual before he/she would be evaluated for the 7-day hold.

MR. WILLIAMS clarified that the 23-hour and 59-minute hold would be a part of the 72-hour timeframe. The 72-hour time limit would begin with a notice for a scheduled hearing. If at any point the individual no longer meets the criteria to be held, then he/she would be released.

REPRESENTATIVE MCCARTY, with a follow-up question, stated that his understanding is a judge must determine the status of the individual.

MS. KRALY confirmed that Mr. Williams is correct. The 72 hours would be a timing mechanism. She stated that upon admission, a clock would start, and a hearing must be held within 72 hours. She added that weekends and holidays would not be included in the timeframe. She stated that the 72-hour timeframe would not be a benchmark. If an individual stabilizes, based on a clinical determination, he/she could be released, and a judge would not be involved. A judge would be required only if, within 72 hours, it is determined the individual needs more care on an involuntarily basis.

CO-CHAIR ZULKOSKY reminded committee members that the legislation will come back before the committee, and she moved to invited testimony.

4:28:53 PM

MARK REGAN, Legal Director, Disability Law Center of Alaska, spoke to Representative Kurka's previous question concerning due process. He related that the Alaska Supreme Court holds that the current civil commitment process is "based on a probable

cause finding at the start that you are gravely disabled or because of a mental illness, likely to harm yourself or others." He stated that this is the standard. He continued that, per the proposed legislation, an ex parte order would hold the individual in place for 72 hours. The Alaska Supreme Court issues that this is constitutional only because there would be a right to a prompt hearing within 72 hours. He supplied that the burden would be on the state to have the individual held any longer. The difference in the criminal system would be that a person could be arrested and taken into custody before any involvement with a judge. He stated that the systems would work in the same way, but HB 172 would allow for the prompt appointment for an attorney and a prompt hearing before a judge.

4:32:24 PM

MR. REGAN, concerning the aforementioned lawsuit, stated that the Disability Law Center and public defenders brought the lawsuit because individuals had been deprived of liberty under the old system. He expressed the belief that it would be tempting to blame API, but he explained that API did not have the capacity to routinely take people for civil commitment evaluations for the 72-hour period; therefore, individuals ended in jail or hospital emergency rooms. He continued that API was only one part of a stressed system. During the breakdown of API in the winter of 2018 and 2019, individuals had been held at the Anchorage correctional complex. He stated that a video tour of the complex from intake to evaluation shows "it is a grim system." He added that home videos can sometimes come across dark, but the complex was "a sterile, stark place and not therapeutic at all." He added that other individuals in the state were being held in emergency rooms awaiting transportation to API. He maintained that the key point is these are not therapeutic, psychiatric-oriented places which could help an individual resolve a short-term crisis. He said, "If you are greatly disabled or likely to harm yourself, you ought to be at a place that is better able to help you." He articulated that this is the reason the lawsuit endorsed the idea of Crisis Now facilities, so people could get short-term treatment without waiting in jails and hospitals. He stated that the law center supports HB 172 because "people have a basic right to ... a happier, friendlier place that does more to treat you." He suggested that the problems at API had affected hundreds of Alaskans, and there should be a better system.

4:37:39 PM

REPRESENTATIVE SPOHNHOLZ asked for a description of the appointment of the guardian, as well as the attorney, to advocate on behalf of the patient.

MR. REGAN explained he cannot speak to guardianship, as the law center is not responsible for this piece of the legislation, but he can speak to the appointment of the attorney. He referenced past issues concerning assigned attorneys, which left patients "stuck" in emergency rooms or jails, with the sense that no one would be looking out for them. If an individual is in acute mental crisis, the need for a lawyer may not be evident to this individual. He stated that a lawyer would give the individual a sense of an upcoming resolution, especially for the first 72-hour hearing. At that time, a decision would be made whether to hold the individual longer at a crisis residential center.

MR. REGAN, in response to a follow-up question, apologized, but reiterated that he could not speak on the appointment of a guardian or guardianship.

4:40:58 PM

HELEN ADAMS, MD, Emergency Medical Physician, Alaska Chapter of Emergency Physicians, testified in support of CSHB 172(JUD). She expressed the opinion that, as in the entire nation, Alaska is experiencing a mental health crisis, and the state does not have the capacity to care for the increase in mental health emergency room visits. She explained that the open-door model would be helpful because, in her experience, the majority of these people are desperate for help. She stated that within the four years of working in Anchorage, she only had one upset patient who requested an attorney. She voiced her opinion that many emergency care rooms are equipped to deal with a variety of crises, as Anchorage has an appropriate seven-bed unit for mentally ill patients. But she added that when patients are moved into the general emergency room area, there is very little control over the noise and exposure to other patients. Patients are able to [easily escape from emergency rooms], which in the end involves security staff. She maintained that this is not the best place to care for these patients.

4:43:24 PM

DR. ADAMS continued that a more appropriate clinical environment would be better support for these patients. The evidence from other states is that an individual in crisis would deescalate more quickly in the appropriate environment. Plus, this type of

environment would require less intervention, and there would be less stress on the patient, and all involved. She stated that a 23-hour and 59-minute stabilization system is practical because when an individual comes in, often he/she is very intoxicated and should not be alone. The individual needs to be in an environment where he/she can become sober and be assessed. She stated that the majority of those patients want to leave once they are sober. She emphasized that the patients who are required to transfer to residential crisis centers are the minority, and HB 172 would be a good opportunity to expand care for these patients, otherwise the problem will be ongoing.

