

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

March 31, 2022

1:35 p.m.

**MEMBERS PRESENT**

Senator David Wilson, Chair  
Senator Shelley Hughes, Vice Chair (via teleconference)  
Senator Mia Costello  
Senator Lora Reinbold  
Senator Tom Begich (via teleconference)

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

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."

- HEARD & HELD

HOUSE BILL NO. 184

"An Act requiring state participation in a tribal child welfare compact."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 175

SHORT TITLE: HEALTH CARE SERVICES BY TELEHEALTH

SPONSOR(S): SENATOR(S) WILSON

02/01/22	(S)	READ THE FIRST TIME - REFERRALS
02/01/22	(S)	HSS, L&C
02/24/22	(S)	HSS AT 1:30 PM BUTROVICH 205
02/24/22	(S)	-- Invited & Public Testimony --
03/03/22	(S)	HSS AT 1:30 PM BUTROVICH 205
03/03/22	(S)	Heard & Held
03/03/22	(S)	MINUTE(HSS)
03/10/22	(S)	HSS AT 1:30 PM BUTROVICH 205

03/10/22 (S) Heard & Held  
 03/10/22 (S) MINUTE(HSS)  
 03/17/22 (S) HSS AT 1:30 PM BUTROVICH 205  
 03/17/22 (S) <Bill Hearing Canceled>  
 03/31/22 (S) HSS AT 1:30 PM BUTROVICH 205

BILL: HB 184

SHORT TITLE: REQUIRE TRIBAL CHILD WELFARE COMPACT

SPONSOR(S): REPRESENTATIVE(S) ZULKOSKY

04/21/21 (H) READ THE FIRST TIME - REFERRALS  
 04/21/21 (H) HSS, FIN  
 04/22/21 (H) HSS AT 3:00 PM DAVIS 106  
 04/22/21 (H) Heard & Held  
 04/22/21 (H) MINUTE(HSS)  
 04/27/21 (H) HSS AT 3:00 PM DAVIS 106  
 04/27/21 (H) Moved HB 184 Out of Committee  
 04/27/21 (H) MINUTE(HSS)  
 04/28/21 (H) HSS RPT 4DP 2NR 1AM  
 04/28/21 (H) DP: FIELDS, SPOHNHOLZ, SNYDER, ZULKOSKY  
 04/28/21 (H) NR: PRAX, KURKA  
 04/28/21 (H) AM: MCCARTY  
 04/28/21 (H) TRB REPLACES FIN REFERRAL  
 04/28/21 (H) BILL REPRINTED  
 05/04/21 (H) TRB RPT 4DP  
 05/04/21 (H) DP: TARR, ORTIZ, CRONK, ZULKOSKY  
 05/04/21 (H) TRB AT 8:00 AM DAVIS 106  
 05/04/21 (H) Moved HB 184 Out of Committee  
 05/04/21 (H) MINUTE(TRB)  
 05/13/21 (H) BEFORE HOUSE IN THIRD READING  
 05/13/21 (H) TRANSMITTED TO (S)  
 05/13/21 (H) VERSION: HB 184  
 05/14/21 (S) READ THE FIRST TIME - REFERRALS  
 05/14/21 (S) HSS  
 03/31/22 (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 during the hearing on SB 175.

SARA CHAMBERS, Director

Division of Corporations, Business, and Professional Licensing  
Department of Commerce, Community and Economic Development  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the discussion of SB 175.

REPRESENTATIVE TIFFANY ZULKOSKY  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor HB 184.

TRACI MCGARRY, Director  
Children & Family Services; Child Advocacy Center  
Kawerak Inc.  
Nome, Alaska

**POSITION STATEMENT:** Provided invited testimony in support of HB 184 and answered questions.

NICOLE BORROMEO, Executive Vice President; General Counsel,  
Alaska Federation of Natives (AFN)  
Anchorage, Alaska

**POSITION STATEMENT:** Provided invited testimony in support of HB 184 and answered questions.

VIVIAN KORTHUIS, Chief Executive Officer  
Association of Village Council Presidents (AVCP)  
Bethel, Alaska

**POSITION STATEMENT:** Provided invited testimony in support of HB 184 and answered questions.

TREVOR STORRS, President; Chief Executive Officer,  
Alaska Children's Trust  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

#### **ACTION NARRATIVE**

[1:35:18 PM](#)

**CHAIR DAVID WILSON** called the Senate Health and Social Services Standing Committee meeting to order at 1:35 p.m. Present at the call to order were Senators Reinbold, Costello, Hughes (via teleconference), Begich (via teleconference), and Chair Wilson.

#### **SB 175-HEALTH CARE SERVICES BY TELEHEALTH**

[1:36:03 PM](#)

CHAIR WILSON announced the consideration of 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."

[1:36:33 PM](#)

At ease

[1:37:30 PM](#)

CHAIR WILSON reconvened the meeting and solicited a motion.

[1:37:34 PM](#)

SENATOR COSTELLO moved to adopt the committee substitute (CS) for SB 175, work order 32-LS1421\G, Version G, as the working document.

[1:37:47 PM](#)

CHAIR WILSON objected for discussion purposes.

