

ALASKA STATE LEGISLATURE
SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

May 9, 2023

3:43 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

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 60 (HSS) AM

"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."

- MOVED SCS CSHB 60 (HSS) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 60

SHORT TITLE: RUNAWAYS; DFCS/DOH: DUTIES/LICENSING/INFO

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/03/23	(H)	READ THE FIRST TIME - REFERRALS
02/03/23	(H)	HSS, FIN
02/28/23	(H)	HSS AT 3:00 PM DAVIS 106
02/28/23	(H)	Heard & Held
02/28/23	(H)	MINUTE (HSS)
03/07/23	(H)	HSS AT 3:00 PM DAVIS 106
03/07/23	(H)	Heard & Held
03/07/23	(H)	MINUTE (HSS)
03/14/23	(H)	HSS AT 3:00 PM DAVIS 106
03/14/23	(H)	<Bill Hearing Canceled>

03/23/23 (H) HSS AT 3:00 PM DAVIS 106
 03/23/23 (H) Moved CSHB 60(HSS) Out of Committee
 03/23/23 (H) MINUTE(HSS)
 03/27/23 (H) HSS RPT CS(HSS) 1DP 5NR
 03/27/23 (H) DP: PRAX
 03/27/23 (H) NR: FIELDS, SUMNER, RUFFRIDGE, SADDLER,
 MINA
 03/27/23 (H) L&C REPLACES FIN REFERRAL
 03/27/23 (H) BILL REPRINTED
 04/03/23 (H) L&C AT 3:15 PM BARNES 124
 04/03/23 (H) -- MEETING CANCELED --
 04/05/23 (H) L&C AT 3:15 PM BARNES 124
 04/05/23 (H) -- MEETING CANCELED --
 04/10/23 (H) L&C AT 3:15 PM BARNES 124
 04/10/23 (H) Heard & Held
 04/10/23 (H) MINUTE(L&C)
 04/14/23 (H) L&C AT 3:15 PM BARNES 124
 04/14/23 (H) Moved CSHB 60(HSS) Out of Committee
 04/14/23 (H) MINUTE(L&C)
 04/17/23 (H) L&C RPT CS(HSS) 2DP 3NR
 04/17/23 (H) DP: PRAX, SUMNER
 04/17/23 (H) NR: SADDLER, WRIGHT, CARRICK
 04/26/23 (H) TRANSMITTED TO (S)
 04/26/23 (H) VERSION: CSHB 60(HSS) AM
 04/28/23 (S) READ THE FIRST TIME - REFERRALS
 04/28/23 (S) HSS
 05/02/23 (S) HSS AT 3:30 PM BUTROVICH 205
 05/02/23 (S) Heard & Held
 05/02/23 (S) MINUTE(HSS)
 05/09/23 (S) HSS AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

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

POSITION STATEMENT: Provided a summary of HB 60.

STACIE KRALY, Statewide Office Chief and Director
 Civil Division
 Department of Law
 Juneau, Alaska,

POSITION STATEMENT: Provided information and answered questions during the hearing on HB 60.

ACTION NARRATIVE

[3:43:30 PM](#)

CHAIR DAVID WILSON called the Senate Health and Social Services Standing Committee meeting to order at 3:43 p.m. Present at the call to order were Senators Tobin, Kaufman, Giessel, Dunbar, and Chair Wilson.

HB 60-RUNAWAYS; DFCS/DOH: DUTIES/LICENSING/INFO

[3:43:58 PM](#)

CHAIR WILSON announced the consideration of CS FOR HOUSE BILL NO. 60(HSS) am "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."

He noted that this was the second hearing.

[3:44:28 PM](#)

CHAIR WILSON invited Heather Carpenter to refresh the committee's recall of HB 60.

