

ALASKA STATE LEGISLATURE
SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

March 9, 2023

3:31 p.m.

MEMBERS PRESENT

Senator David Wilson, Chair
Senator James Kaufman, Vice Chair
Senator Löki Tobin
Senator Forrest Dunbar
Senator Cathy Giessel

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 51

"An Act exempting veterinarians from the requirements of the controlled substance prescription database; and providing for an effective date."

- MOVED SB 51 OUT OF COMMITTEE

SENATE BILL NO. 53

"An Act relating to involuntary civil commitments."

- MOVED CSSB 53(HSS) OUT OF COMMITTEE

SENATE BILL NO. 57

"An Act relating to medical assistance for recipients of Medicaid waivers; establishing an adult care home license and procedures; providing for the transition of individuals from foster care to adult home care settings; and providing for an effective date."

- MOVED SB 57 OUT OF COMMITTEE

SENATE BILL NO. 59

"An Act relating to the licensing of runaway shelters; relating to advisors to the board of trustees of the Alaska Mental Health Trust Authority; relating to the sharing of confidential health information between the Department of Health and the Department of Family and Community Services; relating to the duties of the

Department of Health and the Department of Family and Community Services; and providing for an effective date."

- REMOVED FROM AGENDA

PREVIOUS COMMITTEE ACTION

BILL: SB 51

SHORT TITLE: CONTROLLED SUB. DATA: EXEMPT VETERINARIAN

SPONSOR(s): SENATOR(s) TOBIN

02/01/23	(S)	READ THE FIRST TIME - REFERRALS
02/01/23	(S)	HSS, L&C
02/28/23	(S)	HSS AT 3:30 PM BUTROVICH 205
02/28/23	(S)	Heard & Held
02/28/23	(S)	MINUTE(HSS)
03/09/23	(S)	HSS AT 3:30 PM BUTROVICH 205

BILL: SB 53

SHORT TITLE: FIVE-YEAR INVOLUNTARY COMMITMENTS

SPONSOR(s): SENATOR(s) CLAMAN

02/01/23	(S)	READ THE FIRST TIME - REFERRALS
02/01/23	(S)	HSS, JUD
02/21/23	(S)	HSS AT 3:30 PM BUTROVICH 205
02/21/23	(S)	Heard & Held
02/21/23	(S)	MINUTE(HSS)
02/28/23	(S)	HSS AT 3:30 PM BUTROVICH 205
02/28/23	(S)	Heard & Held
02/28/23	(S)	MINUTE(HSS)
03/09/23	(S)	HSS AT 3:30 PM BUTROVICH 205

BILL: SB 57

SHORT TITLE: ADULT HOME CARE; MED ASSISTANCE

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/06/23	(S)	READ THE FIRST TIME - REFERRALS
02/06/23	(S)	HSS, FIN
03/02/23	(S)	HSS AT 3:30 PM BUTROVICH 205
03/02/23	(S)	Heard & Held
03/02/23	(S)	MINUTE(HSS)
03/09/23	(S)	HSS AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

EMMA POTTER, Staff
Senator Matt Claman

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided a summary of changes for SB 53 from version B to version S.

DR. KRISTY BECKER, Director of Clinical Services
Division of Alaska Psychiatric Institute
Department of Family and Community Services (DFCS)
Anchorage, Alaska

POSITION STATEMENT: Answered questions related to SB 53.

SENATOR MATT CLAMAN, District H
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 53.

STEVEN BOOKMAN, Senior Assistant Attorney General
Human Services Section
Civil Division
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Answered questions related to SB 53.

JOHN SKIDMORE, Deputy Attorney General
Office of the Attorney General
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Answered questions related to SB 53.

TONY NEWMAN, Acting Director
Division of Senior & Disabilities Services
Department of Health
Juneau, Alaska

POSITION STATEMENT: Introduced SB 57 on behalf of the administration.

ACTION NARRATIVE

[3:31:15 PM](#)

CHAIR DAVID WILSON called the Senate Health and Social Services Standing Committee meeting to order at 3:31 p.m. Present at the call to order were Senators Tobin, Kaufman, Giessel, Dunbar, and Chair Wilson.

SB 51-CONTROLLED SUB. DATA: EXEMPT VETERINARIAN

[3:31:55 PM](#)

CHAIR WILSON announced the consideration of SENATE BILL NO. 51 "An Act exempting veterinarians from the requirements of the controlled substance prescription database; and providing for an effective date."

He noted that this was the second hearing and the committee heard invited and public testimony when the bill was introduced. He asked whether the sponsor had any final comments.