[1:38:33 PM](#)

CHAIR WILSON stated that, as sponsor, he would present the summary of changes for SB 175 from Version I to Version G. It read as follows:

[Original punctuation provided.]

Version 32-LS1421\G (Senate Health and Social Services Committee Substitute)

6 distinct changes from first 32-LS1421\I to 32-LS1421\G

1) The ability to prescribe, dispense, or administer botulinum toxin (Botox) via telehealth is removed.

a. Page 2, Line 21: Removed "botulism toxins".

[1:38:54 PM](#)

CHAIR WILSON continued to review the changes in SB 175 from Version I to Version G.

2) Language regarding Alaska Medicaid services in Section 4 is cleaned up.

a. Page 5, Lines 24 and 25: Removed facsimile to remove fax as a modality for Alaska Medicaid.

b. Page 5, Lines 5 and 6: Removed "and other federal waivers or demonstrations" and added a separate line for "services covered under federal waivers and demonstrations other than home and community-based services.

c. Page 5, line 17: Deleted "the Community Health Aide Program Certification Board" and replaced it with "a certifying entity for behavioral health professionals in the state specified by the department in regulations"

3) Language regarding prescribing via telehealth for APRNs is tightened and clarified. Does not expand the prescribing powers of APRNs.

a. Page 2, Lines 25: Added "if the advanced practice registered nurse complies with AS 08.68.710."

1:40:18 PM

b. New section 3 (does not exist in version I): Creates a new section under Title 8, Chapter 68 (Nursing) defining the telehealth prescriptive authority of APRNs in statute. This section aligns the regulatory authority of the Board of Nursing with the State Medical Board regarding the prescription of controlled substances via telehealth.

4) Language was added to require applicable licensing boards and DHSS to adopt regulations necessary to implement sections 3-6 of the Act (including the Medicaid provisions) no later than June 30, 2023.

1:41:04 PM

CHAIR WILSON continued to review the changes in SB 175 from Version I to Version G.

a. New section 11 (does not exist in version I): Adds language to detail when each entity must adopt regulations.

b. Adds a new effective date for section 11. New section 11 takes effect immediately

5) Added 7-year sunset on Medicaid pay parity. a. New Section 6 and 7 with effective date of June 30th,

2030: Sunset's language relating to Medicaid pay parity for telehealth.

6) Changed language throughout to refer to Department of Health.

[1:42:17 PM](#)

SENATOR BEGICH asked whether these changes were made in collaboration with the department and the sponsor.

CHAIR WILSON noted that the department staff present was nodding in agreement, and he sponsored SB 175 and agrees with the changes.

[1:42:48 PM](#)

SENATOR HUGHES asked for clarification on Medicaid pay parity and the sunset date.

CHAIR WILSON stated that pay parity would allow telehealth to receive the same payment for services as in-person practitioners for seven years and then sunset. This was based on best practices for pay parity and would allow the stakeholders time to work on this issue.

SENATOR HUGHES suggested a shorter time for non-Medicaid telehealth patients. She wondered whether pay parity should be three or four years rather than seven.

CHAIR WILSON answered that he envisioned it would take two years for the department to develop regulations to set rates. He noted that the department staff was nodding in agreement.

[1:44:26 PM](#)

SENATOR HUGHES related her understanding that Medicaid sets the tone for other insurers. She expressed concern about high health care costs, so the sooner savings were seen, the better for the state. She asked whether private medical practice and insurance could provide savings earlier than seven years.

[1:46:00 PM](#)

CHAIR WILSON directed attention to an article in members' packets from the National Council of State Legislatures (NCSL) on best practices regarding pay parity. He offered to resend the information if need be. He noted that a floor amendment removed pay parity from SB 56, the bill extending the COVID-19 disaster emergency. He stated that research had shown that many entities

do not wish to engage in telehealth because it was more profitable to continue to practice in person.

[1:47:21 PM](#)

HEATHER CARPENTER, Healthcare Policy Advisor, Office of the Commissioner, Department of Health and Social Services (DHSS), Juneau, Alaska, stated that the department held several conversations with Chair Wilson and the sponsor of the companion House bill. The department had expressed some concern but had not focused on the number of years. She said the department understood the desire to develop the infrastructure for telehealth. She explained that Medicaid currently pays the same for in-person and telehealth services. She indicated that it would modernize the Medicaid program by moving away from fee-for-service to value-based and bundled payments for managed care. The department felt it would be helpful if the limitation for paying the same for in-person versus telehealth does not exist into perpetuity. She related her understanding that Chair Wilson came up with a reasonable compromise for the department.

[1:48:27 PM](#)

SENATOR HUGHES maintained her concern about the length of time because telehealth was initiated in many places at least ten years ago. She expressed concern that seven years was too long to allow for infrastructure and adjustments. She wondered if the sponsor would consider shortening that timeframe but indicated that she would not stop the bill because of it. She emphasized that health care costs are one of the state's major problems.

CHAIR WILSON indicated that he was working with the sponsor of the companion bill on that issue. He said he hoped to marry the bills in the next committee of referral, the Senate Labor & Commerce Committee.

