ALASKA STATE LEGISLATURE
SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE
March 17, 2022
1:51 p.m.

MEMBERS PRESENT

Senator David Wilson, Chair
Senator Mia Costello
Senator Lora Reinbold
Senator Tom Begich

MEMBERS ABSENT

Senator Shelley Hughes, Vice Chair

COMMITTEE CALENDAR

SENATE BILL NO. 124
"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

SENATE BILL NO. 175
"An Act relating to telehealth; relating to the practice of medicine; relating to medical assistance coverage for services provided by telehealth; and providing for an effective date."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: SB 124
SHORT TITLE: MENTAL HEALTH FACILITIES & MEDS
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

04/12/21	(S)	READ THE FIRST TIME - REFERRALS
04/12/21	(S)	HSS, FIN
04/27/21	(S)	HSS AT 1:30 PM BUTROVICH 205
04/27/21	(S)	Heard & Held
04/27/21	(S)	MINUTE(HSS)

04/29/21	(S)	HSS AT 1:30 PM BUTROVICH 205
04/29/21	(S)	-- MEETING CANCELED --
05/04/21	(S)	HSS AT 1:30 PM BUTROVICH 205
05/04/21	(S)	Heard & Held
05/04/21	(S)	MINUTE(HSS)
05/05/21	(S)	JUD REFERRAL ADDED AFTER HSS
05/06/21	(S)	HSS AT 1:30 PM BUTROVICH 205
05/06/21	(S)	<Bill Hearing Canceled>
03/08/22	(S)	HSS AT 1:30 PM BUTROVICH 205
03/08/22	(S)	Heard & Held
03/08/22	(S)	MINUTE(HSS)
03/15/22	(S)	HSS AT 1:30 PM BUTROVICH 205
03/15/22	(S)	Heard & Held
03/15/22	(S)	MINUTE(HSS)
03/17/22	(S)	HSS AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

HEATHER CARPENTER, Healthcare Policy Advisor
Office of the Commissioner
Department of Health and Social Services (DHSS)
Juneau, Alaska
POSITION STATEMENT: Answered questions on SB 124.

STEVEN BOOKMAN, Senior Assistant Attorney General
Human Services Section
Civil Division
Department of Law
Anchorage, Alaska
POSITION STATEMENT: Answered questions on SB 124.

NANCY MEADE, General Counsel
Office of the Administrative Director
Alaska Court System
Anchorage, Alaska
POSITION STATEMENT: Answered questions on SB 124.

LEON MORGAN, Deputy Commissioner
Department of Public Safety
Juneau, Alaska
POSITION STATEMENT: Answered questions on SB 124.

BUDDY WHITT, Staff
Senator Shelley Hughes
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented amendments to SB 124.

ACTION NARRATIVE

1:51:59 PM
CHAIR DAVID WILSON called the Senate Health and Social Services Standing Committee meeting to order at 1:51 p.m. Present at the call to order were Senators Begich, Reinbold, Costello, and Chair Wilson.

[SB 124 was previously heard on 4/27/21, 5/4/21, 5/6/21, 3/8/22, and 3/15/22.]

SB 124-MENTAL HEALTH FACILITIES & MEDS

1:52:26 PM
CHAIR WILSON announced the consideration of SENATE BILL NO. 124 "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."

1:53:16 PM
SENATOR BEGICH moved to adopt Amendment 1, work order 32-GS1730\B.29.

32-GS1730\B.29
Dunmire
3/16/22

AMENDMENT 1

OFFERED IN THE SENATE
TO: CSSB 124(HSS), Draft Version "B"

Page 11, following line 10:
Insert a new bill section to read:
"*** Sec. 21.** AS 47.30.915(9) is amended to read:
(9) "gravely disabled" means a condition in which a person as a result of mental illness

(A) is in danger of physical harm arising from such complete neglect of basic

needs for food, clothing, shelter, or personal safety as to render serious accident, illness, or death highly probable if care by another is not taken; or

(B) **is so incapacitated that the person is incapable of surviving safely in freedom** [WILL, IF NOT TREATED, SUFFER OR CONTINUE TO SUFFER SEVERE AND ABNORMAL MENTAL, EMOTIONAL, OR PHYSICAL DISTRESS, AND THIS DISTRESS IS ASSOCIATED WITH SIGNIFICANT IMPAIRMENT OF JUDGMENT, REASON, OR BEHAVIOR CAUSING A SUBSTANTIAL DETERIORATION OF THE PERSON'S PREVIOUS ABILITY TO FUNCTION INDEPENDENTLY];"

Page 13, lines 1 - 2:
Delete "secs. 1 - 27"
Insert "secs. 1 - 28"

Page 13, lines 27 - 28:
Delete "sec. 23"
Insert "sec. 24"

Page 13, line 29:
Delete "sec. 23"
Insert "sec. 24"

Page 14, line 7:
Delete "Section 28"
Insert "Section 29"

1:53:17 PM
CHAIR WILSON objected for purposes of discussion.

1:53:19 PM
SENATOR BEGICH noted that he was offering Amendment 1 on behalf of himself and Senator Reinbold. He explained that the amendment would clarify the definition of "gravely disabled." He stated that the department agreed conceptually with Amendment 1.

1:54:05 PM
HEATHER CARPENTER, Healthcare Policy Advisor, Office of the Commissioner, Department of Health and Social Services (DHSS), Juneau, Alaska, agreed that the department had conveyed to Chair

Wilson by letter that the department did not object to Amendment 1.

1:54:43 PM
SENATOR COSTELLO asked for an explanation of what Amendment 1 does.

1:54:58 PM
SENATOR BEGICH explained that Amendment 1 would clarify the definition of "gravely disabled" based on a request by a patient rights advocate about the need to make the definition more respective of the patient's view of their disabilities. He stated that the amendment has two parts. It would add language in subparagraph (B), "is so incapacitated that the person is incapable of surviving safely in freedom." It would delete the language, "will, if not treated, suffer or continue to suffer severe and abnormal mental, emotional, or physical distress, and this distress is associated with significant impairment of judgment, reason, or behavior causing a substantial deterioration of the person's previous ability to function independently." He opined that it would simplify the language and make it more straightforward.

