

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

April 7, 2022

1:33 p.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

Senator Mia Costello

**COMMITTEE CALENDAR**

CONFIRMATION HEARING(S) :

Alaska Mental Health Trust Board  
Agnes Moran - Ketchikan

- CONFIRMATION ADVANCED

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

**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  
 03/17/22 (S) Heard & Held  
 03/17/22 (S) MINUTE (HSS)  
 03/22/22 (S) HSS AT 1:30 PM BUTROVICH 205  
 03/22/22 (S) Heard & Held  
 03/22/22 (S) MINUTE (HSS)  
 03/23/22 (S) JUD AT 1:30 PM BUTROVICH 205  
 03/23/22 (S) <Bill Hearing Canceled>  
 03/25/22 (S) JUD AT 1:30 PM BUTROVICH 205  
 03/25/22 (S) -- MEETING CANCELED --  
 03/29/22 (S) HSS AT 1:30 PM BUTROVICH 205  
 03/29/22 (S) Heard & Held  
 03/29/22 (S) MINUTE (HSS)  
 04/07/22 (S) HSS AT 1:30 PM BUTROVICH 205

**WITNESS REGISTER**

AGNES MORAN, Appointee

Alaska Mental Health Trust Authority Board of Trustees  
 Department of Revenue (DOR)  
 Ketchikan, Alaska

**POSITION STATEMENT:** Testified as the governor's appointee to the Alaska Mental Health Trust Authority Board of Trustees.

DAVID WILLSON, Captain

Central Office  
 Division of Alaska State Troopers  
 Department of Public Safety  
 Anchorage, Alaska

**POSITION STATEMENT:** Answered question on SB 124.

NANCY MEADE, General Counsel  
Office of the Administrative Director  
Alaska Court System  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions on SB 124.

HEATHER CARPENTER, Healthcare Policy Advisor  
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.

#### **ACTION NARRATIVE**

[1:33:47 PM](#)

**CHAIR DAVID WILSON** called the Senate Health and Social Services Standing Committee meeting to order at 1:33 p.m. Present at the call to order were Senators Reinbold, Begich (via teleconference), Hughes, and Chair Wilson.

#### **CONFIRMATION HEARING(S)**

##### **Alaska Mental Health Trust Authority Board of Trustees**

[1:34:34 PM](#)

**CHAIR WILSON** announced the consideration of the governor's appointment of Agnes Moran, to the Alaska Mental Health Trust Authority Board of Trustees.

[1:35:04 PM](#)

**AGNES MORAN**, Appointee, Alaska Mental Health Trust Authority Board of Trustees, Ketchikan, Alaska, provided some of her history including that she had a bachelor's degree in electrical engineering, had worked on experimental military satellite systems and computer networking, and had run a private grant-making foundation. She has been on the board of First Bank since 2003. She returned to Alaska in 1999 to raise her family. She started working in a voluntary capacity with trust beneficiaries who experience chronic homelessness and substance abuse disorders, first by volunteering with her family for the community meals program. She wanted her children to get to know

trust beneficiaries as individuals. She moved on to become a founder of the overnight warming center, and served as a board member of First City Homeless Services until January 2021. In 2017 she became the executive director of Women in Safe Homes (WISH), a nonprofit organization that is dedicated to providing support to victims of domestic violence and sexual assault and their families. At the time, WISH was on probation from its major funder, the Council on Domestic Violence and Sexual Assault, the staff turnover rate was 150 percent, the grant base was declining, and some in the community were calling for dissolution.

MS. MORAN related that during her tenure, WISH has come off probation, staff has stabilized, the grant base has tripled, and the service offerings in the community have been expanded. Importantly, she said the community turned out in force when WISH opened its new shelter in October, 2021. During her tenure, WISH has not received much mental health funding. She described the broad spectrum of trust beneficiaries that WISH serves.

MS. MORAN stated that she has been working with and supporting trust beneficiaries for over ten years and has a working knowledge of leading a service-providing organization. Her goals in serving on the AMHTA board include being an advocate for rural areas and to extend the reach of the trust by establishing collaborative relationships with the people in communities who work directly with trust beneficiaries. She thanked the committee for considering her appointment.

[1:39:02 PM](#)

SENATOR REINBOLD noted that she had an impressive background. She asked how she views her role on the Alaska Mental Health Trust Authority Board.

MS. MORAN answered that a strength she brings is that through her work at the shelter she is in contact with people throughout the state who are doing on-the-ground work to serve trust beneficiaries. She sees the challenges in rural communities, and believes her role will be to continue to support that on-the-ground work.

SENATOR HUGHES commented on her impressive resume and thanked her for stepping forward. She asked two questions, the first of which was whether she had any thoughts about ways to help the trust to fulfill its responsibility to develop mental health trust land. Second, she asked if the foster care program for animals started with taking stray pets into her home.