[1:49:54 PM](#)

CHAIR WILSON [removed his objection]; he found no further objection; and the committee substitute (CS) for SB 175, Version G was adopted as the working document.

[1:50:17 PM](#)

SENATOR REINBOLD moved to adopt Amendment 1, work order 32-LS1421\G.1.

32-LS1421\G.1  
Foote  
3/22/22

**AMENDMENT 1**

OFFERED IN THE SENATE BY SENATOR REINBOLD  
TO: CSSB 175(HSS), Draft Version "G"

Page 1, line 9:  
Delete "without"  
Insert "only after"

[1:50:19 PM](#)

CHAIR WILSON objected for discussion purposes.

[1:50:22 PM](#)

SENATOR REINBOLD explained that Amendment 1 would require an in-person visit before providing telehealth services. She offered her view that this protects physicians in Alaska.

[1:50:47 PM](#)

CHAIR WILSON stated that the purpose of previous versions of the bill was to allow those physicians who have established network care to practice, allowing the expansion of telehealth for Alaskans. He said the language in Version G requires the physician to be an Alaskan provider who practices in Alaska.

[1:51:39 PM](#)

SARA CHAMBERS, Director, Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community and Economic Development, Juneau, Alaska, stated that Version G made many changes that are not in the House version of the bill. She explained that Amendment 1 would remove "without." However, the language "without" reinforces the statutes regarding health care providers in AS 08. The boards have adopted regulations allowing telehealth care without requiring an in-person visit. She noted that Chair Wilson indicated this also allows Teladoc physicians who are licensed in Alaska but may not physically be in Alaska to provide health care to Alaskans, which is currently allowed. She related that Teladoc is a large health care provider part of the state employee health network that uses Alaska-licensed physicians. She explained that removing "without" and inserting "after" would mean they could no longer practice in Alaska. Instead, these physicians would need to be physically present in Alaska to provide health care for Alaskans.

[1:53:51 PM](#)

CHAIR WILSON noted that these physicians must be licensed in the State of Alaska to practice medicine using telehealth.

[1:54:04 PM](#)

MS. CHAMBERS answered yes; these physicians must be licensed in the state unless they practice medicine through the Indian Health Service (IHS) or the military.

[1:54:20 PM](#)

SENATOR HUGHES raised the issue of health care costs. She asked the record to reflect her support for Alaskan physicians and providers. However, she said it is a concern that Alaska physicians charge from 100 to 300 percent more for services than out-of-state providers. She highlighted her desire to create competition. She said she would oppose Amendment 1 because a telehealth provider might be helpful to Alaskans. She noted that a telehealth provider might provide a specialty not provided in Alaska. She highlighted that the state should not stop Alaskans from seeking more affordable care.

[1:55:41 PM](#)

SENATOR REINBOLD stated that she would never undercut Alaska physicians. She read Section 1 (a):

A health care provider other than a physician licensed in another state may provide health care services within the health care provider's authorized scope of practice to a patient in this state through telehealth without first conducting an in-person visit.

SENATOR REINBOLD offered her view that it was easy to miss many things in telehealth and that medical personnel learn much more with in-person patient care.

[1:57:13 PM](#)

SENATOR COSTELLO referred to page 3, lines 2-5, subsection (i), which does not force health care providers or patients to use telehealth but leaves it up to the patient to decide.

[1:57:43 PM](#)

SENATOR REINBOLD stated that it is expensive to move to Alaska and set up a practice only to have people make phone calls to the Lower 48. She maintained her support for Amendment 1.

[1:58:06 PM](#)

A roll call vote was taken. Senators Reinbold voted in favor of the motion to adopt Amendment 1, and Senators Hughes, Begich,

Costello and Wilson voted against it. Therefore, Amendment 1 failed on a 1:4 vote.

CHAIR WILSON announced that Amendment 1 failed on a vote of 1 yea and 4 nays.

[1:58:46 PM](#)

SENATOR COSTELLO emphasized that an out-of-state medical doctor who provides telehealth to a patient in the state must have an established relationship and have previously conducted a physical examination. She related her understanding that a physician must have a connection to the patient or an Alaskan physician. She asked if that was correct.

CHAIR WILSON answered no. He indicated that it was similar to the Alaska Care plan, Teladoc, so all the members under Alaska Care could call Teladoc and reach health care providers licensed in Alaska.

[2:00:00 PM](#)

SENATOR COSTELLO clarified that she was referring to medical professionals who are licensed outside the state. She interpreted the bill to mean that the physician must have an established physician-patient relationship and have previously conducted a physical examination in person.

MS. CHAMBERS explained that subsection (b) creates a carve-out that does not currently exist that would allow physicians not licensed in Alaska to deliver telehealth services. Currently, out-of-state physicians can be physically in another state, but the physician must be licensed in Alaska.

[2:01:02 PM](#)

SENATOR REINBOLD read subsection (a) "A health care provider other than a physician licensed in another state may provide health care services within the health care provider's authorized scope of practice to a patient located in the state through telehealth without first conducting an in-person visit." She asked whether this could apply to international health care providers.