1:56:09 PM
SENATOR COSTELLO asked whether the change in language made a difference. She could not tell whether there was a difference between someone who was not able to survive safely in freedom and the previous definition of "gravely disabled."

SENATOR BEGICH deferred to the department to respond.

1:56:57 PM
MS. CARPENTER explained that the Alaska Supreme Court ruled this part of the statute unconstitutional and that this language would codify that decision with the language in the ruling.

1:57:15 PM
SENATOR COSTELLO asked why it was ruled unconstitutional.

1:57:21 PM
MS. CARPENTER deferred to Mr. Bookman.

1:57:35 PM
STEVEN BOOKMAN, Senior Assistant Attorney General, Human Services Section, Civil Division, Department of Law, Anchorage, Alaska, explained that the Alaska Supreme Court stated that the word "distressed" in the previous definition was vague. It could

only be construed as constitutional if it had the same meaning as the language proposed in Amendment 1. It was not simply distress or discomfort as understood in everyday language. Rather, it means a level of incapacity that indicates a person is unsafe to survive in freedom.

1:58:15 PM
SENATOR COSTELLO expressed satisfaction with the answer.

1:58:34 PM
CHAIR WILSON withdrew his objection; he found no further objection, and Amendment 1 was adopted.

1:58:48 PM
SENATOR BEGICH moved to adopt Amendment 2, work order 32-GS1730\B.30.

32-GS1730\B.30
Dunmire
3/16/22

AMENDMENT 2

OFFERED IN THE SENATE
TO: CSSB 124(HSS), Draft Version "B"

Page 11, following line 1:
Insert new bill sections to read:
"*** Sec. 19.** AS 47.30.839(b) is amended to read:
(b) An evaluation facility or designated treatment facility may seek court approval for administration of psychotropic medication to a patient by filing a petition with the court, requesting a hearing on the capacity of the person to give informed consent **and on the proposed use of psychotropic medication. The petition shall provide specific information regarding the factors listed in AS 47.30.837(d)(2)(A) - (E)**.
*** Sec. 20.** AS 47.30.839(g) is amended to read:
(g) If the court determines **by clear and convincing evidence** that the patient is not competent to provide informed consent and [, BY CLEAR AND CONVINCING EVIDENCE,] was not competent to provide informed consent at the time of previously expressed wishes documented under (d)(2) of this section, **that**

the proposed use of medication is in the best interests of the patient considering at a minimum the factors listed in AS 47.30.837(d)(2)(A) - (E), and that there is no feasible less intrusive alternative, the court shall approve the facility's proposed use of psychotropic medication. The court's approval under this subsection applies to the patient's initial period of commitment if the decision is made during that time period. If the decision is made during a period for which the initial commitment has been extended, the court's approval under this subsection applies to the period for which commitment is extended."

Renumber the following bill sections accordingly.

Page 13, lines 1 - 2:
Delete "secs. 1 - 27"
Insert "secs. 1 - 29"

Page 13, lines 27 - 28:
Delete "sec. 23"
Insert "sec. 25"

Page 13, line 29:
Delete "sec. 23"
Insert "sec. 25"

Page 14, line 7:
Delete "Section 28"
Insert "Section 30"

1:58:50 PM
CHAIR WILSON objected for purposes of discussion.

1:58:54 PM
SENATOR BEGICH noted that he and Senator Reinbold were offering Amendment He explained that Amendment 2 would clarify the stipulations that must be included and considered when an evaluation facility seeks approval from a court on the use of psychotropics. He stated that this was recommended language based on the legal findings and language proposed by the patient advocates. He requested the department comment before further explanation.

1:59:19 PM

MS. CARPENTER agreed that this was one of the amendments that Mr. Jim Gottstein offered to the department. The department accepted his language but made drafting changes and Mr. Gottstein was satisfied. She explained that Amendment 2 clarifies what the court already requires the department to do.

1:59:53 PM
SENATOR REINBOLD emphasized that, in Section 20, Amendment 2 adds that the standard of proof for the court is clear and convincing evidence. She said she is not a big fan of probable cause. She thanked Senator Begich for allowing her to cosponsor Amendment 2.

2:00:22 PM
CHAIR WILSON withdrew his objection; he found no further objection, and Amendment 2 was adopted.

CHAIR WILSON solicited a motion for Amendment 3 sponsored by Senator Begich and Reinbold.

2:00:36 PM
SENATOR BEGICH moved to adopt Amendment 3, work order 32-GS1730\B.31.

32-GS1730\B.31
Dunmire
3/16/22

AMENDMENT 3

OFFERED IN THE SENATE
TO: CSSB 124(HSS), Draft Version "B"

Page 4, line 30, following the second occurrence of "that":
Insert "the respondent is suffering an acute behavioral health crisis and, as a result, is likely to cause harm to self or others or is gravely disabled,"

Page 4, line 31, following "center":
Insert ","

2:00:38 PM
CHAIR WILSON objected for purposes of discussion.

2:00:40 PM

SENATOR BEGICH stated that the Alaska Court System and Mr. Jim Gottstein requested Amendment 3. It would clarify how a person in charge determines probable cause for admission into a crisis residential center.

2:00:56 PM
SENATOR REINBOLD made a motion to adopt Conceptual Amendment 1 to Amendment 3, on page 1, line 3, to insert "serious" before "harm," so the first part of Amendment 3 would read:

CONCEPTUAL AMENDMENT 1 TO AMENDMENT 3

> Page 4, line 30, following the second occurrence of "that":
>
> Insert "the respondent is suffering an acute behavioral health crisis and, as a result, is likely to cause serious harm to self or others or is gravely disabled,"

2:01:36 PM
CHAIR WILSON said the language "harm to self to others" is language used in several places in statute. He was unsure how that would affect those who assist patients.