[3:44:37 PM](#)

HEATHER CARPENTER, Health Care Policy Advisor, Office of the Commissioner, Department of Health, Juneau, Alaska, summarized that HB 60 provides the "clean up" for Executive Order (EO) 121 that separated the Department of Health and Social Services into the Department of Health (DOH) and the Department of Family and Community Services (DFCS). HB 60: clarifies that DOH licenses runaway shelters; adds the DFCS commissioner as a statutory advisor to the Mental Health Trust Board of Trustees; ensures the same level of information sharing between the two new departments as before the bifurcation and that both departments are subject to HIPPA.

[3:46:06 PM](#)

CHAIR WILSON opened public testimony on HB 60; finding none, he closed public testimony.

[3:46:25 PM](#)

CHAIR WILSON moved to adopt the earlier version S of HB 60, work order 33-GH1343\S, as the working document. He explained that

version S did not include the amendments that were adopted on the House floor.

[3:46:48 PM](#)

SENATOR GIESSEL objected.

[3:46:51 PM](#)

SENATOR GIESSEL stated that returning to version S would remove the language that was adopted on the House floor about providing an explanation and materials about human trafficking and sex trafficking to runaway minors seeking assistance. She emphasized that this was a vulnerable population that needed this information.

CHAIR WILSON asked whether the representative from the Department of Law could confirm that information about human trafficking and sex trafficking to runaway minors is provided to runaway minors.

[3:47:56 PM](#)

STACIE KRALY, Statewide Office Chief and Director, Civil Division, Department of Law, Juneau, Alaska, stated that in an earlier hearing, there was a discussion that Covenant House Alaska which provides shelter to runaway minors does provide information about human trafficking and sex trafficking. That was the extent of her knowledge.

[3:48:52 PM](#)

CHAIR WILSON asked for a roll call vote on the motion [to adopt the earlier version S for HB 60 as the working document].

[3:49:01 PM](#)

SENATOR GIESSEL asked the chair to clarify the meaning of a yes vote and a no vote.

[3:49:09 PM](#)

CHAIR WILSON explained that a yes vote supports returning to the earlier version S of HB 60 and a no vote means the committee continues to work from version S.A which is the version that passed the House and was transmitted to the Senate.

[3:49:28 PM](#)

At ease.

[3:49:58 PM](#)

CHAIR WILSON reconvened the meeting and asked the secretary to call the roll.

[3:50:03 PM](#)

A roll call vote was taken on the motion to adopt version S of HB 60 as the working document. Senators Dunbar, Tobin, Kaufman, and Wilson voted in favor of the motion and Senator Giessel voted against it. The vote was 4:1.

[3:50:29 PM](#)

CHAIR WILSON announced that on a vote of 4 yeas and 1 nay, the committee adopted version S of HB 60 as the working document.

[3:50:44 PM](#)

CHAIR WILSON stated that there was one amendment for the committee to consider. He advised that because the amendment was drafted based on version S.A, the page numbers and lines don't match so the amendment would be considered conceptual. The intention of the amendment is unchanged.

[3:51:08 PM](#)

SENATOR GIESSEL moved to adopt Amendment 1.

33-GH1343\S.A.1
Bergerud
5/1/23

AMENDMENT 1

OFFERED IN THE SENATE
TO: CSHB 60(HSS) am

BY SENATOR GIESSEL

Page 1, line 1, following "**shelters;**":

Insert "**allowing minors 16 years of age or older to consent to behavioral health and mental health services; authorizing school personnel to recommend a behavioral health or mental health professional to a child 16 years of age or older;**"

Page 3, following line 30:

Insert new bill sections to read:

"* **Sec. 2.** AS 14.30.171 is amended by adding a new subsection to read:

(c) Notwithstanding (a) of this section, school personnel may recommend a behavioral health professional or mental health professional to a child who is 16 years of age or older. In this subsection, "behavioral health

professional" and "mental health professional" have the meanings given in AS 14.30.174(b).

* **Sec. 3.** AS 14.30.174(a) is amended to read:

(a) Notwithstanding AS 14.30.171(a)(3) and (5), a behavioral or mental health professional working within a public school system may, in compliance with federal education law or applicable state law,

(1) recommend, but not require, a psychiatric or behavioral health evaluation of a child; [AND]

(2) recommend, but not require, psychiatric, psychological, or behavioral treatment for a child; and

(3) obtain informed consent from and provide behavioral or mental health services to a child who is 16 years of age or older."

