

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

May 4, 2022

9:05 a.m.

MEMBERS PRESENT

Senator Roger Holland, Chair
Senator Mike Shower, Vice Chair
Senator Shelley Hughes
Senator Robert Myers
Senator Jesse Kiehl

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 124

"An Act relating to admission to and detention at a subacute mental health facility; establishing a definition for 'subacute mental health facility'; establishing a definition for 'crisis residential center'; relating to the definitions for 'crisis stabilization center'; relating to the administration of psychotropic medication in a crisis situation; relating to licensed facilities; and providing for an effective date."

- MOVED CSSB 124 (JUD) OUT OF COMMITTEE

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
 04/07/22 (S) Heard & Held
 04/07/22 (S) MINUTE(HSS)
 04/12/22 (S) HSS AT 1:30 PM BUTROVICH 205
 04/12/22 (S) Moved CSSB 124(HSS) Out of Committee
 04/12/22 (S) MINUTE(HSS)
 04/15/22 (S) HSS RPT CS 1DP 2AM NEW TITLE
 04/15/22 (S) DP: WILSON
 04/15/22 (S) AM: COSTELLO, HUGHES
 04/27/22 (S) JUD AT 1:30 PM BUTROVICH 205
 04/27/22 (S) Heard & Held
 04/27/22 (S) MINUTE(JUD)
 04/29/22 (S) JUD AT 1:30 PM BUTROVICH 205
 04/29/22 (S) <Bill Hearing Canceled>
 05/02/22 (S) JUD AT 1:30 PM BUTROVICH 205
 05/02/22 (S) Heard & Held
 05/02/22 (S) MINUTE(JUD)
 05/04/22 (S) JUD AT 9:00 AM BUTROVICH 205

WITNESS REGISTER

HEATHER CARPENTER, Health Care Policy Advisor
 Office of the Commissioner
 Department of Health and Social Services
 Juneau, Alaska

POSITION STATEMENT: Answered questions on amendments to SB 124.

ACTION NARRATIVE

[9:05:37 AM](#)

CHAIR ROGER HOLLAND called the Senate Judiciary Standing Committee meeting to order at 9:05 a.m. Senators Myers, Hughes, Shower, Kiehl, and Chair Holland were present at the call to order.

SB 124-MENTAL HEALTH FACILITIES & MEDS

[9:06:08 AM](#)

CHAIR HOLLAND 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 noted that this was the third hearing for the bill in this committee. During the previous hearing, the committee 7 amendments and that process will continue today.

[9:06:56 AM](#)

SENATOR KIEHL moved to adopt Amendment 8, work order 32-GS1730\I.14.

32-GS1730\I.14
Dunmire
5/2/22

AMENDMENT 8

OFFERED IN THE SENATE
TO: CSSB 124 (HSS)

BY SENATOR KIEHL

Page 15, line 18:
Delete "and"

Page 15, line 22, following "public":
Insert "; and"

(4) identify methods for collecting and making available to the legislature and the general public statistics recording

(A) the number, type, and cause of patient injuries;

(B) the number, type, and resolution of patient complaints; and

(C) the number and type of traumatic events experienced by a patient; in this subparagraph, "traumatic event" means being placed in isolation or physical restraint of any kind"

[9:06:59 AM](#)

CHAIR HOLLAND objected for discussion purposes.

[9:07:02 AM](#)

SENATOR KIEHL explained that Amendment 8 would charge the task force established in the bill with identifying the methods for collecting and reporting information on any patient complaints, injuries, or traumatic events so the legislature can identify and address any issues. He noted that the companion bill, HB 172, contains comparable language.

[9:07:59 AM](#)

SENATOR SHOWER asked for any other protections in the bill or current statutes that protect patient privacy related to the data collection.

[9:08:34 AM](#)

SENATOR KIEHL offered his belief that SB 124 does not change the existing privacy laws, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or Alaska's Personal Information Protection Act. He pointed out that Amendment 8 or the bill would not require identifying data.

[9:09:01 AM](#)

SENATOR HUGHES offered her view that Amendment 8 addresses something the previous committee discussed, providing accountability regarding how these cases are handled.

[9:09:34 AM](#)

SENATOR MYERS suggested a potential Conceptual Amendment to 8. He referred to differences between subparagraph (A), which would record the number, type, and cause, and (C), which would record the number and type of traumatic events but omits the cause. He wondered if cause should be added.