2:02:03 PM
MR. BOOKMAN responded that the current language in AS 47.30 contains references to both "likely to cause harm" and "likely to cause serious harm," which is inconsistent. The Alaska Supreme Court, in its decision, E.P. v. Alaska Psychiatric Institute, essentially ruled that while the phrases were not identical, for purposes of the law they mean the same thing.

2:02:50 PM
SENATOR REINBOLD said if they mean the same thing, her preference is to add the term "serious."

2:03:05 PM
CHAIR WILSON objected for discussion purposes.

2:03:17 PM
SENATOR COSTELLO wondered how a person could ascertain how a person was likely to cause "harm" or "serious harm" to themselves. She asked if adding "serious" would mean that "harm" was okay and it might not allow the person to protect someone in the same way. She related her understanding that since the definitions were the same, she preferred not to adopt Conceptual Amendment 1.

2:04:17 PM
CHAIR WILSON maintained his objection and asked for a roll call vote.

A roll call vote was taken. Senator Reinbold voted in favor of the motion to adopt Conceptual Amendment 1 to Amendment 3, and Senators Begich, Costello, and Wilson voted against it. Therefore, Conceptual Amendment 1 to Amendment 3 failed on a 1:3 vote.

2:04:59 PM
CHAIR WILSON announced that Conceptual Amendment 1 to Amendment 3 failed on a vote of 1 yea and 3 nays.

2:05:04 PM
CHAIR WILSON stated that Amendment 3 was before the committee.

2:05:14 PM
CHAIR WILSON removed his objection to Amendment 3; he found no further objection, and Amendment 3 was adopted.

2:05:28 PM
SENATOR BEGICH moved to adopt Amendment 4, work 32-GS1730\B.32.

32-GS1730\B.32
Dunmire
3/16/22

AMENDMENT 4

OFFERED IN THE SENATE
TO: CSSB 124(HSS), Draft Version "B"

Page 5, line 25, following "crisis":
Insert "and, as a result, is likely to cause harm to self or others or is gravely disabled,"

2:05:30 PM
CHAIR WILSON objected for purposes of discussion.

2:05:32 PM
SENATOR BEGICH stated that he and Senator Reinbold were offering Amendment 4 at the request of the Alaska Court System and Mr. Jim Gottstein.

SENATOR BEGICH explained that Amendment 4 would clarify when a respondent can be admitted to a crisis residential center on an ex parte order. It is reflective of the language the committee just adopted but is located a different section.

2:05:53 PM
SENATOR REINBOLD offered her belief that Mr. Gottstein recommended it should read "serious harm or is gravely disabled." She stated that reading the definition of "gravely disabled" would be more than just causing harm.

2:06:17 PM
CHAIR WILSON asked if she was making a motion to adopt a conceptual amendment.

SENATOR REINBOLD replied it was a comment. She wondered if anyone had a comment on the language.

2:06:45 PM
MS. CARPENTER related that she had previously submitted the language to Chair Wilson based on the exact language Mr. Gottstein presented in his March 7, 2022, letter. The letter suggested the language read, "and, as a result, is likely to cause harm to self or others or is gravely disabled,". She said it does not suggest "serious."

2:07:10 PM
SENATOR REINBOLD stated her conversation with Mr. Gottstein was more recent than the March 7th letter.

2:07:27 PM
SENATOR BEGICH asked whether "cause harm to self" and "cause serious harm to self" were interpreted the same by the court.

MR. BOOKMAN answered yes, and offered to read the definition of "likely to cause harm."

2:08:00 PM
SENATOR BEGICH offered his belief that the definition would alleviate the concerns Senator Reinbold expressed, and reading it into the record means it becomes part of the legal record.

2:08:22 PM
MR. BOOKMAN read the definition of "harm" in AS 47.30.915(12).

(12) "likely to cause serious harm" means a person who

(A) poses a substantial risk of bodily harm to that person's self, as manifested by recent behavior causing, attempting, or threatening that harm;

(B) poses a substantial risk of harm to others as manifested by recent behavior causing, attempting, or threatening harm, and is likely in the near future to cause physical injury, physical abuse, or substantial property damage to another person; or

(C) manifests a current intent to carry out plans of serious harm to that person's self or another;

2:09:05 PM
CHAIR WILSON asked him to identify the citation.

MR. BOOKMAN answered that it is AS 47.30.915(12).

2:09:15 PM
CHAIR WILSON removed his objection to Amendment 4; he found no further objection, and Amendment 4 was adopted.

CHAIR WILSON solicited a motion for Amendment 5.

2:09:29 PM
SENATOR BEGICH moved to adopt Amendment 5, work order 32-GS1730\B.33.

32-GS1730\B.33
Dunmire
3/16/22

AMENDMENT 5

OFFERED IN THE SENATE
TO: CSSB 124(HSS), Draft Version "B"

Page 13, line 10, following "could":
Insert "improve patient outcomes and"

2:09:31 PM
CHAIR WILSON objected for purposes of discussion.

2:09:33 PM

SENATOR BEGICH explained that by Mr. Jim Gottstein recommended Amendment 5. It would ensure that the report to the legislature contained actionable outcomes to improve patient outcomes.

2:09:51 PM
SENATOR REINBOLD asked to be a cosponsor.

CHAIR WILSON acknowledged that Senators Begich and Reinbold were offering Amendment 5.

2:10:10 PM
CHAIR WILSON removed his objection; he found no further objection, and Amendment 5 was adopted.

2:10:21 PM
CHAIR WILSON moved to adopt Amendment 6, work order 32-GS1730\B.34.

32-GS1730\B.34
Dunmire
3/16/22

AMENDMENT 6

OFFERED IN THE SENATE
TO: CSSB 124(HSS), Draft Version "B"

Page 5, line 3:
Delete "AS 47.30.700"
Insert "this section"

Page 5, line 9:
Delete "under AS 47.30.700 - 47.30.707"

Page 5, line 22, following "obtained":
Insert "under AS 47.30.707"
Page 5, line 23:
Delete "AS 47.30.700"
Insert "this section"

Page 5, line 29, following "an":
Insert "ex parte"

2:10:34 PM
CHAIR WILSON objected for discussion purposes.