Renumber the following bill sections accordingly.

Page 4, following line 2:

Insert new bill sections to read:

"* **Sec. 5.** AS 25.20.025(a) is amended to read:

(a) Except as prohibited under AS 18.16.010(a)(3),

(1) a minor who is living apart from the minor's parents or legal guardian and who is managing the minor's own financial affairs, regardless of the source or extent of income, may give consent for medical and dental services for the minor;

(2) a minor may give consent for medical and dental services if the parent or legal guardian of the minor cannot be contacted or, if contacted, is unwilling either to grant or withhold consent; however, if [WHERE] the parent or legal guardian cannot be contacted or, when [IF] contacted, is unwilling either to grant or to withhold consent, the provider of medical or dental services shall counsel the minor keeping in mind not only the valid interests of the minor but also the valid interests of the parent or guardian and the family unit as best the provider presumes them;

(3) a minor who is the parent of a child may give consent to medical and dental services for the minor or the child;

(4) a minor may give consent for diagnosis, prevention, or treatment of pregnancy, and for diagnosis and treatment of venereal disease;

(5) a minor who is 16 years of age or older may give consent to receive behavioral or mental health services from a behavioral health professional or mental health professional; in this paragraph, "behavioral health

professional" and "mental health professional" have the meanings given in AS 14.30.174(b) [THE PARENT OR GUARDIAN OF THE MINOR IS RELIEVED OF ALL FINANCIAL OBLIGATION TO THE PROVIDER OF THE SERVICE UNDER THIS SECTION].

* **Sec. 6.** AS 25.20.025 is amended by adding a new subsection to read:

(d) The parent or guardian of a minor is relieved of all financial obligation to the provider of a service under this section."

Renumber the following bill sections accordingly.

[3:51:10 PM](#)

CHAIR WILSON objected for purposes of discussion.

[3:51:43 PM](#)

At ease.

[3:53:51 PM](#)

CHAIR WILSON reconvened the meeting and asked Senator Giessel to explain Amendment 1.

[3:53:57 PM](#)

SENATOR GIESSEL explained that Sections 2 and 3 of the amendment address her concern about students who seek needed behavioral and mental health services but are unable to access those services because their parents either decline to provide consent or are unresponsive to the request for consent.

Sections 5 and 6 address young people living in runaway shelters who need to access behavioral and mental health services. These are kids who are not living at home with supportive parents. They have already made difficult decisions to protect themselves and they often need help to work through the mental trauma they have and may still be going through. These sections would authorize persons in these circumstances who are age 16 or older to grant consent for themselves to access behavioral and or mental health services. She clarified that the amendment has nothing to do with consent for abortion or surgical procedures for gender change.

CHAIR WILSON asked whether the administration had any comments on the proposed amendment.

[3:57:08 PM](#)

MS. CARPENTER expressed appreciation that Senator Giessel shared the amendment in advance so the administration had an

opportunity to articulate its concerns about this being a large policy call that school districts and others may want to comment on and that timing prevents that. She deferred to Ms. Kraly to discuss legal concerns.

[3:57:54 PM](#)

MS. KRALY echoed Ms. Carpenter's comments and emphasized the need for due diligence before making such a large policy call. The bill was intended to fix the expected errors in Executive Order 121 that bifurcated the former Department of Health and Social Services. A concern is that if there is a challenge to the bill because of a single subject issue, it's unclear what the ramifications might be. The bill clarifies that foster care licensing should reside in the Department of Family and Community Services (DFCS). Right now it is not housed under DFCS so jurisdictional issues could arise if the bill doesn't pass. If that were to happen, federal funding could be at risk. She reiterated that HB 60 was narrowly drafted to clean up minor issues and the administration believes it is in the best interest of the two new departments if it were to remain simple and declarative.