[3:32:24 PM](#)

TREVOR BAILEY, Staff, Senator Löki Tobin, Alaska State Legislature, Juneau, Alaska, thanked the committee for hearing the bill and urged their support.

[3:32:45 PM](#)

CHAIR WILSON solicited a motion.

[3:32:47 PM](#)

SENATOR KAUFMAN moved to report SB 51, work order 33-LS0339\A, from committee with individual recommendations and attached fiscal note(s).

[3:33:04 PM](#)

CHAIR WILSON found no objection and SB 51 was reported from the Senate Health and Social Services Standing Committee.

[3:33:13 PM](#)

At ease.

SB 53-FIVE-YEAR INVOLUNTARY COMMITMENTS

[3:35:04 PM](#)

CHAIR WILSON reconvened the meeting and announced the consideration of SENATE BILL NO. 53 "An Act relating to involuntary civil commitments."

He noted that this was the third hearing and there was a committee substitute for the committee to consider. He solicited a motion.

[3:35:38 PM](#)

SENATOR KAUFMAN moved to adopt the committee substitute (CS) for SB 53, work order 33-LS0172\S, as the working document.

[3:35:50 PM](#)

CHAIR WILSON objected for purposes of discussion.

3:36:03 PM

EMMA POTTER, Staff, Senator Matt Claman, Alaska State Legislature, Juneau, Alaska, presented the explanation of changes from version B to version S for SB 53.

Senate Bill 53
Explanation of Changes
Version B to Version S

Version B to Version S

Section 1 (page 1, lines 5-14; page 2, lines 1-7):

- Creates a new section of bill
- Changes subsection (a) so that an evaluation for the insanity defense requires one qualified psychiatrist or psychologist
- Removes the requirement that the psychiatrist or psychologist have certification by the American Board of Forensic Psychology

Section 2 (page 2, lines 8-25):

- Creates a new section of bill
- Amends subsection (b) to require that motions by attorneys requesting competency evaluation are written motions

Section 3 (page 2, lines 26-31; page 3, lines 1-3):

- Creates a new section of bill
- Conforming change to add the crime of arson to the legislation
- Adds reference to AS 12.30, stating that defendants may be released on bail conditions for outpatient competency examinations

Section 4 (page 3, lines 4-26):

- Creates a new section of bill
- Amends the section to increase the maximum total time for competency restoration hold from one year to two years for charges of crimes involving force against a person by increasing the period from 6 months to 18 months

Section 5 (page 3, lines 27-31; page 4, lines 1-14):

- Conforming changes to add the crime of arson to the legislation

- Adds reference to AS 12.30, stating that defendants may be released on bail conditions for outpatient evaluation and treatment
- Amends new subsection (g) by adding requirement that the prosecutor shall provide the court's findings to the division of the Department of Law that has responsibility for civil cases within 24 hours of the court's ruling. Amends the subsection by adding that when the Department of Law files petitions for involuntary commitment under this section, the petition must be filed within 72 hours after the dismissal of the charges
- Creates new subsection (h) which states that when the court dismisses the charges, the defendant may not be discharged until 72 hours after the court dismisses the charges

Section 6 (page 4, lines 15-26):

- Conforming change to add the crime of arson to the legislation
- Adds provisions for alleged victim notification of: the time and place of any civil commitment proceeding; of the court's finding at any civil commitment proceeding, including the length of time for which the respondent is committed; and of when the respondent is discharged from any civil commitment

Section 7 (page 4, lines 27-31; page 5, lines 1-31):

- Removes the word "repeated" from the history of felony offenses requirement
- Conforming changes to add the crime of arson to the legislation

Section 9 (page 6, lines 7-26):

- Removes the word "repeated" from the history of felony offenses requirement
- Removes "or is committed as a result of being found incompetent to stand trial under AS 12.47.100 and 12.47.110 for a felony offense against a person under AS 11.41"
- Conforming change to add the crime of arson to the legislation

Section 11 (page 7, lines 18-22):

- Creates a new section of the bill
- Indirect court rule change to conform with added requirement of written motion by attorneys requesting competency evaluation in AS 12.47.100

Section 12 (page 7, lines 23-27):

- Creates a new section of the bill
- Adds conditional effect language based on indirect court rule change

[3:40:43 PM](#)

SENATOR DUNBAR asked the representative from the Alaska Psychiatric Institute (API) to speak to the concern that API doesn't have the capacity to handle five-year involuntary commitments and to the zero fiscal note, which was a surprise.