SENATOR KIEHL responded that cause was included for patient injuries because injuries are specific, identifiable incidents. He suggested that isolation may have more to do with institutional policies. However, he did not have any objection to adding cause to subparagraph (C).

[9:10:29 AM](#)

SENATOR MYERS moved to adopt Conceptual Amendment 1 to Amendment 8, on line 10 after "type" add "and cause".

[9:10:51 AM](#)

SENATOR HUGHES suggested Conceptual Amendment 1 should also delete the first "and."

SENATOR MYERS deferred to Legislative Legal Services to decide if it was grammatically necessary.

[9:11:02 AM](#)

CHAIR HOLLAND objected for discussion purposes.

[9:11:20 AM](#)

CHAIR HOLLAND withdrew his objection; he heard no further objection, and Conceptual Amendment 1 to Amendment 8 was adopted.

CHAIR HOLLAND restated Conceptual Amendment 1 to Amendment 8. On line 10 after "number" strike "and" and insert "," and after "type" insert "and cause".

SENATOR MYERS agreed.

[9:12:03 AM](#)

CHAIR HOLLAND removed his objection; he found no further objection, and Amendment 8, as amended, was adopted.

[9:12:24 AM](#)

SENATOR KIEHL moved to adopt Amendment 9, work order 32-GS1730\I.9.

32-GS1730\I.9
Dunmire
4/27/22

AMENDMENT 9

OFFERED IN THE SENATE

BY SENATOR KIEHL

TO: CSSB 124(HSS)

Page 6, lines 25 - 26:

Delete "Computation of the 72-hour period at a crisis residential center before a hearing does not include Saturdays, Sundays, and legal holidays."

Page 10, lines 25 - 26:

Delete "**AS 47.30.708 or 47.30.715** [AS 47.30.715]"

Insert "AS 47.30.715"

[9:12:26 AM](#)

CHAIR HOLLAND objected for discussion purposes.

[9:12:30 AM](#)

SENATOR KIEHL stated his intention to explain Amendment 9 and to withdraw it. However, he wanted to speak to it because the issue would not go away. He indicated that Amendment 9 contains a drafting mistake, but he might bring it back later in the process.

SENATOR KIEHL explained that Amendment 9 pertains to how medical facilities count the 72 hours when someone is being held who does not want to be admitted to a psychiatric treatment facility, whether it is a 7 or 30-day facility. He stated they would be entitled to a court hearing under existing law with lawyers within 72 hours. However, the current law does not count weekends or holidays. He found holding someone for 6 days for a 30-day hold was proportionally acceptable. He expressed concern that holding someone for 5 or 6 days before they had a hearing before a judge would diminish their civil rights. He indicated that the bill creates a new 7-day facility, which has the potential to reap enormous benefits for people whose mental health crisis is not so acute that it will take 30 days or longer to address. He offered his view that there would be a lower severity level for most 7-day holds.

SENATOR KIEHL characterized this as a balancing act because when people need treatment but balk, things just get worse. He cautioned against creating a process that is too tightly structured. Since the court is closed on Friday, a patient admitted on Thursday will not have a hearing until Tuesday if a holiday occurs.

[9:15:45 AM](#)

SENATOR SHOWER asked if Amendment 9 could be amended now because it gets to the heart of his concern. He stated that he supports Amendment 9, and was concerned that by postponing action, the committee might not have time to consider the language at a later date.

[9:16:23 AM](#)

SENATOR KIEHL noted that he did not want to change the hearing requirement for the 30-day holds, so the language for Amendment 9 will take some careful consideration.

[9:16:47 AM](#)

CHAIR HOLLAND withdrew his objection.

[9:16:49 AM](#)

SENATOR KIEHL withdrew Amendment 9 with the intention to bring it back later in the process.

[9:17:04 AM](#)

SENATOR KIEHL moved to adopt Amendment 10, work order 32-GS1730\I.15.

32-GS1730\I.15
Dunmire
5/2/22

AMENDMENT 10

OFFERED IN THE SENATE BY SENATOR KIEHL
TO: CSSB 124(HSS)

Page 8, lines 20 - 21:

Delete "AS 47.30.817 - 47.30.838, 47.30.840 -
47.30.850, and 47.30.855 - 47.30.865"
Insert "AS 47.30.817 - 47.30.865"

[9:17:06 AM](#)

CHAIR HOLLAND objected for discussion purposes.