[4:01:39 PM](#)

SENATOR DUNBAR asked if she was arguing that the amendment was a large policy call that reduced the chance of the bill passing or that incorporating the amendment would violate the single subject rule which would call the entire bill into question. He said he was under the impression that the policy of severability meant that the rest of the law wasn't negated.

[4:02:33 PM](#)

MS. KRALY opined that both issues come into play. The bill does not have a severability provision and there is concern that the amendment could create legal issues for the department. The bill will survive without the amendment and that is the administration's preference.

SENATOR DUNBAR observed that if an amendment violates the single subject rule, it seems that the existing language would by definition stand on its own.

[4:04:28 PM](#)

MS. KRALY said the argument makes sense but she wasn't sure that such surgical carving would occur. It would depend on several variables. The administration's position is that without the amendment, the bill is tight and doesn't carry any risk.

SENATOR DUNBAR disagreed with the notion that inserting the amendment increases the risk of other provisions being struck down. He said he continues to believe there is a general policy of severability in the law such that one small problem doesn't cause the entire bill to fail, particularly if it's on the single-subject rule.

[4:06:13 PM](#)

CHAIR TOBIN highlighted that the amendment says the services may be provided so there is no demand. Her reading of the amendment is that it offers the opportunity for young people in crisis to receive the services and support that they are requesting. She asked if the interpretation was accurate.

MS. KRALY replied that the language is permissive but she didn't know how it might impact the Department of Education and Early Development (DEED) and that was a concern.

[4:07:50 PM](#)

SENATOR GIESSEL opined that the amendment fits into the bill very well. The language in Section 8 of the bill talks about a minor who is seeking assistance from the program and about determining what services may be necessary or appropriate to restore the minor to their family. It also talks about providing services necessary to promote the health and welfare of the minor in the program. She talked about schools generally being safe places and teachers generally being safe people that students turn to. It's a stable environment that kids can depend on when there is significant stress in their family. She said this is about providing kids an opportunity to access behavioral and mental health services that could make a difference in their lives. She reiterated that the amendment is a good fit and it will empower students who know what they need.

SENATOR GIESSEL stated that she told the governor last week that she intended to offer the amendment and he indicated that he would review it and provide his thoughts. She hadn't heard from him but it was disclosed.

[4:11:30 PM](#)

CHAIR WILSON shared his experience getting parental consent to offer behavioral and mental health services to students in the Anchorage and Mat-Su school districts. He noted that these services come with a cost and minors can't be held responsible for payment. He said he supports these services but his concern is that the amendment would delay the legislation.

CHAIR WILSON stated he was maintaining his objection to the amendment.

[4:13:25 PM](#)

SENATOR GIESSEL directed attention to page 2, lines 30 - 31 of the amendment that relieves the parent or guardian of the minor of all financial obligation for the services provided under that section.

[4:13:49 PM](#)

SENATOR KAUFMAN said he was leaning strongly towards voting no on the amendment because there isn't time to vet it fully. His concern is that a parent who wants their runaway child back in their care may be blindsided by this amendment.

CHAIR WILSON asked the secretary to call the roll.

[4:15:15 PM](#)

A roll call vote was taken. Senators Giessel, Dunbar, and Tobin voted in favor of the motion to adopt Conceptual Amendment 1 and Senators Kaufman and Wilson voted against it. The vote was 3:2.

[4:15:33 PM](#)

CHAIR WILSON announced that on a vote of 3 yeas and 2 nays, Conceptual Amendment 1 was adopted.

CHAIR WILSON solicited a motion.

[4:15:57 PM](#)

SENATOR KAUFMAN moved to report HB 60, work order 33-GH1343\S, as amended, from committee with individual recommendations and attached fiscal note(s). Legislative Legal has the authority to make conforming and technical changes.

[4:16:17 PM](#)

CHAIR WILSON found no objection and SCS CSHB 60(HSS) was reported from the Senate Health and Social Services Standing Committee.

[4:17:40 PM](#)

There being no further business to come before the committee, Chair Wilson adjourned the Senate Health and Social Services Standing Committee meeting at 4:17 p.m.