2:10:36 PM
CHAIR WILSON explained that the Alaska Court System requested Amendment 6 to ensure clarity and ease of implementation by the courts. He deferred further explanation to Nancy Meade.

2:10:50 PM
NANCY MEADE, General Counsel, Office of the Administrative Director, Alaska Court System, Anchorage, Alaska, explained that Amendment 6 would adjust some of the citations in the statute to more accurately identify the statutes that describe the petition process and what the court does. She characterized the changes as conforming or correcting to allow the court system to apply the process more readily and as the legislature intended.

2:11:27 PM
MS. CARPENTER stated that the language in Amendment 6 was included in the letter to the committee.

2:11:22 PM
SENATOR COSTELLO asked for a more specific explanation of the changes.

MS. MEADE referred to page 5, lines 2-3 of Version B that would remove "under AS 47.30.700" because it refers to what has traditionally been a petition for a mental health commitment. However, this is not a mental health commitment. Instead, AS 47.30.707 relates to admission to a crisis stabilization center, not a hospital. Her belief was that including a citation to AS 47.30.700 would be confusing.

2:13:17 PM
SENATOR COSTELLO related her understanding that the citation change refers to the actual, accurate description of the citation in this section because it does not relate to AS 47.30.700.

MS. MEADE agreed with the interpretation.

2:13:32 PM
CHAIR WILSON removed his objection; he found no further objection, and Amendment 6 was adopted.

2:13:48 PM
CHAIR WILSON moved to adopt Amendment 7, work order 32-GS1730\B.35.

32-GS1730\B.35
Dunmire
3/16/22

AMENDMENT 7

OFFERED IN THE SENATE
TO: CSSB 124(HSS), Draft Version "B"

Page 5, line 6, following "application":
Insert ", and the respondent may remain at the crisis stabilization center until admission to a crisis residential center"

2:13:52 PM
CHAIR WILSON objected for discussion purposes.

CHAIR WILSON stated that DHSS requested Amendment 7, because this change was inadvertently omitted from Version B.

CHAIR WILSON explained that Amendment 7 would ensure that a patient in an involuntary situation would not be forced out of a crisis stabilization center after 24 hours had lapsed, but before admission and transportation could be arranged to the crisis [residential] center.

2:14:20 PM
MS. CARPENTER added that this change is necessary because the definition of a crisis stabilization center limits a patient stay to 23 hours and 59 minutes. The department had concerns that a patient might be required to be released because their stay was extended to 24 hours. Suppose a mental health professional had petitioned the court, and the court approved moving a patient to a crisis residential center, but the allowable time lapsed. She stated that if at hour 24, arrangements to transport the patient to the next level of care were not complete, the facility would be required to release the patient. Amendment 7 would allow the patient to stay at the crisis stabilization center until transportation to the next facility could be arranged.

SENATOR COSTELLO asked whether Amendment 7 assumes that every single person at a crisis stabilization center would be transferred to a crisis residential center.

MS. CARPENTER answered no. She referred to page 5, line 3 of version B that says, "Based on the application, if the court

finds that probable cause exists to believe that the respondent's acute behavioral health crisis will be resolved during admission to a crisis residential center, the court shall grant the application." Amendment 7 would add language, ", and the respondent may remain at the crisis stabilization center until admission to a crisis residential center." It would only happen when the court ordered the next level of care. If the person stabilized and did not meet the criteria to be held, they would be released.

2:15:17 PM
CHAIR WILSON removed his objection; he found no further objection, and Amendment 7 was adopted.

2:16:27 PM
CHAIR WILSON moved to adopt Amendment 8, work order 32-GS1730\B.36.

32-GS1730\B.36
Dunmire
3/16/22

AMENDMENT 8

OFFERED IN THE SENATE
TO: CSSB 124(HSS), Draft Version "B"

Page 12, line 26, following "days":
Insert "for an involuntary admission"

2:16:31 PM
CHAIR WILSON objected for purposes of discussion.

CHAIR WILSON stated that the department requested Amendment 8. It would give DHSS the flexibility it needs for its licensing definition regarding 1115 [Medicaid] services to enable an individual to stay longer than seven days with approval from the department. He stated that the extended stay would only happen voluntarily.

2:17:08 PM
MS. CARPENTER explained that Amendment 8 was necessary because the department was cross-referencing all definitions in its licensing statutes. She explained that a patient could not stay longer than seven days without the change. It would clarify that the seven days would be hard and fast for involuntary admission.

Still, the department would be flexible regarding voluntary care.

2:17:40 PM
SENATOR REINBOLD offered her view that Amendment 8 requires additional clarification. She asked how it would affect involuntary commitments.

2:18:01 PM
MS. CARPENTER read the statute with Amendment 8:

> (A) "crisis residential center" means a subacute mental health facility that has a maximum stay of seven days for an involuntary admission;

2:18:28 PM
CHAIR WILSON removed his objection; he found no further objection, and Amendment 8 was adopted.

2:18:48 PM
CHAIR WILSON moved to adopt Amendment 9, work order 32-GS1730\B.37.

32-GS1730\B.37
Dunmire
3/16/22

AMENDMENT 9

OFFERED IN THE SENATE
TO: CSSB 124(HSS), Draft Version "B"

Page 2, line 13, following the first occurrence of "officer":
Insert "**and the arresting officer's employing agency**"

Page 2, line 31, following "officer":
Insert "**and the arresting officer's employing agency**"

Page 3, line 20, following "officer's":
Insert "**and the peace officer's employing agency's**"

Page 3, line 21:
Delete "is"
Insert "**and the peace officer's employing agency are** [IS]"

2:18:50 PM
CHAIR WILSON objected for discussion purposes.

2:18:53 PM
CHAIR WILSON explained that the Alaska Network on Domestic Violence and Sexual Assault (ANDVSA) asked DHSS to request Amendment 9 to ensure that victim notifications will happen even if the arresting officer is off duty on the day of the release. In that circumstance, the Department of Public Safety would notify the victims.

2:19:30 PM
MS. CARPENTER said she did not have anything further to add.