[9:17:09 AM](#)

SENATOR KIEHL explained that Amendment 10 was a bit more than a technical cleanup regarding a patient's rights at a crisis residential center or hospital. He indicated that it would not change the existing rights for patients, but the references to those rights in the bill are different for adults and minors. He offered his view that it would make the references uniform.

[9:18:15 AM](#)

SENATOR HUGHES asked if current law provides minors with fewer rights.

SENATOR KIEHL responded that it was the opposite. He stated that the goal was not to remove due process rights. However, if a provision did not apply to a minor or adult, no harm would be done.

[9:18:50 AM](#)

SENATOR HUGHES asked if the department had any concerns about the process.

[9:19:04 AM](#)

HEATHER CARPENTER, Health Care Policy Advisor, Office of the Commissioner, Department of Health and Social Services, Juneau, Alaska, stated that the department worked with the sponsor of Amendment 10. She explained that the bill inadvertently removed one of the rights. She said Mr. Bookman agreed that it made sense to expand it. The previous committee had already expanded the citations related to minors. She said it would be fine if a specific provision does not apply to a crisis stabilization center or crisis residential center. However, it ensures the full maximum protection of patient rights.

[9:19:48 AM](#)

SENATOR HUGHES stated her support for expanding patient rights.

[9:20:02 AM](#)

CHAIR HOLLAND removed his objection; he found no further objection, and Amendment 10 was adopted.

[9:20:18 AM](#)

SENATOR KIEHL moved to adopt Amendment 11, work order 32-GS1730\I.20.

32-GS1730\I.20
Dunmire
5/2/22

AMENDMENT 11

OFFERED IN THE SENATE
TO: CSSB 124 (HSS)

BY SENATOR KIEHL

Page 5, line 17, following "respondent":
Insert "has a mental illness and"

Page 5, line 24, following "the":
Insert "respondent has a mental illness and is suffering an acute behavioral health crisis and, as a result, is likely to cause harm to self or others or is gravely disabled and the"

Page 5, line 25, following "center,":
Insert "and the respondent is not willing to voluntarily go to a crisis residential center,"

Page 6, lines 5 - 7:
Delete "is mentally ill and that condition causes the respondent to be gravely disabled or to present a likelihood of serious harm to self or others"
Insert "has a mental illness and is suffering an acute behavioral health crisis and, as a result, is likely to cause harm to self or others or is gravely disabled"

Page 6, line 14, following "respondent":
Insert "has a mental illness and"

[9:20:20 AM](#)

CHAIR HOLLAND objected for discussion purposes.

[9:20:32 AM](#)

SENATOR KIEHL explained that Amendment 11 would match what the medical professionals need to assert to the judge, such that the respondent is mentally ill, experiencing a crisis, and was likely to cause self-harm or harm others. The judge needs to find those things valid to hold someone. He stated that the current language in SB 124 created a mismatch in SB 124, and Amendment 11 comports the language.

[9:21:13 AM](#)

CHAIR HOLLAND removed his objection.

[9:21:20 AM](#)

CHAIR HOLLAND objected for discussion purposes to hear comments from the department.

MS. CARPENTER stated that the department supports Amendment 11. She noted that Senator Kiehl and his staff made a good catch. The court system also brought a similar point to the

department's attention. She stated that Amendment 11 would ensure that it was the same for crisis stabilization centers and crisis residential centers.

[9:21:55 AM](#)

CHAIR HOLLAND removed his objection; he found no further objection, and Amendment 11 was adopted.

[9:22:12 AM](#)

SENATOR HUGHES moved to adopt Amendment 12, work order 32-GS1730\I.18.