[1:42:14 PM](#)

MS. MORAN said yes and she continues to bring animals into her home. To the question of developing trust land, she said she didn't have a well-formed opinion, but she would do some work and follow up with a response.

SENATOR HUGHES expressed confidence that she would do the work to become knowledgeable in that area.

CHAIR WILSON asked if WISH receives indirect or passthrough funding from different types of homeless assistance or emergency shelter grants (ESG).

[1:44:59 PM](#)

MS. MORAN confirmed that WISH does receive some emergency housing vouchers through Alaska Housing Finance Corporation (AHFC). WISH also receives ESG funding and Treasury funds, both of which are related to COVID-19.

CHAIR WILSON recognized that the CEO of the Alaska Mental Health Trust was in the committee room to address an upcoming bill.

SENATOR HUGHES asked Ms. Moran to also keep an eye on the pilot project called Set Free Alaska that seeks to reduce recidivism through holistic and comprehensive substance abuse counseling. Participants are trained in how to get a job, manage their finances and other life skills to help them be successful when they reenter the community. She noted that the organization had been very good in collecting data that hopefully will show that it is a successful model to improve public safety.

MS. MORAN agreed to keep an eye on the project, adding that with her engineering background she is "all about the data."

[1:47:34 PM](#)

CHAIR WILSON opened public testimony on the appointment of Agnes Moran to the Alaska Mental Health Trust Authority Board of Trustees; he found none and closed public testimony.

CHAIR WILSON found no further questions or comments and solicited a motion.

[1:47:59 PM](#)

At ease.

[1:48:13 PM](#)

CHAIR WILSON reconvened the meeting.

[1:48:16 PM](#)

Senator Hughes stated that in accordance with AS 39.05.080, the Senate Health and Social Services Standing Committee reviewed the following and recommends the appointments be forwarded to a joint session for consideration:

Alaska Mental Health Trust Authority Board of Trustees  
Agnes Moran - Ketchikan, Alaska

Signing the report regarding appointments to boards and commissions in no way reflects individual members' approval or disapproval of the appointees; the nominations are merely forwarded to the full legislature for confirmation or rejection.

[1:48:46 PM](#)

CHAIR WILSON found no objection and Agnes Moran's name was forwarded to a joint session for consideration.

[1:48:50 PM](#)

At ease.

**SB 124-MENTAL HEALTH FACILITIES & MEDS**

[1:50:37 PM](#)

CHAIR WILSON reconvened the meeting and 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."

He stated that the intent today is to finish the amendment process, starting with Amendment 28.

[1:51:22 PM](#)

SENATOR REINBOLD moved to adopt Amendment 28, work order 32-GS1730\B.19.

32-GS1730\B.19  
Dunmire  
3/15/22

AMENDMENT 28

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

Page 2, line 12:

Delete "mental health professional"

Insert "physician [MENTAL HEALTH PROFESSIONAL]"

Page 2, line 30:

Delete "mental health professional"

Insert "physician [MENTAL HEALTH PROFESSIONAL]"

[1:51:27 PM](#)

CHAIR WILSON objected for purposes of discussion.

SENATOR REINBOLD explained that the amendment is intended to ensure that a physician informs the arresting officer that the person they brought in is leaving the crisis center.

CHAIR WILSON asked if there was any discussion.

SENATOR HUGHES said she didn't support limiting the notification to a physician because the physician likely was not the one who was on the street.

CHAIR WILSON asked Senator Reinbold if she had any closing remarks on the amendment.

SENATOR REINBOLD offered her belief that the bill had massive loopholes. The amendment is an attempt to ensure that physicians are involved in something as serious as a crisis stabilization center.

[1:53:34 PM](#)

CHAIR WILSON asked for a roll call.

A roll call vote was taken. Senator Reinbold voted in favor of Amendment 28 and Senators Begich, Hughes, and Wilson voted against. Therefore, Amendment 28 failed on a 1:3 vote.

CHAIR WILSON announced that Amendment 28 failed on a 1:3 vote.

[1:54:16 PM](#)

At ease.

[1:54:29 PM](#)

CHAIR WILSON reconvened the meeting.

[1:54:31 PM](#)

SENATOR REINBOLD withdrew Amendment 29.

CHAIR WILSON found no objection and Amendment 29 was withdrawn.

[1:54:48 PM](#)

SENATOR REINBOLD moved to adopt Amendment 30, work order 32-GS1730\B.21.

32-GS1730\B.21  
Dunmire  
3/15/22

**AMENDMENT 30**

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

Page 3, line 31:

Delete "probable cause"

Insert "**clear and convincing evidence** [PROBABLE  
CAUSE] "

[1:54:49 PM](#)

CHAIR WILSON objected for purposes of discussion.

SENATOR REINBOLD explained that the amendment raises the standard of proof to "clear and convincing evidence" to help ensure that the bill isn't exploited by people with ill intent.

SENATOR HUGHES requested Captain Willson speak to how clear and convincing evidence is used on the street.