2:19:40 PM
SENATOR REINBOLD requested clarification of the meaning of the language on page 2, line 32, "and the arresting officer's employing agency".

2:19:50 PM
CHAIR WILSON explained that if the arresting officer was an Alaska State Trooper, that agency would be the employing agency, and if the arresting officer worked for the Anchorage Police Department (APD), APD would be responsible to notify the victims and not the officer. He noted that an officer might be off duty or otherwise unavailable.

2:20:28 PM
SENATOR REINBOLD asked whether it would be limited to official law enforcement personnel.

2:21:05 PM
SENATOR REINBOLD referred to page 2, line 31, to the language "and the arresting officer's employing agency". She asked who has the authority to arrest in the state.

2:21:21 PM
LEON MORGAN, Deputy Commissioner, Office of the Commissioner, Department of Public Safety, Juneau, Alaska, answered that a peace officer has the authority to make arrests.

2:21:31 PM

SENATOR REINBOLD stated that SB 124 would add a new definition on page 11. She was unsure whether peace officer was defined.

2:21:46 PM
At ease

2:23:06 PM
CHAIR WILSON reconvened the meeting.

2:23:11 PM
SENATOR REINBOLD read the definition of "peace officer" in AS 47.30.915(15):

> (15) "peace officer" includes a state police officer, municipal or other local police officer, state, municipal, or other local health officer, public health nurse, United States marshal or deputy United States marshal, or a person authorized by the court;

2:23:42 PM
MR. MORGAN referred to and read AS 01.10.060, (7):

> "peace officer" means
> (A) an officer of the state troopers;
> (B) a member of the police force of a municipality;
> (C) a village public safety officer;
> (D) a regional public safety officer;
> (E) a United States marshal or deputy marshal; and
> (F) an officer whose duty it is to enforce and preserve the public peace;

MR. MORGAN acknowledged that this might be a different definition.

2:24:09 PM
MS. CARPENTER stated that the bill refers to the definition in AS 12.25.031, which is Title 12, so Deputy Commissioner Morgan read the correct definition. She reminded members that the bill would update the definition of police officer in Version B, related to the involuntary commitment statutes. She referred to Section 21 where AS 47.30.915(15) is amended to read, "peace officer has the meaning given in AS 01.10.060(a)." She explained that this aligns with the definition that Deputy Commissioner Morgan just read.

2:24:34 PM
SENATOR BEGICH related his understanding that Amendment 9 was intended to ensure rapid notification for the guardians of the responsible parties. It would help the victim or those responsible for someone undergoing a psychotic episode. He asked whether that was correct.

2:25:12 PM
CHAIR WILSON answered yes, but there may be another issue with the language.

2:25:18 PM
SENATOR COSTELLO suggested that it would be stronger to say that reasonable efforts should be made to inform the arresting officer and that the agency shall be contacted because as written, the amendment might provide a loophole, such that it wouldn't be necessary to successfully contact the officer or the agency.

2:27:00 PM
CHAIR WILSON withdrew Amendment 9 and asked the department to work with the Alaska Network on Domestic Violence and Sexual Assault (ANDVSA) in the next committees of referral on this language.

2:27:38 PM
SENATOR REINBOLD expressed appreciation that the correct definition was read into the record.

2:28:24 PM
CHAIR WILSON moved to adopt Amendment 10.1 at the request of Senator Hughes.

[Amendment 10.1 is based on work order 32-GS1730\B.38 that was drafted by Legal Services. 32-GS1730\B.38 incorrectly identified "crisis residential center" as "crisis evaluation center." The Chair deleted the word "evaluation" and insert the word "residential" before he introduced the amendment and identified it as Amendment 10.1.]

AMENDMENT 10.1

OFFERED IN THE SENATE BY SENATOR HUGHES
TO: CSSB 124(HSS), Draft Version "B"

Page 3, following line 24:
Insert a new bill section to read:
"*** Sec. 11.** AS 47.30.693 is amended to read:
Sec. 47.30.693. Notice to parent or guardian of minor or vulnerable adult. When a minor under 18 years of age **or a vulnerable adult** is detained at or admitted or committed to a **crisis stabilization center, crisis residential center, evaluation facility, or** treatment facility, the **center or** facility shall inform the parent or guardian **of a minor or the guardian of a vulnerable adult, as applicable,** of the location of the minor **or vulnerable adult** as soon as possible after the arrival of the minor **or vulnerable adult** at the **center or** facility. **In this section, "vulnerable adult" has the meaning given in AS 47.24.900.**"

Renumber the following bill sections accordingly.

Page 13, lines 1 - 2:
Delete "secs. 1 - 27"
Insert "secs. 1 - 28"

Page 13, lines 27 - 28:
Delete "sec. 23"
Insert "sec. 24"

Page 13, line 29:
Delete "sec. 23"
Insert "sec. 24"

Page 14, line 7:
Delete "Section 28"

Insert "Section 29"

2:28:31 PM
CHAIR WILSON deferred to Buddy Whitt to speak to the amendment, on behalf of Senator Hughes.

2:28:40 PM
BUDDY WHITT, Staff, Senator Shelley Hughes, Alaska State Legislature, Juneau, Alaska, explained that Amendment [10.1] amends AS 47.30.693, the statute requires notice be given to a parent or guardian. Amendment 10.1 adds crisis stabilization center, crisis residential center, and evaluation facility to the list of facilities to which a person may be detained,

admitted, or committed. And it adds that a guardian of a vulnerable adult, as defined in AS 47.24.900, must be notified as soon as possible when a vulnerable adult is admitted.

2:29:34 PM
CHAIR WILSON noted the difference between Amendment 10.1 and work order 32-GS1730\B.38 appears on page 1, line 6 of the work draft. The word "evaluation" is replaced with "residential" to conform to the current language in the bill.

2:29:51 PM
SENATOR REINBOLD said she planned to offer a similar amendment, but it would amend AS 47.30.700 to require immediate notification. She wondered if she should withdraw Amendment 13.

2:30:21 PM
CHAIR WILSON offered his belief that Amendment 10.1 addresses that on page 1, lines 15-17.