32-GS1730\I.18
Dunmire
5/2/22

AMENDMENT 12

OFFERED IN THE SENATE
TO: CSSB 124 (HSS)

BY SENATOR HUGHES

Page 12, following line 23:
Insert a new bill section to read:

"* Sec. 24. AS 47.30.840(a) is amended to read:

(a) A person undergoing evaluation or treatment under AS 47.30.660 - 47.30.915

(1) may not be photographed without the person's consent and that of the person's guardian if a minor, except that the person may be photographed upon admission to a facility for identification and for administrative purposes of the facility; all photographs shall be confidential and may only be released by the facility to the patient or the patient's designee unless a court orders otherwise;

(2) at the time of admission to an evaluation or treatment facility, shall have reasonable precautions taken by the staff to inventory and safeguard the patient's personal property; a copy of the inventory signed by the staff member making it shall be given to the patient and made available to the patient's attorney and any other person authorized by the patient to inspect the document;

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

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

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

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

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

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

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

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

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

(12) who is a minor or an adult for whom a guardian has been appointed may not be transferred from an evaluation or treatment facility to a different evaluation or treatment facility before the facility makes a good faith attempt to notify the parent or guardian of the person, as applicable, of the proposed transfer."

Renumber the following bill sections accordingly.

Page 15, lines 5 - 6:

Delete "secs. 1 - 33"

Insert "secs. 1 - 34"

Page 16, lines 3 - 4:

Delete "sec. 29"

Insert "sec. 30"

Page 16, line 5:

Delete "sec. 29"

Insert "sec. 30"

Page 16, line 14:
Delete "Section 34"

[9:22:15 AM](#)

CHAIR HOLLAND objected for discussion purposes.

[9:22:17 AM](#)

SENATOR HUGHES explained Amendment 12. She noted that the previous committee and this committee discussed patient rights and ensuring the proper consent notification by a parent or guardian happened. She recalled that a previous amendment addressed patient notification upon arrival at one of these facilities. Amendment 12 pertains to parental or guardian notification when a patient is transferred to another facility.

[9:23:05 AM](#)

SENATOR HUGHES stated her intent to offer a Conceptual Amendment to Amendment 12, on page 2, line 13, after "from," add "crisis stabilization center," which will ensure that the notifications occur.

[9:23:25 AM](#)

SENATOR HUGHES moved Conceptual Amendment 1 to Amendment 12, on page 2, line 13, after "from," add "crisis stabilization center,".

[9:23:40 AM](#)

CHAIR HOLLAND objected for discussion purposes.

SENATOR HUGHES stated that she had previously discussed this concept with the department.

[9:24:01 AM](#)

SENATOR MYERS asked whether the crisis stabilization center was a 7-day facility.

SENATOR HUGHES interjected that it referred to the less than 24-hour facility.

[9:24:36 AM](#)

At ease

[9:25:03 AM](#)

CHAIR HOLLAND reconvened the meeting.

[9:25:14 AM](#)

CHAIR HOLLAND asked Ms. Carpenter if she had any comments regarding Conceptual Amendment 1 to Amendment 12.

MS. CARPENTER said that Conceptual Amendment 1 to Amendment 12 does what the sponsor was hoping, which was to capture all three types of facilities. She explained that the amendment did not need to mention a crisis stabilization center since it is in the definition of an evaluation facility in SB 124. She explained that an evaluation facility or treatment facility would include the Alaska Psychiatric Institute and the three hospitals in Alaska that serve as designated evaluation facilities.

[9:26:03 AM](#)

CHAIR HOLLAND removed his objection to Conceptual Amendment 1 to Amendment 12; he found no further objection, and Conceptual Amendment 1 to Amendment 12 was adopted.

[9:26:15 AM](#)

MS. CARPENTER stated that the department was comfortable with Amendment 12, as amended.

[9:26:36 AM](#)

CHAIR HOLLAND withdrew his objection to Amendment 12, as amended; he found no further objection, and Amendment 12, as amended, was adopted.

[9:27:07 AM](#)

CHAIR HOLLAND moved to adopt Amendment 13, work order 32-GS1730\I.21.

32-GS1730\I.21
Dunmire
5/3/22

AMENDMENT 13

OFFERED IN THE SENATE BY SENATOR HOLLAND
TO: CSSB 124 (HSS)

Page 11, lines 19 - 20:
Delete ", guardian, or other family member"
Insert "or guardian"

Page 11, line 21, following "review":
Insert "all available information regarding"

Page 11, line 22:
Delete "triggers,"

Page 11, line 30, through page 12, line 3:
Delete all material and insert:

"(e) Before determining whether a minor patient should be given psychotropic medication under this section, a mental health professional shall, to the extent time and the nature of the crisis permit, consult with a parent or guardian of the minor, evaluate the minor for drug withdrawal and medical psychosis caused by currently prescribed drugs or self-medication, and review all available information regarding the minor's family history, diet, medications, and other possibly relevant factors."