CHAIR WILSON clarified for the record that he and Captain Willson were not related.

[1:56:06 PM](#)

DAVID WILLSON, Captain, Central Office, Division of Alaska State Troopers, Department of Public Safety, Anchorage, Alaska, stated that clear and convincing evidence is a civil standard of proof and troopers don't receive training to make that finding.

Troopers are trained to identify the circumstances to support a probable cause finding. If this amendment were to pass, it would take some time and additional training to adopt that language.

SENATOR HUGHES asked for an explanation of probable cause and how it is used.

1:57:23 PM

CAPTAIN WILLSON said the general definition is that a reasonable person would believe the evidence that the condition in question exists. For example, that the person in question is gravely disabled or suffering from mental illness. The reasonable person standard is part of the probable cause determination that Troopers are familiar with when applying for search warrants or making arrest decisions. It's an evaluation that Troopers use daily.

SENATOR HUGHES asked if a reasonable person would look for evidence.

CAPTAIN WILLSON answered yes; the Trooper would look at the totality of the circumstances including whether the person is: disinterested, uninvolved when there's an emotional event, or impaired by alcohol or drugs. The Trooper would also look at the statements the person in question has made as well as the witness statements before making a determination.

SENATOR HUGHES asked for confirmation that a probable cause finding does involve evidence and that the decision is not made on a whim.

1:59:06 PM

CAPTAIN WILLSON confirmed that there has to be evidence to meet the probable cause standard. The evidence that is gathered is often physical or testimonial. "Probable cause" is a higher standard than "more likely than not," but it is not as high as "beyond a reasonable doubt." It's difficult to meet the probable cause standard without doing significant investigation and fact finding. He noted that beyond a reasonable doubt is used in court.

SENATOR HUGHES asked whether officers use standards other than probable cause, depending on the alleged non civil crime.

CAPTAIN WILLSON answered no; probable cause is the primary standard for an officer to take action, although the reasonable suspicion standard is used in some cases to stop and search a

vehicle. Troopers are trained in probable cause and beyond a reasonable doubt, which covers the majority of police contact.

[2:00:52 PM](#)

SENATOR REINBOLD asked if he said that probable cause is only used for criminal conduct, except in court.

[2:01:12 PM](#)

CAPTAIN WILLSON answered that the two standards that are used regularly are: 1) probable cause that is used in the field to gather evidence for an affidavit for an arrest or search warrant; and 2) beyond a reasonable doubt that is used to ascertain whether or not an investigation is complete to move to court. It's not always possible to meet the standard of beyond a reasonable doubt before an arrest is made, because of the need to weigh public safety and prevent damage from occurring. The probable cause standard is used when there is an arrest but the investigation doesn't necessarily stop there. It might continue to a finding of beyond a reasonable doubt.

SENATOR REINBOLD opined that it is a big deal to take somebody off the street and to a stabilization center. She pointed out that the person potentially would be kept for some time and injected with psychotropic medication. She offered her view that probable cause is probably and another term would be better. She also said that she was surprised to learn that a criminal case could be based solely on probable cause. She voiced support for Amendment 30, maintaining that it wouldn't be difficult for Troopers to be trained to use the clear and convincing evidence standard.

[2:03:41 PM](#)

CAPTAIN WILLSON responded that probable cause was currently used and accepted, but if the law were to change to require a different standard, the change would be made.

SENATOR REINBOLD summarized that he didn't think another word could be used. She also asked him to restate the probable cause standard.

[2:04:54 PM](#)

CAPTAIN WILLSON stated that he was only aware that probable cause and beyond a reasonable doubt were the standards that are used in the field for everyday business. He restated that probable cause is the standard of evidence necessary for a reasonable person to use based on the facts and circumstances

available under the existing condition such as that a person is gravely ill or suffering from mental illness.

SENATOR REINBOLD asked how he would define mental illness.

2:06:00 PM

CAPTAIN WILLSON responded that if he were to detain somebody to take them to a crisis stabilization center, his probable cause finding would be that the person was gravely disabled or suffering from mental illness and likely to cause serious harm to self or others and that it was of such an immediate nature that considerations of safety did not allow initiation of involuntary commitment procedures. He cited examples from his own experience.

SENATOR HUGHES highlighted that in a previous hearing the committee clearly heard that an officer would be in full violation if the officer were to arrest somebody because of their political views. To the question about using probable cause, she pointed out that Captain Willson said that there is a lower standard. He also stated that for a finding of probable cause, specific evidence would have to be identified at the scene so a decision could not be made on a whim.

SENATOR HUGHES stated that she was comfortable using probable cause.

SENATOR REINBOLD offered her personal experience with harassment and probable cause. She also posited that a higher standard was necessary for something as serious as removing somebody from the street and taking them to a crisis center.

2:10:20 PM

CHAIR WILSON asked for a roll call vote on Amendment 30.