2:30:50 PM
At ease

2:30:54 PM
CHAIR WILSON reconvened the meeting.

2:33:03 PM
SENATOR COSTELLO asked what "as soon as possible" would mean in statute. She said she understands the sponsor's intent to provide notice that is close to "immediately," but she wonders whether the language would allow too much flexibility and the person could conceivably wait until it was convenient to make the notification.

2:34:16 PM
SENATOR BEGICH stated that the language "as soon as possible" after the arrival of the minor has been in statute since 1984. He offered his belief that the meaning should be known by now.

MR. WHITT deferred to the department to explain what it means in their operations.

2:34:44 PM
SENATOR BEGICH commented that Senator Costello raised a good point, and since "as soon as possible" has been in statute since 1984, it would be helpful to have the meaning stated for the record.

2:34:56 PM
SENATOR COSTELLO acknowledged that “as soon as possible” was in current law, but she was unsure what it meant in this context.

2:35:09 PM
MR. BOOKMAN offered his belief that "as soon as possible" was not defined in statute or regulation. He said Senator Begich was correct that everyone would attempt to do so as soon as they could, but he could not give a precise answer as to the "x" number of minutes before that notice would be given. He agreed with Senator Costello that currently, the language would provide some "wiggle room."

2:35:45 PM
SENATOR COSTELLO said she hoped that the medical and administrative staff would consider it urgent to provide notice. She suggested she could ask the question outside the committee, but she would like to know how long it takes currently.

2:36:16 PM
CHAIR WILSON recalled Ms. Meade indicated that the court becomes involved if the person is held past 24 hours, and the court would provide the necessary notification.

2:36:35 PM
MS. CARPENTER related that looking at the statutes as a whole for those minors detained, admitted, or committed when there is an involuntary commitment, the court must provide a parent or guardian with all notifications served to a minor. She offered to work with the court system and to look at how notifications at the Alaska Psychiatric Institute and designated evaluation and treatment facilities are given so the committee has idea of and how quickly notification is happening currently.

2:37:25 PM
CHAIR WILSON removed his objection.

2:37:57 PM
SENATOR BEGICH asked the department to comment on Amendment 10.1.

2:38:06 PM
MS. CARPENTER stated that the department likes the concept. The Department of Law expressed concern that the language on line 5, "or a vulnerable adult" would mean any vulnerable adult. She offered her belief that the sponsor intended this provision to apply to a vulnerable adult with a guardian. This came up

because not every vulnerable adult has a guardian. She offered to work with the next committee of referral to address this issue.

2:38:49 PM
CHAIR WILSON asked Ms. Carpenter to work with Senator Hughes since she requested the amendment.

2:39:00 PM
MR. WHITT related that he held discussions with the department. He explained that Senator Hughes interprets the amendment differently. He said the current title for AS 47.30.693 is "Notice to parent or guardian of minor." Amendment 10.1 would add "or vulnerable adult" to the title, which would read "Notice to parent or guardian of minor or vulnerable adult." He interpreted that to mean that the language in that section would be about the subject matter in the title, which would be the parent or guardian of a minor or the guardian of a vulnerable adult. He emphasized that the subject is the "parent" or the "guardian" of a minor or a vulnerable adult. Thus, the subsequent language would provide the department with a directive to provide notice to that parent or guardian. Senator Hughes stands by the language in Amendment 10; however, if the department is not convinced that this language would work, the sponsor will work with the department on the language.

2:40:43 PM
SENATOR BEGICH offered his belief that Mr. Whitt was correct. He said the language in Amendment 10.1 refers to the definition of "vulnerable adult" in AS.47.24.900 21, which he read.

> (21) "vulnerable adult" means a person 18 years of age or older who, because of incapacity, mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, fraud, confinement, or disappearance, is unable to meet the person's own needs or to seek help without assistance.

SENATOR BEGICH stated that line 4 of the amendment reads "guardian of minor or vulnerable adult" and line 8 reads, "of a minor or the guardian of a vulnerable adult...." He offered his view that the language seemed clear, that the only option would be to change it to "or a vulnerable adult with a guardian." He opined that was redundant given the reference to the definition of "vulnerable adult", the title, and the description in the middle of the paragraph in Amendment 10.1.

CHAIR WILSON asked whether he was adding an objection to Amendment 10.1.

SENATOR BEGICH stated that he had no objection to Amendment 10.1.

2:41:57 PM
CHAIR WILSON found no further objection, and Amendment 10.1 was adopted.

2:42:10 PM
CHAIR WILSON moved to adopt Amendment 11, work order 32-GS1730\B.39.

32-GS1730\B.39
Dunmire
3/16/22

AMENDMENT 11

OFFERED IN THE SENATE BY SENATOR HUGHES
TO: CSSB 124(HSS), Draft Version "B"

Page 11, following line 1:
Insert a new bill section to read:
"*** Sec. 19.** AS 47.30.840(a) is amended to read:
(a) A person undergoing evaluation or treatment under AS 47.30.660 - 47.30.915
(1) may not be photographed without the person's consent and that of the person's guardian if a minor, except that the person may be photographed upon admission to a facility for identification and for administrative purposes of the facility; all photographs shall be confidential and may only be released by the facility to the patient or the patient's designee unless a court orders otherwise;
(2) at the time of admission to an evaluation or treatment facility, shall have reasonable precautions taken by the staff to inventory and safeguard the patient's personal property; a copy of the inventory signed by the staff member making it shall

be given to the patient and made available to the patient's attorney and any other person authorized by the patient to inspect the document;

(3) shall have access to an individual storage space for the patient's private use while undergoing evaluation or treatment;

(4) shall be permitted to wear personal clothing, to keep and use personal possessions including toilet articles if they are not considered unsafe for the patient or other patients who might have access to them, and to keep and be allowed to spend a reasonable sum of the patient's own money for the patient's needs and comfort;

(5) shall be allowed to have visitors at reasonable times;

(6) shall have ready access to letter writing materials, including stamps, and have the right to send and receive unopened mail;

(7) shall have reasonable access to a telephone, both to make and receive confidential calls;

(8) has the right to be free of corporal punishment;

(9) has the right to reasonable opportunity for indoor and outdoor exercise and recreation;

(10) has the right, at any time, to have a telephone conversation with or be visited by an attorney;

(11) may not be retaliated against or subjected to any adverse change of conditions or treatment solely because of assertion of rights under this section**;**

(12) if the person is a minor or a vulnerable adult, may not be transferred to a different evaluation or treatment facility before the facility where the minor or vulnerable adult is currently undergoing evaluation or treatment makes a good faith attempt to notify a parent or guardian of the minor or the guardian of the vulnerable adult, as applicable, of the proposed transfer; in this paragraph, "vulnerable

adult" has the meaning given in AS 47.24.900."