4:45:08 PM

DR. ADAMS, in response to Co-Chair Zulkosky, voiced her opinion that the proposed legislation would provide for actual physical places in Alaska where care for these patients could be provided. She referenced her experience in Anchorage, where the backlog had been so extreme, some patients were held for hours in the back of a police vehicle in the hospital parking lot. She indicated that she would physically go to the parking lot and assess the patient to make sure the patient was physically safe. She voiced the opinion that this is a major problem, as ideally a patient would be admitted immediately and put into a room with a padded bed on the floor with no potential harmful hardware in the room. The individual would be seen quickly by a mental health clinician, and a recommendation would be made. She acknowledged that unfortunately this ideal standard of care is more often seen only in the minority of cases. Instead, individuals are placed in a room with equipment which has to be moved, and a technician has to sit and monitor the person, as he/she cannot be left alone. This process limits the resources and the overall ability for the emergency room situation to run efficiently. The technicians normally assist nurses, so nurses end up stressed. She stated that, overall, the system does not work effectively, and medical patients are not getting the care they need, and this contributes to overburdening of the health system as a whole. She stated that HB 172 would allow for a more appropriate and concentrated use of mental health services.

4:48:55 PM

JAMES COCKRELL, Commissioner, Department of Public Safety (DPS), offered the support of CSHB 172(JUD) personally and professionally. He added that DPS fully supports the proposed legislation. He stated that "we've got to do better" for individuals who are suffering from mental health issues. He

spoke briefly about his personal experience and a family member who went to jail after a "mental collapse." He insisted that individuals should not be sent to the emergency rooms, as hospitals are understaffed. He spoke about instances of policemen driving around for hours with handcuffed individuals in the back of their vehicles, because there was nowhere to take a person in a mental health crisis. He reiterated that "we just need to do it."

4:52:18 PM

REPRESENTATIVE MCCARTY shared his personal experience working on a crisis mobile team. In Kodiak he experienced an individual who was in crisis that did not receive timely transportation to API. He stated that the individual eventually received services, but their rights had been infringed upon, and the courts became involved. He voiced approval for the proposed legislation but offered that he did not understand the flow, in regard to the clock-start time, [as exemplified on slide 5]. He expressed the opinion that a person in crisis could be lost in the system, which would result in the infringement of rights.

4:55:41 PM

MS. KRALY explained that, upon admission to a crisis stabilization center, there would be a notice of arrival which triggers the 72-hour clock. The notice of arrival would go to the court, and an attorney would be appointed. The court would set a hearing and provide the guardian with that information. She stated that every 24 hours the court would be notified as to the status of an individual in the facility and of any transport [to another facility]. A court hearing would be held if the individual objects to being held or has any questions. She stated that this would be the importance of appointing an attorney and guardian early, because additional judicial review could be requested. She stated that in this process, or flow, the court would issue the ex parte hold for the admission to the crisis residential center, so the court would be involved immediately. She reviewed that when an individual stays more than the 23-hour and 59-minutes in the crisis stabilization center, the court would become involved, evidence would be presented, and a recommendation would be made. Upon admission to the crisis residential facility, she stated, a notice of arrival or notice of rights would be reported to the attorney and guardian. She asserted that this would be the process to make sure no one is lost in the system.

4:58:19 PM

MS. KRALY, in response to a follow-up question, affirmed Representative McCarty's understanding of the process. In response to Co-Chair Zulkosky, she agreed that there is a natural tension in the current system between the mental health treatment component of a civil commitment and the role law enforcement plays. She stated that the proposed legislation would not take law enforcement out of the process, but it would radically minimize the involvement law enforcement has in the psychiatric mental health system. She continued that "all of us agree, get that criminal law enforcement component out of the psychiatric level of care." She stated that the legislation would change a multiple hour drive for law enforcement into a 10-minute drop off at a center, where the individual would be treated by mental health professionals. She suggested that tension between law enforcement and the mental health system would be mitigated and reduced.

5:03:00 PM

MS. KRALY, in response to Representative Spohnholz, explained that guardianship is a legal process outlined in Title 13 of the Alaska Statutes. She stated that guardians are appointed by a judge, and it is a formal legal process. She said that there are two types of guardianships, public and private. The Office of Public Advocacy would appoint public guardians. She stated that in the last committee of referral it was determined that an individual who has suffered a behavioral crisis most likely would already have a guardian, public or private. She said that guardians have a unique role, as they assume the same responsibilities as a parent. A guardian with a ward has the ability to advocate and communicate with the healthcare provider in the mental health system to facilitate treatment, voluntary or otherwise. While the guardian does not have the right to administer medication for their ward, he/she could testify in support of treatment with psychotropic medication. She said that a guardian would facilitate communication with a ward, and it would be "like having a parent on your side." In response to a follow-up question, she deferred to Ms. Carpenter.

MS. CARPENTER, in response, explained that in the proposed legislation the main change would be the strengthened communication level [with the guardian]. She said that currently there is no requirement that guardians be notified by the court; the proposed legislation would require the guardian be notified of the time and place of a hearing. In response to

a follow-up question, she affirmed that a patient's rights would be strengthened with this notification.

5:06:38 PM

REPRESENTATIVE KURKA recalled that, in the last committee of referral, there had been concern about how to contact the guardian. He questioned whether the court would keep a list of guardians.

MS. CARPENER responded that the court has the only list of all public and private guardianships.

5:07:19 PM

CO-CHAIR ZULKOSKY announced that HB 172 was held over.

5:08:04 PM

ADJOURNMENT

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 5:08 p.m.