2:10:26 PM

A roll call vote was taken. Senator Reinbold voted in favor of the motion to adopt Amendment 30 and Senators Begich, Hughes, and Wilson voted against it. Therefore, Amendment 30 failed on a 1:3 vote.

2:10:41 PM

CHAIR WILSON announced that Amendment 30 failed on a 1:3 vote.

CHAIR WILSON listed the individuals available to answer questions.

[2:11:38 PM](#)

SENATOR REINBOLD moved to adopt Amendment 31, work order 32-GS1730\B.22.

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

**AMENDMENT 31**

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

Page 4, line 1, following "illness":

Insert **"with an examination by a licensed physician"**

[2:11:40 PM](#)

CHAIR WILSON objected for purposes of discussion.

SENATOR REINBOLD explained Amendment 31 ensures that a peace officer's determination that a person is suffering from mental illness is based on an examination by a licensed physician.

SENATOR HUGHES said she agrees that it is important to ensure that people are not incorrectly taken to a crisis center, but requiring an examination by a licensed physician to make such a determination is not practical.

SENATOR BEGICH stated opposition to Amendment 31, and shared a friend's experience of walking naked down the Glenn Highway. There was no way to get a physician there for an examination, but the Troopers got the person to Providence where an examination was done in an appropriate setting.

[2:13:34 PM](#)

SENATOR REINBOLD said the amendment calls for the examination by a physician prior to admission. She urged a yes vote.

[2:14:01 PM](#)

SENATOR HUGHES clarified that the statute is talking about events before the person is taken into custody, not prior to admission.

SENATOR REINBOLD pointed out that Section 13 adds a new Sec. 47.37.707 Admission to hold at a crisis stabilization center.

[2:14:41 PM](#)

CHAIR WILSON asked for a roll call vote.

[2:14:45 PM](#)

A roll call vote was taken. Senator Reinbold voted in favor of the motion to adopt Amendment 31 and Senators Hughes, Begich, Wilson voted against it. Therefore, Amendment 31 failed on a 1:3 vote.

[2:15:01 PM](#)

CHAIR WILSON announced that Amendment 31 failed on a 1:3 vote.

[2:15:13 PM](#)

SENATOR REINBOLD moved to adopt Amendment 32, work order 32-GS1730\B.23.

32-GS1730\B.23  
Dunmire  
3/16/22

**AMENDMENT 32**

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

Page 4, lines 7 - 8:  
Delete "[FOR EMERGENCY EVALUATION]"  
Insert "for emergency evaluation"

[2:15:15 PM](#)

CHAIR WILSON objected for purposes of discussion.

SENATOR REINBOLD explained that her intention with Amendment 32 is to ensure that a person taken into custody is given an accurate evaluation. It's in keeping with her view that the bill needs to have more safeguards.

[2:15:53 PM](#)

CHAIR WILSON removed his objection; he found no further objection and Amendment 32 was adopted.

[2:16:04 PM](#)

SENATOR REINBOLD moved to adopt Amendment 33, work order 32-GS1730\B.24.

**AMENDMENT 33**

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

Page 4, line 22, through page 8, line 15:  
Delete all material.

Renumber the following bill sections accordingly.

Page 13, lines 1 - 2:  
Delete "secs. 1 - 27"  
Insert "secs. 1 - 26"

Page 13, lines 27 - 28:  
Delete "sec. 23"  
Insert "sec. 22"

Page 13, line 29:  
Delete "sec. 23"  
Insert "sec. 22"

Page 14, line 7:  
Delete "Section 28"  
Insert "Section 27"

[2:16:08 PM](#)

CHAIR WILSON objected for purposes of discussion.

SENATOR REINBOLD stated that Amendment 33 deletes Section 13 of the bill.

[2:16:23 PM](#)

SENATOR HUGHES said that the status quo is that an officer takes a person to jail or a hospital where the family does not have access. By comparison, these crisis stabilization clinics will offer an outpatient setting where family and/or a pastor could visit. Section 13 is an improvement and if the bill were to pass, a lot of the things that have been put on the record will carry forward, including such things as not taking a person into custody for political differences. Removing Section 13

essentially guts the bill and eliminates the opportunity for crisis stabilization centers that offer an outpatient setting.

SENATOR HUGHES stated that she did not support Amendment 33.

CHAIR WILSON offered his view that Amendment 33 deletes the purpose of the bill and continues with the status quo of using the Department of Correction to house people who are in crisis. It would not address the issue with the Disability Law Center.

SENATOR REINBOLD said she recently spoke with a chief of police who didn't mind the status quo. She said she didn't mind dealing with the issue with the Disability Law Center, but she believes that some people would rather be charged than taken to one of these crisis centers. People in jail have certain rights and there isn't the potential that they will be injected with psychotropic drugs. She reiterated her belief that Section 13 causes grave concerns.

[2:19:38 PM](#)

CHAIR WILSON asked for a roll call vote.