Renumber the following bill sections accordingly.

Page 13, lines 1 - 2:
Delete "secs. 1 - 27"
Insert "secs. 1 - 28"

Page 13, lines 27 - 28:
Delete "sec. 23"
Insert "sec. 24"

Page 13, line 29:
Delete "sec. 23"
Insert "sec. 24"

Page 14, line 7:
Delete "Section 28"
Insert "Section 29"

2:21:12 PM
CHAIR WILSON objected for discussion purposes.

2:42:22 PM
MR. WHITT thanked Chair Wilson for offering Amendment 11 at the request of Senator Hughes.

MR. WHITT explained that Amendment 11 would add a new Section 19 that amends AS 47.30.840(a) by adding paragraph (12) that reads:

> (12) if the person is a minor or a vulnerable adult, may not be transferred to a different evaluation or treatment facility before the facility where the minor or vulnerable adult is currently undergoing evaluation or treatment makes a good faith attempt to notify a parent or guardian of the minor or the guardian of the vulnerable adult, as applicable, of the proposed transfer; in this paragraph, "vulnerable adult" has the meaning given in AS 47.24.900."

MR. WHITT noted that this section of law is entitled, "Right to privacy and personal possessions; other rights." He related that Senator Hughes believes it is important to place this language in AS 47.30.840 to emphasize the fundamental rights of an individual being committed involuntarily. He acknowledged that someone who is committed involuntarily could not control certain

things, but this would ensure the person was afforded the fundamental right of having their parent or guardian notified before being transferred to a different evaluation or treatment center. He acknowledged that a medical emergency could require transferring a minor or vulnerable adult from a facility to an emergency medical care or facility. Nevertheless, a good faith attempt to notify a parent or guardian would still be required. For instance, medical staff could make a telephone call while the person is being transported. He stated the intent was to provide some leniency for emergencies.

2:44:44 PM
CHAIR WILSON expressed concern with Amendment 11.

2:44:50 PM
SENATOR COSTELLO observed that in this context, the language "of the proposed transfer" implies that the parent or guardian would be contacted to obtain permission.

2:46:08 PM
MR. WHITT acknowledged that could be an issue. He suggested the chair consider withdrawing Amendment 11 to allow further discussion with the department.

2:46:41 PM
SENATOR COSTELLO asked whether Amendment 11 addresses a current issue. She wondered whether parents or guardians were not aware when minors were being transferred to a different evaluation or treatment center. She also asked whether it was possible for someone who is not the author of Amendment 11 to withdraw it.

SENATOR BEGICH pointed out that the chair made the motion.

CHAIR WILSON confirmed that he offered Amendment 11 on behalf of Senator Hughes.

2:47:12 PM
CHAIR WILSON offered his view that some items were for existing residential facilities because many of these things would not necessarily occur in a crisis stabilization center since the patient would not be there more than 23 hours and 59 minutes. For instance, he noted that paragraph (6) refers to mail, but it was highly unlikely someone would receive mail within that timeframe.

2:27:43 PM
CHAIR WILSON withdrew Amendment 11.

2:47:53 PM
SENATOR BEGICH moved to adopt Amendment 12.

[Amendment 12.1 is based on work order 32-GS1730\B.40 that was drafted by Legal Services. 32-GS1730\B.40 was changed before it was introduced and identified as Amendment 12.1. The phrase "adopted as a Patient Bill of Rights" on line 8 of the work order was deleted and the phrase "added to AS 47.30.825" was inserted to reflect the statutory reference for patient medical rights.]

AMENDMENT 12.1

OFFERED IN THE SENATE BY SENATOR BEGICH
TO: CSSB 124(HSS), Draft Version "B"

Page 13, line 4:
Delete "and"
Insert ","
Following "available":
Insert ", and make the report available to the public"

Page 13, line 10, following "rights,":
Insert "including items that could be [added to AS 47.30.825],"

Page 13, line 15, following "matters":
Insert "and provide recommendations for making this information available to the public"

CHAIR WILSON requested an explanation.

2:47:58 PM
SENATOR BEGICH explained that Amendment 12.1 relates to the discussions with patient advocates. It would add some recommendations from the annual report to AS 47.30.825. Patient medical rights.

2:48:44 PM
SENATOR REINBOLD asked to be added as a sponsor of Amendment 12.1.

SENATOR BEGICH agreed.

CHAIR WILSON stated that Senators Begich and Reinbold were offering Amendment 12.1.

2:49:06 PM
SENATOR COSTELLO pointed out that lines 10-12 of the amendment requires the report to include recommendations for making the information available to the public, and line 5 adds language to make the report available to the public. She asked for clarification of the intent of the redundancy.

2:49:38 PM
SENATOR BEGICH directed attention to page 13, lines 13-15 of Version B. He said the advocates wanted to ensure that the public knows about the recommendations in the report, so the redundancy is for emphasis. His understanding was that some people did not feel they received information regularly.

2:50:34 PM
SENATOR COSTELLO stated that she would not oppose the amendment because she believes it's important, but she wondered if the language was strong enough.

2:51:04 PM
SENATOR BEGICH said the amendment requires the department to make the report that goes to the legislature available to the public. He said he believes the amendment takes a reasonable approach but additional language could be added if the department is not responsive.