[2:01:57 PM](#)

MS. CHAMBERS referred to page 3, line 7, to the definition of health care provider, which applies to those licensed in the state. She stated that the health care provider referenced in Section 1, on page 1, line 6, related to a person practicing any listed profession who holds a license in Alaska. A person

traveling internationally could provide telehealth so long as they are in good standing in Alaska.

[2:02:54 PM](#)

At ease

[2:03:32 PM](#)

CHAIR WILSON reconvened the meeting.

[2:03:38 PM](#)

SENATOR REINBOLD moved to adopt Amendment 2, work order 32-LS1421\G.3.

32-LS1421\G.3

Foote

3/30/22

### **AMENDMENT 2**

OFFERED IN THE SENATE BY SENATOR REINBOLD  
TO: CSSB 175(HSS), Draft Version "G"

Page 10, following line 17:

Insert a new subsection to read:

"(f) Nothing in this section authorizes an individual employed by an entity permitted to provide telehealth under this section to prescribe, dispense, or administer through telehealth a controlled substance listed in AS 11.71.140 - 11.71.190."

Reletter the following subsection accordingly.

Page 11, following line 12:

Insert a new subsection to read:

"(f) Nothing in this section authorizes an individual employed by a facility permitted to provide telehealth under this section to prescribe, dispense, or administer through telehealth a controlled substance listed in AS 11.71.140 - 11.71.190."

Reletter the following subsection accordingly.

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CHAIR WILSON objected for discussion purposes.

[2:03:44 PM](#)

SENATOR REINBOLD explained that Amendment 1 would insert a new subsection (f), which she read.

[2:04:19 PM](#)

SENATOR HUGHES emphasized the importance of being careful with controlled substances. She said her daughter, a physician, just prescribed a controlled substance via telehealth. She said it would have been unethical for her not to provide the needed treatment for her patient in a rural setting. She stated that she would oppose Amendment 2.

[2:05:10 PM](#)

SENATOR BEGICH agreed with Senator Hughes that allowing a telehealth provider to prescribe means the patient only needs to meet with one in-person provider, but that the second provider could be via telehealth. He offered his view that Amendment 2 would place an undue burden on people who might not be able to access an in-person provider. He highlighted the importance of being cautious about opioids but would oppose Amendment 2 based on the provider's ethical duty.

[2:06:02 PM](#)

SENATOR REINBOLD maintained that given the opioid crisis, it was important to get a handle on controlled substances. She said allowing someone to prescribe controlled substances from out-of-state via telehealth was alarming. She offered her view that it should require an in-person visit.

[2:06:55 PM](#)

A roll call vote was taken. Senator Reinbold voted in favor of the motion to adopt Amendment 2, and Senators Hughes, Begich, Costello, and Wilson voted against it. Therefore, Amendment 2 failed on a 1:4 vote.

CHAIR WILSON announced that Amendment 2 failed on a vote of 1 yea and 4 nays.

[2:07:19 PM](#)

CHAIR WILSON asked Ms. Chambers to provide the committee with information on how the Prescription Drug Monitoring Program (PDMP) would work with telehealth prescriptions for controlled substances.

CHAIR WILSON held SB 175 in committee.

[2:07:46 PM](#)

At ease

**HB 184-REQUIRE TRIBAL CHILD WELFARE COMPACT**

[2:12:07 PM](#)

CHAIR WILSON reconvened the meeting and announced the consideration of HOUSE BILL NO. 184 "An Act requiring state participation in a tribal child welfare compact."

[2:12:41 PM](#)

REPRESENTATIVE TIFFANY ZULKOSKY, Alaska State Legislature, Juneau, Alaska, sponsor of HB 184 stated that this legislation seeks to protect the implementation of the Alaska Tribal Child Welfare Compact by codifying it in Alaska statute.

REPRESENTATIVE ZULKOSKY explained that the State of Alaska entered the landmark Tribal Child Welfare Compact (Compact) with 18 Tribal cosigners, representing 161 federally-recognized Alaska Native Tribes. The Alaska Tribal Child Welfare Compact would offer the state systemic innovation to provide services and care that every child deserves. She offered her view that there were elements in this policy that all legislators could embrace. If fully implemented, it could save the state millions of dollars over time and transform a struggling child welfare system with its policies.

REPRESENTATIVE ZULKOSKY turned to slide 2, Why the Work Began.

REPRESENTATIVE ZULKOSKY highlighted that the Office of Children's Services (OCS) has high staff turnover rates and frontline workers carry caseloads more than three times the national average despite the legislature's efforts to address the issue.

REPRESENTATIVE ZULKOSKY stated that Alaska Native children make up 15 percent of Alaska's children but roughly 60 percent of the children in state custody. She said disparities of this nature generally indicate a failure in the child welfare system.

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REPRESENTATIVE ZULKOSKY turned to slide 3, How the Work Began. She stated that tribes, the state, and invited stakeholders had worked collaboratively on child welfare issues for over 25 years through tribal and state efforts. The goals are to strengthen Alaska's compliance with the Indian Child Welfare Act (ICWA) of 1978, reduce the disproportionality of Alaska Native children in

state custody, and build and strengthen the relationships between stakeholder groups.