[2:19:39 PM](#)

A roll call vote was taken. Senator Reinbold voted in favor of the motion to adopt Amendment 33 and Senators Begich, Hughes and Wilson voted against it. Therefore, Amendment 33 failed on a 1:3 vote.

[2:19:55 PM](#)

CHAIR WILSON announced that Amendment 33 failed on a 1:3 vote.

[2:20:00 PM](#)

SENATOR REINBOLD moved to adopt Amendment 34 32-GS1730\B.25.

32-GS1730\B.25  
Dunmire  
3/16/22

#### **AMENDMENT 34**

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

Page 8, line 28, following "has":  
Insert "**strong**"

[2:20:04 PM](#)

CHAIR WILSON objected for purposes of discussion.

SENATOR REINBOLD explained that Amendment 34 is a bookend to ensure that somebody can't haphazardly decide a person is mentally ill. There has to be a compelling reason for that decision. She relayed that the intent of all her amendments are to protect the patient.

CHAIR WILSON asked Steven Bookman for the legal definition of "compelling" and whether it works in this amendment.

[2:21:18 PM](#)

STEVEN BOOKMAN, Senior Assistant Attorney General, Human Services Section, Civil Division Department of Law, Anchorage, Alaska, explained reasonable suspicion, probable cause, clear and convincing evidence, beyond a reasonable doubt, and a preponderance of the evidence are all standards for burden of proof. The term compelling is none of those and it's not clear how it would be interpreted.

SENATOR HUGHES highlighted that it's not the officer, but the medical professional who would need to have a compelling reason for their decision. She asked if anybody could speak to the standard of reason that the medical professional would use.

[2:22:31 PM](#)

MR. BOOKMAN explained that when doctors talk about the medical judgements they make, the court looks at whether they made the decisions with a reasonable degree of medical certainty. The other evidence standards that he mentioned are for judges.

SENATOR HUGHES asked if he was saying that a decision that is based on a reasonable degree of medical certainty would not be a willy-nilly decision. It would essentially be a compelling reason.

MR. BOOKMAN answered yes.

SENATOR HUGHES asked if it would be a problem to have the word compelling in the determination for the medical professional.

[2:23:44 PM](#)

MR. BOOKMAN opined that it would introduce a real degree of confusion among medical professionals because there is no clear

definition for compelling. It would also make it less likely that the bill would work as intended.

SENATOR HUGHES asked if he agreed that based on the standard of medical certainty, the notion of compelling was already embedded.

MR. BOOKMAN answered yes.

SENATOR HUGHES said she was comfortable with the language as is because she wanted to avoid confusion for providers. Thus, she would oppose Amendment 34.

[2:25:12 PM](#)

SENATOR REINBOLD asked Mr. Bookman what he sees as the intent of the bill.

MR. BOOKMAN said he believes the idea is to provide less restrictive and a broader spectrum of alternatives for mental health care, so people aren't having to wait in places like emergency rooms and jails to get their special needs met.

SENATOR REINBOLD argued that people could say that it's inappropriate to hold people in these crisis stabilization centers that she views as mental health mini jails. If it's acceptable to add the words compelling or convincing, she said the amendment should pass.

[2:26:59 PM](#)

CHAIR WILSON asked for a roll call vote.

[2:27:01 PM](#)

A roll call vote was taken. Senator Reinbold voted in favor of the motion to adopt Amendment 34 and Senators Begich, Hughes, and Wilson voted against it. Therefore, Amendment 34 failed on a 1:3 vote.

[2:27:20 PM](#)

CHAIR WILSON announced that Amendment 34 failed on a 1:3 vote.

[2:27:26 PM](#)

SENATOR REINBOLD moved to adopt Amendment 35, work order 32-GS1730\B.26.

32-GS1730\B.26  
Dunmire  
3/16/22

AMENDMENT 35

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

Page 9, line 7:  
Delete "new subsections"  
Insert "a new subsection"

Page 9, lines 8 - 11:  
Delete all material.

Reletter the following subsection accordingly.

2:27:29 PM

CHAIR WILSON objected for purposes of discussion.

2:27:31 PM

SENATOR REINBOLD explained Amendment 35 deletes [subsection (c)] of Section 15 relating to ex parte orders. The intent is to ensure that a patient has representation.

SENATOR HUGHES said her reading is that the amendment would remove the requirement for ex parte orders and it seems that would remove protections that should remain in place.

2:28:43 PM

NANCY MEADE, General Counsel, Office of the Administrative Director, Alaska Court System, Anchorage, Alaska, stated that subsection (c) in Section 15 addresses circumstances where a mental health professional sends a person in crisis either to a hospital or a crisis center in an emergency situation and without an ex parte court order. She agreed with Senator Hughes that removing subsection (c) would remove any court involvement because there would be no provision to bring the matter before a judge.