2:51:39 PM
MS. CARPENTER stated that Section 26 of Version B establishes a report to the legislature, which would require the department to review data collection and reporting of patent grievances and appeals, patient reports of harm and restraint, and the resolution of these matters. She stated that the intent of the amendment was to take it a step further by asking the department to provide recommendations for making this information available to the public, such as on a dashboard. She stated that some of this information was already available, such as the API monthly report to the department, but this would provide easy access.

2:52:19 PM
SENATOR COSTELLO offered her view that the amendment, as written, would not achieve that goal, but she would support the intent.

2:52:29 PM
CHAIR WILSON removed his objection.

2:52:36 PM
SENATOR REINBOLD commented that Article 10, AS 47.30.825, relates to patient medical rights while receiving treatment. She stated that she liked Amendment 12.1 because it places emphasis on the report. She offered her view that coercive actions do not help, and that if people consider the patient's rights and needs, they would be more cooperative.

2:53:18 PM
CHAIR WILSON withdrew his objection; he found no further objection, and Amendment 12.1 was adopted.

2:53:25 PM
SENATOR REINBOLD moved to adopt Amendment 13, work order 32-GS1730\B.2.

32-GS1730\B.2
Dunmire
3/16/22

AMENDMENT 13

OFFERED IN THE SENATE BY SENATOR REINBOLD
TO: CSSB 124(HSS), Draft Version "B"

Page 3, following line 24:
Insert a new bill section to read:
"*** Sec. 11.** AS 47.30.700 is amended by adding a new subsection to read:
(c) When a crisis stabilization center, crisis residential center, evaluation facility, or treatment facility admits a respondent under this section, the crisis stabilization center, crisis residential center, evaluation facility, or treatment facility shall, unless the petition was filed by an immediate family member of the respondent, immediately notify the respondent's immediate family, or, if the respondent is a minor, a parent or guardian of the minor, that the respondent has been admitted."

Renumber the following bill sections accordingly.

Page 4, line 17:
Delete "a new subsection"
Insert "new subsections"

Page 4, following line 21:
Insert a new subsection to read:
"(d) When a crisis stabilization center, crisis residential center, evaluation facility, or treatment facility admits a person under this section, the crisis stabilization center, crisis residential center, evaluation facility, or treatment facility shall immediately notify the person's immediate family, or, if the person is a minor, a parent or guardian of the person, that the person has been admitted."

Page 13, lines 1 - 2:
Delete "secs. 1 - 27"
Insert "secs. 1 - 28"

Page 13, lines 27 - 28:
Delete "sec. 23"
Insert "sec. 24"

Page 13, line 29:
Delete "sec. 23"
Insert "sec. 24"

Page 14, line 7:
Delete "Section 28"
Insert "Section 29"

2:53:26 PM
CHAIR WILSON objected for discussion purposes.

2:53:28 PM
SENATOR REINBOLD explained that the intent of Amendment 13 would require immediate notification to the immediate family or parent or guardian of a minor that the person has been admitted. She stated that she prefers patient consent because it could lead to a better outcome, but she was willing to settle for immediate notification.

2:54:09 PM

CHAIR WILSON related his understanding that there was some concern about the meaning of "immediate family member" because of privacy rights.

2:54:17 PM
MS. CARPENTER said the department has concerns about how Amendment 13 was drafted but appreciates the intent. The concerns relate to patient privacy and the practicality of providing immediate notification. She explained that an immediate family member might not be a guardian, and the patient might be estranged from an immediate family member. She was unsure whether the court system had a database that could determine immediate family members or guardians and their contact information.

2:55:08 PM
SENATOR REINBOLD voiced concern about confining people involuntarily and offered her belief that family members needed to be notified to provide patient advocacy.

2:55:42 PM
SENATOR BEGICH stated that he shared Ms. Carpenter's concern. He said it isn't possible to know if the immediate family member is a loved one. He offered his view that potential damage could occur and that sometimes it is not in the best interest of the person having a psychotic episode to have their family member notified. He suggested that the family member may have triggered the psychotic episode. He indicated that he was conflicted about the amendment and probably would not support it. He suggested that this amendment could be worked on in the next committee of referral, the Senate Judiciary Committee. He acknowledged the intent was to prevent someone experiencing a psychotic episode from being stranded in a facility without a person to help them. Still, he would like to ensure that this would not be placing the person in crisis in the hands of the predator.

2:57:15 PM
SENATOR COSTELLO pointed out that the language says, "immediately notify." She recalled discussions on notification the committee held on a previous amendment. She asked whether it might be better to notify the guardian of a vulnerable adult instead of requiring an immediate family member to be notified.

MS. CARPENTER responded that she would need to review this with the Department of Law. She reminded the committee that Section 16 of Version B already strengthens current law by requiring

private and public guardians to be notified. For that reason she believes the department was meeting the intent.

2:58:53 PM
SENATOR COSTELLO asked whether the committee could request the department provide a written response to Amendment 13 and whether this concern is addressed by other statutes in the bill.

2:59:13 PM
MS. CARPENTER asked whether she meant if it were changed from an immediate family member to a guardian.

SENATOR COSTELLO answered yes.

2:59:23 PM
SENATOR REINBOLD opined that there was a far greater risk of alienating a patient if the department does not notify an immediate family member without consent within 24 hours.

3:00:39 PM
SENATOR BEGICH suggested the committee consider notifying a legal guardian instead of an immediate family member.

3:01:22 PM
SENATOR REINBOLD asked if a conceptual amendment was being made.

SENATOR BEGICH responded he was only contemplating a solution.

3:01:30 PM
CHAIR WILSON offered his belief that the difference was the subject title for Amendment 10.1.

3:01:53 PM
SENATOR COSTELLO asked for more time to consider Amendment 13.

3:02:16 PM
SENATOR BEGICH moved to table Amendment 13 until the next meeting.

3:02:25 PM
CHAIR WILSON found no objection, and tabled Amendment 13 to the next meeting.

[SB 124 was held in committee.]

3:03:12 PM

There being no further business to come before the committee, Chair Wilson adjourned the Senate Health and Social Services Standing Committee meeting at 3:03 p.m.