REPRESENTATIVE ZULKOSKY stated that Tribal Title IV-E agreements provide tribes with a higher federal reimbursement rate than states for services including foster care, guardianship, and adoption assistance. This means that tribal and state partnerships can leverage increased federal funding and save state dollars.

[2:15:08 PM](#)

REPRESENTATIVE ZULKOSKY reviewed slide 4, What is Alaska's Tribal Child Welfare Compact, which read:

[Original punctuation provided.]

The Alaska Tribal Welfare Compact (Compact) is a government-to-government agreement to improve the life outcomes for Alaska's children and families by transferring specific, negotiated child welfare services and supports (including revenue streams) from the Office of Children's Services (OCS) to the Tribal CoSigners

The Compact was signed in 2017 by Governor Walker and 18 Tribal Co-Signers; representing 161 Federally-recognized Tribes and Tribal Organizations and continued under Governor Dunleavy in 2019

REPRESENTATIVE ZULKOSKY asked members to keep in mind that the Alaska Tribal Child Welfare Compact does not transfer the jurisdiction of the child to the tribe. It remains solely with the state. She said that tribes are better positioned than OCS to focus on prevention and early intervention strategies for vulnerable families using the compact.

[2:15:46 PM](#)

REPRESENTATIVE ZULKOSKY reviewed slide 5, Implementation Timeline.

[Original punctuation provided.]

2018

- Tribal Co-Signers developed their programs, built capacity and infrastructure

- OCS began sharing Protective Services Reports (PSRs or 'screen ins' or 'screen outs'), and provided training and technical support

2019

- Tribal Co-Signers began performing Initial Diligent Relative Searches
- The Parties negotiated four new Scopes of Work for Ongoing Relatives Searches, Family Contact, Licensing Assists, and Safety Evaluations
- State-Tribal partnership was stalled due to a change in Administration

REPRESENTATIVE ZULKOSKY noted that the tribes and OCS were grateful for the support of Governors Walker and Dunleavy. Still, because it is not in statute but is an executive initiative, this adds significant ambiguity to the vital work done under the Compact.

[2:16:19 PM](#)

REPRESENTATIVE ZULKOSKY reviewed slide 6, Implementation Timeline.

[Original punctuation provided.]

2020

- Parties worked out differences and signed all five previously -negotiated Scopes:
- Initial Diligent Relative Searches (IDRS)
- Ongoing Relative Searches (ORS)
- Family Contact
- Licensing Assists
- Safety Evaluations

2021

- Compact negotiations included all previously - negotiated scopes of work and added funding for preventative services

2022

- Negotiations will occur in April 2022

[2:16:53 PM](#)

REPRESENTATIVE ZULKOSKY reviewed slide 7, Advantages.

[Original punctuation provided.]

- Provides higher quality services, closer to home, at a lower cost through leveraging Tribal resources
- Strengthens state services by engaging Tribes, often the most local government, on an issue of shared interest
- Increased public trust through existing family relationships with Tribes
- Preventative services lower ACE scores
  - ACEs are potentially traumatic events that occur in childhood (0-17 years) and can lead to chronic health problems, mental illness, substance abuse disorders and increased incarceration in adulthood.

[2:17:54 PM](#)

REPRESENTATIVE ZULKOSKY reviewed slide 8, Sectional Analysis.

Section 1: Amends AS 47.05 to add a new section to article 1 requiring the State to participate in a Tribal Child Welfare Compact.

[2:18:11 PM](#)

REPRESENTATIVE ZULKOSKY explained the timing for HB 184. Currently, the Tribal Child Welfare Compact is accomplished by executive initiative. She said HB 184 seeks to provide a firm anchor in state law for the ongoing implementation of the Compact with zero fiscal impact. This bill would give the co-signers stability and predictability to administer quality programs to vulnerable youth and families in the most remote

parts of the state without worrying about whether the Compact will continue.

REPRESENTATIVE ZULKOSKY acknowledged that legislators often hear statistics that generally lead to good policy. Still, they also provide distance between the legislature's decisions and their consequential effects on families. She said that is why this bill and the Compact are fascinating. The Tribal Child Welfare Compact is not just a positive step in the state's relationship with its tribal partners, it is also an innovative and forward-thinking policy that reaches children and families in a meaningful way.

[2:19:58 PM](#)

SENATOR REINBOLD commented that she had heard numerous complaints about OCS and was seeking solutions. She wondered about the discrepancy between the 161 tribes mentioned today and the 229 tribes mentioned during a hearing on another bill.

REPRESENTATIVE ZULKOSKY answered that there are 229 federally-recognized tribes in Alaska. This initiative is a state and tribal compact, which means that the state and tribal co-signers are signing on in an agreement to provide specifically negotiated scopes of work. She referred to slide 4, which shows that 18 tribal co-signers represent 161 of the 229 federally-recognized tribes in Alaska.

[2:21:35 PM](#)

SENATOR REINBOLD wondered how tribes were identified.

REPRESENTATIVE ZULKOSKY deferred the question to Nicole Borromeo, General Counsel, Alaska Federation of Natives.