CHAIR WILSON asked for confirmation that there is a requirement for a court to hear the matter within 72 hours, so the person in crisis could be held in the hospital or crisis stabilization center indefinitely.

MS. MEADE answered yes; it would create a gap such that a person could be detained without process. Subsection (c) is the provision that requires a person to go before the court and get

the order they did not have time to get previously due to the emergency situation.

[2:30:18 PM](#)

SENATOR REINBOLD said that was not intent of the amendment. Rather, she wanted people in a mental health crisis situation to always have representation.

SENATOR REINBOLD withdrew Amendment 35.

[2:30:36 PM](#)

CHAIR WILSON stated that Amendment 35 was withdrawn.

[2:30:55 PM](#)

SENATOR REINBOLD moved to adopt Amendment 36, work order 32-GS1730\B.27.

32-GS1730\B.27  
Dunmire  
3/16/22

### **AMENDMENT 36**

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

Page 9, line 28:

Delete "**petitioner's** [PROSECUTING]"

Insert "prosecuting"

[2:30:59 PM](#)

CHAIR WILSON objected for purposes of discussion.

[2:31:00 PM](#)

SENATOR REINBOLD stated that she brought the amendment because she wasn't clear about the difference and thus the reason for changing the reference from the prosecuting attorney to the petitioner's attorney. She asked if somebody could provide an explanation.

MR. BOOKMAN explained that a prosecutor pursues a criminal case and a petitioner is somebody who is asking the court for something. Having the reference to a prosecuting attorney in that sentence indicates that the respondent has committed a crime.

SENATOR REINBOLD stated that she was withdrawing Amendment 36 because it didn't do what she intended which was to give patients more power.

CHAIR WILSON stated that Amendment 36 was withdrawn.

[2:32:39 PM](#)

SENATOR REINBOLD moved to adopt Amendment 37, work order 32-GS1730\B.28.

32-GS1730\B.28  
Dunmire  
3/16/22

### AMENDMENT 37

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

Page 10, line 27, through page 11, line 1:  
Delete all material.

Renumber the following bill sections accordingly.

Page 13, lines 1 - 2:  
Delete "secs. 1 - 27"  
Insert "secs. 1 - 26"

Page 13, lines 27 - 28:  
Delete "sec. 23"  
Insert "sec. 22"

Page 13, line 29:  
Delete "sec. 23"  
Insert "sec. 22"

Page 14, line 7:  
Delete "Section 28"  
Insert "Section 27"

[2:32:41 PM](#)

CHAIR WILSON objected for purposes of discussion.

[2:32:43 PM](#)

SENATOR REINBOLD stated that Amendment 37 removes Section 18 of the bill. Her reasoning was that it is one more opportunity to detain people in crisis too long when they have not been charged with a crime.

SENATOR HUGHES observed that this relates to previous discussions about heart attacks and other situations where medical professionals have to take action quickly to save a person's life, so there is not time to talk to a spouse, parent, or guardian beforehand. She said it's good to remember that when medications are administered under these circumstances they are as a last resort. Section 18 is talking about administering medications as a last resort to keep a person from self-harm or harming another person. If providers are not able to administer these medications, the alternative is physical restraint, which can also result in harm to the person in crisis. Providers have to document all the steps leading up to the decision to administer medication, so a spouse or parent or the court can review the record. It is not a casual decision.

SENATOR HUGHES stated that she was comfortable with the existing language in Section 18 and she would oppose Amendment 37.

[2:35:08 PM](#)

SENATOR REINBOLD recalled that the committee previously voted down Amendment 17 that addressed using psychotropic drugs as a last resort.

[2:35:57 PM](#)

SENATOR HUGHES asked for the record to clearly reflect whether psychotropic drugs are administered as a last resort.

[2:36:34 PM](#)

HEATHER CARPENTER, Healthcare Policy Advisor, Department of Health and Social Services (DHSS), Juneau, Alaska, confirmed that, per statute, crisis medication is a last resort option when somebody is in imminent danger of doing self-harm or harming the provider who is giving care. All the previous intervention efforts must be documented so it's clear that there is no other safe alternative. She deferred further explanation of the statute to Mr. Bookman.

SENATOR REINBOLD asked which statute she was citing.

[2:37:40 PM](#)

MR. BOOKMAN advised that AS 47.30.838(a)(1) states that the staff response to the behavioral condition must be documented in

the patient's medical record and it must include an explanation of the alternative responses to the crisis that the staff considered or attempted, and why those were not sufficient.

SENATOR REINBOLD offered her view that the statute doesn't say these drugs will be used as a last resort. She also relayed the concern from some advocates that some of the existing statutes won't apply to the new statutes. She reiterated that she wanted the record to be clear that medical professionals in these new facilities will only administer psychotropic drugs as a last resort.

SENATOR HUGHES asked if the statutory language he read was talking about the alternatives for treatment before medication could be administered. She posited that the reason the committee did not pass [Amendment 17] was perhaps because it was already in statute that it is a last resort. She asked if he could read the section of statute that says that the administration of medication is a last resort.