[9:27:11 AM](#)

SENATOR SHOWER objected for discussion purposes.

[9:27:19 AM](#)

MS. CARPENTER stated that Amendment 13 relates to Secs. 19 and 21, on pages 11 and 12. She explained that Amendment 13 replaces the amendment that the committee withdrew [Amendment 6, I.12] at the last hearing. The main difference is found on lines 5 and 6. She noted that Sec. 19 relates to non-crisis medication, and Sec. 21 relates to crisis medication. Amendment 13 would delete language in Sec. 19 that requires consulting with other family members before administering psychotropic medication to a minor patient. Instead, a mental health professional would consult with a parent or guardian and review all available information regarding the minor's family history, diet, medications, and other possibly relevant factors. This was to address the members' concerns to ensure that mental health professionals were looking at all the available information. It would also delete "triggers" on page 11, line 22. She stated that the language on Amendment 13, page 1, lines 11-18 is the same language the committee reviewed.

[9:29:02 AM](#)

SENATOR SHOWER expressed appreciation that the department addressed this. He indicated he was not overly comfortable because when a crisis is not time-sensitive, the department should take the time to consider all information. Still, medical professionals need to make judgment calls when the situation is critical.

[9:29:39 AM](#)

SENATOR HUGHES referred to lines 16-17, which read prescribed drugs or self-medication. She asked whether self-medication would include someone under the influence of illegal drugs.

MS. CARPENTER answered yes.

9:30:10 AM

SENATOR SHOWER removed his objection

9:30:13 AM

CHAIR HOLLAND found no further objection, and Amendment 13 was adopted.

9:30:54 AM

SENATOR KIEHL moved to adopt Conceptual Amendment 1 to SB 124.

9:30:56 AM

CHAIR HOLLAND objected for discussion purposes.

9:31:02 AM

SENATOR KIEHL explained Conceptual Amendment 1 to SB 124 would ensure that the process when a patient moves from one level to another at the facilities would have the same safeguards and checks as every other. He stated that by including the language "evaluation facility" in each section, the process of going from a crisis stabilization center, evaluation facility, or hospital would be the same as going from a crisis stabilization center to a 7-day facility. Thus, transferring someone in the 23-hour facility to a hospital would remain the same, with no unintentional loopholes.

9:31:59 AM

MS. CARPENTER explained that the department, Department of Law attorney, and the court system spent significant time with Senator Kiehl and his staff and agree that this is the correct solution to avoid a potential loophole that might arise in a rare circumstance. For instance, if a patient comes into a 23-hour crisis stabilization center because a bed at a crisis residential center is unavailable or the situation is too acute, medical professionals can elevate the patient to the next level of care. The court must decide within the first 24 hours, but the patient would still retain all their legal protections and rights during the process.

9:33:14 AM

CHAIR HOLLAND removed his objection; he found no further objection, and Conceptual Amendment 1 to SB 124 was adopted.

[9:33:41 AM](#)

MS. CARPENTER stated that the department, on behalf of the governor, appreciated the committee's efforts to consider improvements to the psychiatric crisis system.

[9:34:06 AM](#)

SENATOR SHOWER moved to report the committee substitute (CS) for SB 124, work order 32-GS1730\I, as amended, from committee with individual recommendations and attached fiscal note(s).

SENATOR HUGHES objected to ask a question. She noted that Senator Kiehl withdrew an amendment to further work on the language. She asked Senator Kiehl whether he would be working with the Finance Committee on the amendment. She characterized it as a good amendment.

SENATOR KIEHL answered yes; he said he would work with the department, the Alaska Mental Health Trust, the court system, and the Finance Committee on the amendment.

[9:34:55 AM](#)

SENATOR HUGHES removed her objection.

[9:35:01 AM](#)

CHAIR HOLLAND found no further objection, and CSSB 124(JUD) was reported from the Senate Judiciary Standing Committee.

[9:35:31 AM](#)

There being no further business to come before the committee, Chair Holland adjourned the Senate Judiciary Standing Committee meeting at 9:35 a.m.