CHAIR WILSON reiterated that the question for Ms. Borromeo was how tribal membership is established.

[2:22:51 PM](#)

SENATOR REINBOLD asked whether the Alaska Tribal Child Welfare Compact would only impact children in Alaska or if it would affect tribes in other states.

REPRESENTATIVE ZULKOSKY answered that Alaska Tribal Child Welfare Compact is a negotiated agreement between Alaska's federally-recognized tribes and the state concerning specific work being done through the Office of Children's Services (OCS). She explained that the jurisdiction of the child remains with the state. The tribes are leveraging their resources and

relationships to offer support to OCS in diligent and ongoing relative searches, family contacts, licensing assistance, and safety evaluations.

[2:24:20 PM](#)

SENATOR REINBOLD related a scenario involving a woman from another state whose divorce led to a jurisdictional dispute. She stated that she was trying to understand the impacts of HB 184.

[2:25:12 PM](#)

SENATOR COSTELLO stated that she had questions similar to the ones Senator Reinbold had asked regarding the number of tribes and how tribal membership is defined. She wondered about the number of children helped by the Alaska Tribal Child Welfare Compact and in which communities they reside.

REPRESENTATIVE ZULKOSKY deferred to invited testifiers to discuss the type of support that tribes have provided to families and clarify the scope of the compact. She stated that the compact seeks to leverage support and provide diligent relative searches, but the custody of the child remains with the state.

[2:26:45 PM](#)

SENATOR COSTELLO wondered about the number of children and where they were located. She related her understanding that HB 184 requires the state to participate in a compact, which typically is government-to-government. She stated that in the past, the compact was something the executive branch initiated with the tribes. She asked whether the Alaska Tribal Child Welfare Compact would violate any balance of power between the legislative and executive branches. She noted that the executive branch and federally-recognized tribes have already been doing this successfully. If this is allowed, she wondered what would keep the legislature from forcing the executive branch to enter into compacts in other areas such that that it would dilute the power of the executive branch.

REPRESENTATIVE ZULKOSKY responded that the intent of HB 184 was to protect, provide clarity, and allow the state to continue to explore the state and tribal relations as it relates to the compact. She stated that nothing in HB 184 would compel the state to specific negotiations, agreements, or funding levels. She noted that those negotiated scopes of work and funding agreements that accompany them were at the discretion of the state and the tribes. She indicated that she intended to protect this systematic innovation by codifying it in statute. She

indicated she was open to suggestions to provide clarity and ensure protection for the excellent work of the compact without running into constitutional issues.

[2:29:53 PM](#)

SENATOR HUGHES asked whether this approach has resulted in improvements.

REPRESENTATIVE ZULKOSKY deferred to Nicole Borromeo to respond.

[2:30:58 PM](#)

SENATOR BEGICH stated that the bill uses the directive language "shall enter into agreements." He asked why that language was necessary.

REPRESENTATIVE ZULKOSKY responded that the intent was to codify the expectation and intent that the tribal compacts would continue to accomplish the work that needs to be done.

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SENATOR BEGICH related his understanding that "shall" means that if a compact is negotiated between the department and state, the state must adhere to it. He offered his view that would be good intent, but he was unsure whether he had fairly described it.

REPRESENTATIVE ZULKOSKY responded that the state and the tribes would negotiate yearly in any compact. She characterized it as essentially doing an annual program evaluation to determine what is successful, what needs additional work, and any funding agreements to align with that work. She indicated that "shall" was used because the state and tribes have agreed on the scope of work and funding. She acknowledged that there might be concerns. Ultimately, the goal is to codify the innovation being accomplished between the state and the tribes by protecting that work in statute.

[2:33:32 PM](#)

SENATOR BEGICH stated that she had affirmed the certainty of the bill.

[2:33:40 PM](#)

CHAIR WILSON turned to invited testimony.

[2:34:40 PM](#)

At ease

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CHAIR WILSON reconvened the meeting.

2:36:00 PM

TRACI MCGARRY, Director, Children & Family Services; Child Advocacy Center, Kawerak Inc., Nome, Alaska, provided invited testimony supporting HB 184. She said she speaks on behalf of the three Alaska Tribal Child Welfare Compact co-leaders and 15 co-signers representing 161 of the 229 Alaska Native Tribes throughout the state. She said she had been the director for 10 years. She noted that Alaska Native tribes know what is best for their children and Alaska Native families and communities are the best places for their children to thrive. Alaska Native children steeped in the love, values, and cultures of their tribe have the best chance of being healthy, engaged members of society.

MS. MCGARRY reminded members that this compact is the first agreement in the nation between the state and tribal organizations to transfer certain negotiated child welfare services and associated funding streams to tribes and tribal organizations to administer on behalf of the state. She said the goal of the compact is to improve child welfare by including and investing in tribes. She noted that codifying the compact into state law ensures that tribes can invest in infrastructure and longevity of staff and not worry about future funding. This allows co-signers to focus on the most important work, the children and families of Alaska. She stated that tribes and tribal organizations have worked alongside the Office of Children's Services (OCS) for many years. This compact would solidify the commitment of both parties to improve outcomes for all children, Native and non-Native, in state custody. She suggested that co-signers can provide efficient, effective child welfare work in children's home communities. She urged members to move HB 184 from committee.