[2:39:38 PM](#)

MR. BOOKMAN advised that AS 47.30.838(a) says a crisis medication may be administered without informed consent, only if certain conditions are met so the documentation must exist before the crisis medication can be administered.

[2:39:50 PM](#)

SENATOR REINBOLD asked him to read the statute because she wanted assurance that the intent of the bill is for psychotropic medications to be used as the last resort.

[2:40:41 PM](#)

MR. BOOKMAN read AS 47.30.838(a)(1):

**Sec. 47.30.838. Psychotropic medication in crisis situations.**

(a) Except as provided in (c) and (d) of this section, an evaluation facility or designated treatment facility may administer psychotropic medication to a patient without the patient's informed consent, regardless of whether the patient is capable of giving informed consent, only if

(1) there is a crisis situation, or an impending crisis situation, that requires immediate use of the medication to preserve the life of, or prevent significant physical harm to, the patient or another person, as determined by a physician, physician

assistant, or advanced practice registered nurse; the behavior or condition of the patient giving rise to a crisis under this paragraph and the staff's response to the behavior or condition must be documented in the patient's medical record; the documentation must include an explanation of alternative responses to the crisis that were considered or attempted by the staff and why those responses were not sufficient; and

[2:41:55 PM](#)

SENATOR REINBOLD asked if it was accurate to say that the intent is that psychotropic drugs will be used as a last resort, including in these new crisis facilities described in the bill.

MR. BOOKMAN answered yes; verbal de-escalation or other techniques would always be used first.

SENATOR REINBOLD asked, "Is that a yes; psychotropic drugs are the last intent."

MR. BOOKMAN answered yes.

[2:42:51 PM](#)

CHAIR WILSON asked for a roll call vote on Amendment 37.

[2:42:54 PM](#)

A roll call vote was taken. Senator Reinbold voted in favor of the motion to adopt Amendment 37 and Senators Hughes, Begich, and Wilson voted against it. Therefore, Amendment 37 failed on a 1:3 vote.

[2:43:09 PM](#)

CHAIR WILSON announced that Amendment 37 failed on a 1:3 vote.

[2:43:16 PM](#)

SENATOR REINBOLD moved to adopt Amendment 38, work order 32-GS1730\B.41.

32-GS1730\B.41  
Dunmire  
3/16/22

### **AMENDMENT 38**

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

Page 11, line 2:

Delete "a new section"

Insert "new sections"

Page 11, following line 4:

Insert a new section to read:

**"Sec. 47.30.914. Health outcome metrics.** (a) Crisis residential centers, crisis stabilization centers, and subacute mental health facilities shall assess the severity of an individual's mental illness each day and keep a record of the assessment. The assessment shall use an objective scale relating to an individual's ability to function in society and the impact that the individual's mental health has on the individual's daily life.

(b) Crisis residential centers, crisis stabilization centers, and subacute mental health facilities shall record the number of patients involuntarily detained, the number of patients to whom psychotropic medication is administered without informed consent, the number of patients physically restrained, patient complaints, patient injuries, and traumatic events experienced by a patient.

(c) A crisis residential center, crisis stabilization center, and subacute mental health facility shall submit a quarterly report to the division of the department responsible for behavioral health services relating to aggregate assessment data gathered under (a) and (b) of this section without disclosing information that would identify an individual.

(d) The division of the department responsible for behavioral health services shall prepare a semi-annual report compiling the quarterly aggregate assessment data reports received under (c) of this section. The division shall submit the report to the senate secretary and the chief clerk of the house of representatives and notify the legislature that the report is available."

[2:43:18 PM](#)

CHAIR WILSON objected for purposes of discussion.

SENATOR REINBOLD stated that Amendment 38 adds a new section in bill Section 19 related to health outcome metrics. She

paraphrased the language in subsections (a)-(d) and explained that the intent is to ensure there is good reporting when people are in crisis facilities. It's about patient advocacy.

SENATOR HUGHES referenced Section 26 that talks about the things that will be included in the report to the legislature, one of which is the data that has been collected. She asked if the idea is that the department will develop a plan for data collection.

[2:46:35 PM](#)

MS. CARPENTER said yes. Advocates and others have requested more ready access to information about psychiatric care in not just these new crisis facilities but also hospitals and designated evaluation and treatment (DET) facilities, and Section 26 is the action plan for that. The department and the Alaska Mental Health Trust Authority have one year to work with patient advocates, providers of these services, the Disability Law Center, and the Office of the Ombudsman to work on grievances, how to put data collected on a public-facing dashboard, and ways to improve patient outcomes as Mr. Gottstein suggested. The intent is to work collaboratively and be as transparent as possible to the public and the legislature, but in a way that fits with providers' current flow, does not duplicate other reports, and does not result in any unfunded mandate.