[3:41:40 PM](#)

DR. KRISTY BECKER, Director of Clinical Services, Division of Alaska Psychiatric Institute, Department of Family and Community Services (DFCS), Anchorage, Alaska, stated that API currently has a 10-bed competency restoration unit and a lengthy waitlist. Plans are in process to open a jail-based competency restoration program by the end of June and an outpatient competency restoration program for low-level, nonviolent misdemeanants by fall. To the question about API's capacity to accommodate longer term commitment periods, she said she imagines it would increase the burden on the waitlist. To the second question, she offered her understanding that the fiscal note was zero because the bill doesn't change the cost of caring for patients in the facility; the 10-bed unit is always full regardless of who is or is not on the waitlist. She added that program development and additional staffing have a cost, but she didn't have a clear understanding of how that would be reflected in the fiscal note.

[3:44:04 PM](#)

SENATOR DUNBAR observed that even with that extra capacity, those 10 beds might stay full all the time if the bill were to pass. Furthermore, the jail-base and outpatient competency restoration programs would not be free of cost, so the zero fiscal note was still puzzling.

MS. BECKER said the department submitted budgetary requests to fund the jail-based and outpatient programs that are going through the legislative process separate from this bill. Funding is also available through the Mental Health Trust to help stand the programs up. She agreed with the supposition that even with the two new programs, the 10-bed unit was still likely to be

full all the time. What will likely happen is that the 10 beds at API will be filled with patients who have the highest psychiatric needs, the jail-based beds will likely manage offenders who fall in the middle of the spectrum, and the outpatient restoration program will have clear criteria and only accept misdemeanants whose crimes do not involve force against a person. The lowest level of offenders will receive treatment in the least restrictive environment.

SENATOR DUNBAR thanked her for the detailed response.

[3:46:12 PM](#)

CHAIR WILSON advised that the Senate Health Finance Subcommittee received and discussed the request for the additional beds. He indicated he had a question for Steven Bookman with the Department of Law (DOL).

[3:46:31 PM](#)

SENATOR MATT CLAMAN, District H, Alaska State Legislature, sponsor of SB 53, said he didn't believe that Dr. Becker answered the question the fiscal note raises because it has nothing to do with competency, incompetency, or the 10 competency-restoration beds. The fiscal note is entirely about the bed capacity at API. It says API has an 80-bed capacity and that those beds are usually full, but it would still have an obligation to hold the individuals who are in long-term involuntary commitment. That raises the question of whether the longer period might increase the demand for those beds, so the waitlist may be longer. But the beds are already full and API is funded for the full 80-bed capacity so the bill would not have a fiscal impact on the department. He reiterated that the fiscal note has nothing to do with competency evaluations.

[3:47:43 PM](#)

CHAIR WILSON asked Mr. Bookman if he believed that the jail-based program Dr. Becker described might conflict with the state's settlement with the Disability Law Center about false imprisonment and holding people who could go to API or community-based centers in jail.

[3:48:28 PM](#)

STEVEN BOOKMAN, Senior Assistant Attorney General, Human Services Section, Civil Division, Department of Law, Anchorage, Alaska, said no; the Disability Law Center case was a civil matter about people who had not been charged with a crime; they were held in jail to keep them safe while they waited for a bed to open at API or another hospital. The in-jail competency

restoration program is intended for people who have been charged with a crime and are being held in jail awaiting space at API for treatment or education. They are criminal defendants who could receive treatment while they're being held in jail.

[3:49:46 PM](#)

SENATOR TOBIN asked the sponsor why arson was included in SB 53.

[3:50:02 PM](#)

SENATOR CLAMAN explained that arson was added after consultation with the Department of Law. Technically, arson is an offense against property, but it was added because the first-degree arson cases that DOL has prosecuted involve explosions and a high degree of serious danger at all levels.

[3:50:46 PM](#)

SENATOR TOBIN noted that the bill talks about arson in any degree. She said her assumption was that first-degree arson potentially threatens life and the lesser degrees involve property or perhaps a small dumpster fire. She asked if those cases would be included as a first offense.

[3:51:02 PM](#)

SENATOR CLAMAN confirmed that as currently drafted all arson cases would be included. He shared that Senator Dunbar also raised the question of limiting the bill to just first-degree arson and his response was that the Judiciary Committee should take up that question.

CHAIR WILSON asked Mr. Skidmore to talk about why the attorney general believes arson should be included in SB 53.