2:38:29 PM

SENATOR HUGHES asked for data showing improvements in outcomes over the last 10 years.

MS. MCGARRY responded that the implementation process is ongoing. She related that Casey Family Programs, a clinical case management organization, recently provided training to the state and tribes on implementation science. She has been working on ensuring that the scopes are appropriately implemented. She stated that, parents, foster parents and grandparents don't want their children in state custody, so being able to care for their children was important. She explained that the infrastructure

support that the state provides through the Alaska Tribal Child Welfare Compact would allow the tribes and tribal entities to do preventative work instead of handling crises. She stated that Kawerak's staff has been able to conduct relative searches. Although she did not have specific figures, she indicated that Kawerak had been able to hire someone via the compact. This has resulted in moving children into relative placements earlier than in the past. She noted that Kawerak could not have hired that person without the funding that the Alaska Tribal Child Welfare Compact provided.

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SENATOR HUGHES said it is a challenging world right now, and these children need help. She expressed an interest in learning more about the successes.

[2:40:26 PM](#)

SENATOR BEGICH reinforced Ms. McGarry's comments regarding certainty because it allows tribes and tribal entities to recruit and retain child welfare staff with the highest turnover. He surmised that it goes to Senator Hughes' concern about outcomes because experienced caseworkers are often the most effective ones. He emphasized that it makes sense to support HB 184 because of the level of certainty it would provide.

[2:41:32 PM](#)

NICOLE BORROMEO, Executive Vice President; General Counsel, Alaska Federation of Natives (AFN), Anchorage, Alaska, stated that she had held this position since 2014. She said she has served as the facilitator for the Alaska Tribal Child Welfare Compact.

MS. BORROMEO, in response to Senator Reinbold's question about how tribes determine membership, explained that membership is based on a case-by-case determination by the 229 federally-recognized tribes, but there are 574 federally-recognized tribes throughout the nation. She said each tribe is an independent sovereign with its policies and procedures for determining tribal membership. In the 1970s, the US Supreme Court in *Morton v. Mancari* [417 U.S. 535 (1974)] held that how a tribe defines its membership was up to each tribe. The federal government will not second-guess tribal involvement. Most tribes have an eligibility process, such that children are eligible in most instances if their parents are enrolled members of the tribe or if they are eligible for membership in the tribe.

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SENATOR REINBOLD asked for an example of tribal eligibility for one of the tribes.

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MS. BORROMEO responded that several criteria applied. For example, a number of tribes have blood quantum criteria; however, that was more popular in the early 70s and 80s, and many tribes are moving away from blood quantum. Some tribes had geographic requirements, such as living on a reservation or in a village. She noted that except for Metlakatla, an Indian Reserve, Alaska does not have reservations. She said those were traditional criteria; whether the tribes adhere to the requirements is up to the individual tribes.

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SENATOR COSTELLO related her understanding that HB 184 would require the executive branch to have a compact. She asked whether this was something new and if it meant the legislative branch had a new avenue within the executive branch. For instance, she asked if the legislature could create compacts to require the executive branch to enter into agreements or compacts. She asked whether the Alaska Tribal Child Welfare Compact would continue without this bill under a subsequent administration.

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MS. BORROMEO related her understanding that the questions all relate to whether HB 184 would upset the balance of power between the executive and legislative branches of government. She responded that the short answer was no. She suggested that if members think of the Alaska Tribal Child Welfare Compact (Compact) as a regulation, the legislature would be codifying the regulation. It would cement the Alaska Tribal Child Welfare Compact more permanently in state law. It would make it easier for future administrations to move forward with the compact and for tribal co-signers to plan on its existence each year. She explained that compacts could be authorized by statute or by executive branch action. She noted that it frequently occurs in the federal government, such as the Indian Self-Determination Act and the compacts between Alaska tribal organizations and tribes for health care services and the delivery of self-governance-related services. She offered her belief that HB 184 makes it easier for the state and tribes to administer child welfare services cost-effectively and provide higher quality services at a lower cost to the state.

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MS. BORROMEO, in response to the question on service population, said it would depend on how the tribal co-signer defined its service population and service delivery area. For instance, it would be possible for a co-signer to service a child outside the State of Alaska if the child was enrolled in the tribe or eligible for membership in the tribe. She stated that it would fall under the service-delivery population, not necessarily the service-delivery area, but generally tied to the village or region where the tribe or tribal organization operates.

MS. BORROMEO indicated that Representative Zulkosky covered much of her planned testimony. She reiterated that compacts of this nature are entirely legal under federal and state law. The Alaska State Legislature was not being asked to do anything that would take away from the State of Alaska's jurisdiction over tribal welfare matters. HB 184 was meant to improve the administration of children in need of care, Alaska Native or non-Native children, depending on whether the tribe would like to provide services to those children. However, only Alaska Native children were currently being served by the Alaska Tribal Child Welfare Compact.