[2:48:07 PM](#)

SENATOR HUGHES asked if the recommendations for the data plan would be due by the next legislature, if legislation would be required, or if the department could move forward once that stakeholder group comes to a decision.

MS. CARPENTER replied it will depend on what the group decides, but there will be a robust public process and the report goes to the legislature.

[2:49:16 PM](#)

SENATOR HUGHES asked whether the report to the legislature would be just the plan or if it would include first-year data that was gathered from the outpatient stabilizations.

MS. CARPENTER offered her belief that the department could provide early data from the 1115 Medicaid waiver as well as any Title 47 involuntary commitments that are tracked through the courts. Any information provided would be deidentified.

SENATOR HUGHES noted that the first part of Amendment 38 requires providers to keep a record of the assessment of the

individual's mental illness. She asked if that would already happen as part of the routine.

MS. CARPENTER replied that the behavioral health billings indicate that these individuals are observed every 15 minutes, so the daily record would be extensive.

[2:51:12 PM](#)

SENATOR BEGICH pointed out that even though the information would be deidentified, the data collection called for in the amendment could identify individuals in small rural areas.

MS. CARPENTER said yes, and the department is concerned about Amendment 38 for that reason.

SENATOR REINBOLD opined that the things the report is required to include or do is purely bureaucratic. She summarized items (1)-(3). By contrast, Amendment 38 is patient-centered and deals with health outcome metrics. The amendment provides that the assessment shall use an objective scale to determine an individual's ability to function. She asked if the reporting called for in bill Section 26 includes an objective assessment.

[2:53:51 PM](#)

MS. CARPENTER answered that the department will look at scales that are industry standard. She suggested that the language in the amendment was a little confusing because it wasn't clear who decides the scale that's used is objective. She reiterated that the department would look at best practices and industry standards so any recommendation is data-informed.

SENATOR REINBOLD expressed concern that the department didn't want to use an objective scale. She read the requirements in subsection (b) of Amendment 38 and asked if the department would be documenting those things.

MS. CARPENTER responded that the report will look at the items she referenced to see how the information can be provided publicly. The department will look at a host of things, including the things listed in the amendment, when it talks about what to consider. One reason the department and trust suggested doing this report to the legislature is to get it right the first time.

[2:56:30 PM](#)

SENATOR REINBOLD said it sounds like the department will be doing the things required in subsection (b) of Amendment 38. She

asked if that information would be available if she called to ask for the report.

MS. CARPENTER clarified that the report will look at the items listed in (b) and talk about how to move forward and provide the information on a broad scale. Certainly the number of people on an involuntary detention or hold will be documented and anytime crisis medication is used it is well documented. Also, the report on page 13 of version B talks about looking at instances of restraint, complaints, and grievances as well as the changes that need to be made to processes, how the information is provided to the public, those tracking this work, and how it is provided to the legislature.

CHAIR WILSON offered his understanding that the court system also has data on involuntary commitments.

[2:58:17 PM](#)

SENATOR HUGHES agreed with Senator Begich that even if information is deidentified, it would be easy in small communities to figure out what individuals were receiving medications and whether they were restrained. It's the kind of private information that should not be available to the public. She disagreed with Senator Reinbold that Section 26 is purely bureaucratic. Rather, that section looks at patient rights and grievances, and it requires the department to bring together a diverse stakeholder group, including patient advocates. The group collectively would be very concerned about upholding patient rights. She opined that the stakeholder group would bring good data forward and address concerns that have been articulated.

SENATOR HUGHES stated that she would oppose Amendment 38.

CHAIR WILSON asked Nancy Meade to talk about the data the court keeps on involuntary commitments.

[3:00:02 PM](#)

MS. MEADE stated that everything that comes into the Court System is tracked, including the number of ex parte orders for involuntary commitments lasting 3 days, 30 days, 90 days, and longer.

SENATOR REINBOLD paraphrased the provisions in Amendment 38 and emphasized how important it is to protect patients who are detained.

[3:02:04 PM](#)

CHAIR WILSON asked for a roll call vote.

[3:02:06 PM](#)

A roll call vote was taken. Senator Reinbold voted in favor of the motion to adopt Amendment 38 and Senators Hughes, Begich and Wilson voted against it. Therefore, Amendment 38 failed on a 1:3 vote.

[3:02:22 PM](#)

CHAIR WILSON announced that Amendment 38 failed on a 1:3 vote.

[3:02:28 PM](#)

SENATOR REINBOLD moved to adopt Amendment 39, work order 32-GS1730\B.42

32-GS1730\B.42  
Dunmire  
3/16/22

**AMENDMENT 39**

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

Page 8, line 1:  
Delete "47.30.815"  
Insert "47.30.865"

[3:02:31 PM](#)

CHAIR WILSON found no objection and Amendment 39 was adopted.

[3:02:38 PM](#)

CHAIR WILSON [held SB 124 in committee].

[3:03:21 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.