[3:52:03 PM](#)

JOHN SKIDMORE, Deputy Attorney General, Criminal Division Office of the Attorney General, Department of Law, Anchorage, Alaska, stated that AS 11.46.400, which is arson in the first degree, expressly says that the act directly places another person in danger of serious physical injury, just as the sponsor described. AS 11.46.410, arson in the second degree, talks about knowingly damaging a building by igniting a fire or causing an explosion. A fire in a dumpster fire is not a building so it would not qualify. A building that was set on fire doesn't automatically place somebody at risk but setting a building on fire that may spread to other buildings or cause explosions is more serious conduct because it is potentially very dangerous. People aren't always hurt, but there is always that potential. AS 11.46.420, arson in the third degree, talks about a person

who intentionally damages something other than a building, such as a vehicle, by starting a fire or causing an explosion while the vehicle is situated on public land or private property. The crime doesn't necessarily place others in danger, but the behavior of intentionally starting fires places others at risk. That's the reason the bill includes arson in any degree. He added that he didn't believe it would be appropriate to apply this to anybody committing a property crime. He acknowledged that it was a policy call for the legislature to make.

[3:55:43 PM](#)

SENATOR TOBIN posed a hypothetical example of an underage individual who had not been diagnosed but was experiencing symptoms of schizophrenia. She asked how that would interplay with the bill.

MR. SKIDMORE said individuals who are under the age of 18 are typically in the juvenile justice system. The things the committee has been discussing wouldn't necessarily apply to juveniles except a case of arson in the first degree, which is a class A felony. A case involving a juvenile who is age 16 and older who has committed a class A felony or an unclassified felony would be automatically waived into adult court. Lower levels of arson are not automatically waived.

[3:57:04 PM](#)

SENATOR DUNBAR said he hopes the Judiciary Committee scrutinizes the arson provision carefully and decides to narrow it. He mentioned receiving information indicating that the bill as a whole might be challenged on constitutional grounds in a unique instance of a crime against a person. He asked Mr. Skidmore if he had any concern that the bill would be more susceptible to that sort of legal challenge if the arson provision wasn't narrowed.

MR. SKIDMORE said he didn't know what legal challenge was being contemplated and he hadn't had an opportunity to review the CS that was introduced just today. Thus, he couldn't comment on the bill as a whole or whether a lawsuit may or may not be appropriate. He posited that somebody who was contemplating a lawsuit before the introduction of the CS may be focused on holding an individual for more than five years. That would be a civil matter which was not within his area of expertise.

[3:59:33 PM](#)

CHAIR WILSON removed his objection; he found no further objection and CSSB 53, work order 33-LS0172\S, was adopted.

He asked whether there were any other questions or comments.

[3:59:59 PM](#)

SENATOR KAUFMAN stated that he was looking forward to scrutinizing the CS and hearing more about due process and other issues associated with the bill in the Judiciary Committee. Thus, he was willing to move the bill from this committee.

CHAIR WILSON said he too had judicial concerns with the bill.

[4:00:57 PM](#)

At ease

[4:01:07 PM](#)

CHAIR WILSON reconvened the meeting and solicited a motion.

[4:01:16 PM](#)

SENATOR KAUFMAN moved to report the CS for SB 53, work order 33-LS0172\S, from committee with individual recommendations and attached fiscal note(s).

[4:01:29 PM](#)

CHAIR WILSON found no objection and CSSB 53(HSS) was reported from the Senate Health and Social Services Standing Committee.

[4:01:40 PM](#)

At ease.

SB 57-ADULT HOME CARE; MED ASSISTANCE

[4:03:19 PM](#)

CHAIR WILSON reconvened the meeting and announced the consideration of SENATE BILL NO. 57 "An Act relating to medical assistance for recipients of Medicaid waivers; establishing an adult care home license and procedures; providing for the transition of individuals from foster care to adult home care settings; and providing for an effective date."

He noted that the committee heard an overview of the bill and took invited and public testimony during the first hearing. He asked Mr. Newman if he would like to comment further on the bill.

[4:03:56 PM](#)

TONY NEWMAN, Acting Director, Division of Senior & Disabilities Services, Department of Health, Juneau, Alaska, recapped that SB

57 offers older Alaskans and individuals with disabilities another option for receiving services beyond what the state currently offers. He said the public testimony was positive and he looks forward to continuing to work with legislators as the bill moves through the process.

[4:04:30 PM](#)

CHAIR WILSON discerned that there were no amendments and solicited a motion.

[4:04:39 PM](#)

SENATOR KAUFMAN moved to report SB 57, work order 33-GS1708\A, from committee with individual recommendations and attached fiscal note(s).

[4:04:52 PM](#)

CHAIR WILSON found no objection and SB 57 was reported from the Senate Health and Social Services Standing Committee.

[4:05:02 PM](#)

At ease.

[4:07:24 PM](#)

There being no further business to come before the committee, Chair Wilson adjourned the Senate Health and Social Services Standing Committee meeting at 4:07 p.m.