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VIVIAN KORTHUIS, Chief Executive Officer, Association of Village Council Presidents (AVCP), Bethel, Alaska, provided invited testimony in support of HB 184. She stated that AVCP was the largest tribal consortium in the nation, with 56 federally-recognized tribes as members, serving tribes on the Yukon River, Kuskokwim River, and the Bering Sea coast on the Yukon-Kuskokwim Delta (YKD). She said approximately 30,000 residents live in the region.

MS. KORTHUIS stated that the Alaska Tribal Child Welfare Compact is a government-to-government agreement between the State of Alaska and tribes. She explained that tribes agree to perform negotiated child welfare services for tribal children on behalf of the state. Tribes can perform these services efficiently, effectively, and culturally appropriately. AVCP's executive board decided to be one of the founding members of the compact in 2017 because tribes place a high value on their children. She provided an example of what this means to the YKD region. She said approximately 500 tribal children from the AVCP region are in the Office of Children's Service (OCS) custody. She noted that a medium-sized village in the region would be 500 people. She said half of the children placed live in homes or facilities

outside the YKD. That figure represents a smaller village in the region.

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MS. KORTHUIS stated that removing a child from their home and parents is a traumatic experience for any child, even if the removal was to keep them safe. She asked members to imagine a child leaving their home, their house, their parents, and everything familiar to move to Anchorage or another part of Alaska, which multiplies the trauma. She emphasized that each of the 500 children are people.

MS. KORTHUIS related that OCS removed an AVCP tribal member's child from their parent's home in Anchorage. In that case, OCS contacted AVCP to identify a relative. AVCP found a relative and completed a safety walk-through of the home. She reported that the child was able to move to the relative's home in the village. She highlighted that this was possible because the Alaska Tribal Child Welfare Compact provided the process for OCS to make the referral. She said AVCP received the funding to identify a home and obtain approval. She indicated this was one way the tribal organization was helping its children through the compact and why it is so important.

MS. KORTHUIS emphasized that YKD wants their children to remain in the community whenever possible.

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MS. KORTHUIS highlighted another benefit of working with tribes under the Alaska Tribal Child Welfare Compact: the ability to leverage resources. She stated that it allows AVCP to leverage other programs, such as providing potential foster care families with the equipment they need to become licensed, making necessary repairs to foster homes, and providing childcare resources. She emphasized that the children are important, needed, and represent one of the most valuable resources for all of the tribes in the region. She said AVCP fully supports the Alaska Tribal Child Welfare Compact and reaffirms the state's goal for better outcomes for all of Alaska's children. She further stated that AVCP supports HB 184 and all of its intent.

[2:56:19 PM](#)

CHAIR WILSON opened public testimony on HB 184.

[2:56:31 PM](#)

TREVOR STORRS, President; Chief Executive Officer, Alaska Children's Trust, Anchorage, Alaska, stated that he was speaking

to the committee from the land of the Dena'ina people. As the statewide lead organization working to prevent child abuse and neglect, the Alaska Children's Trust strongly supports the Alaska Tribal Child Welfare Compact.

MR. STORRS stated that Alaska has one of the country's highest child abuse and neglect rates. Each year the Office of Children's Services (OCS) receives approximately 20,000 calls, of which 45 percent result in investigations. As the Department of Health and Social Services shared this year, OCS continually struggles with high turnover rates, most recently reported at 60 percent. OCS cannot engage in prevention work with every case it receives. The Alaska Tribal Child Welfare Compact represents an innovative approach to strengthening OCS's capacity. Still, it would allow for culturally appropriate services and support for Alaska's families in their communities.

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MR. STORRS stated that Alaska Native children make up 15 percent of the state's general population but represent approximately 65 percent of the kids in state custody. The disproportionate number of Alaska Native children in the OCS system must be addressed, but it will take long-term sustainable, systemic change. He emphasized that was exactly what the Alaska Tribal Child Welfare Compact seeks to accomplish. He reported that over the last four years, the compact had allowed tribes and tribal organizations to assist in finding relatives to care for children, visit homes in advance to ensure safe placement, help at-risk families before they need OCS intervention, and work alongside OCS to ensure families have the additional support they need.

MR. STORRS indicated that this historic, unique compact was working and needed to be made permanent to address the child welfare needs. He urged members to support HB 184 to help prevent child abuse and neglect.

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CHAIR WILSON closed public testimony on HB 184.

[2:59:00 PM](#)

SENATOR HUGHES remarked that Ms. Korthuis's testimony about children being removed from the world they know was compelling. She expressed interest in knowing that the Alaska Tribal Child Welfare Compact was working well.

[2:59:43 PM](#)

CHAIR WILSON suggested that OCS could provide the committee with data on the effectiveness of the Alaska Tribal Child Welfare Compact.

REPRESENTATIVE ZULKOSKY thanked the committee. She said this bill would provide an opportunity to help protect the work being done collaboratively by the state and tribes.

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CHAIR WILSON held HB 184 in committee.

[3:02:00 PM](#)

There being no further business to come before the committee, Chair Wilson adjourned the Senate Health and Social Services Standing Committee meeting at 3:02 p.m.