

**HB**

**115**

22-LS0059\O  
Ford  
5/4/01

SENATE CS FOR CS FOR HOUSE BILL NO. 115(HES)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES KAPSNER, James, Dyson, Wilson, Cissna, Joule

SENATOR Olson

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the services of certain medical professionals in civil proceedings for  
2 the commitment of certain intoxicated persons; allowing a physician assistant or  
3 advanced nurse practitioner to certify the need for emergency treatment as a result of  
4 intoxication; and providing for an effective date."

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

6 \* Section 1. AS 47.37.180(b) is amended to read:

7 (b) The certifying physician, physician assistant, advanced nurse  
8 practitioner, spouse, guardian, or relative of the person to be committed, or any other  
9 responsible person, may make a written application for commitment under this  
10 section, directed to the administrator of the approved public treatment facility. The  
11 application must state facts to support the need for emergency treatment and be  
12 accompanied by a physician's, physician assistant's, or advanced nurse  
13 practitioner's certificate supporting the need for emergency treatment and stating that  
14 the physician, physician assistant, or advanced nurse practitioner has examined the

1 person sought to be committed within two days before the certificate's date.

2 \* Sec. 2. AS 47.37.180(f) is amended to read:

3 (f) A copy of the written application for commitment and of the physician's,  
4 physician assistant's, or advanced nurse practitioner's certificate, and a written  
5 explanation of the person's right to legal counsel, shall be given to the person within  
6 24 hours after commitment by the administrator, who shall provide a reasonable  
7 opportunity for the person to consult with legal counsel.

8 \* Sec. 3. AS 47.37.190(a) is amended to read:

9 (a) A spouse or guardian, a relative, the certifying physician, physician  
10 assistant, advanced nurse practitioner, or the administrator in charge of an approved  
11 public treatment facility may petition the court for a 30-day involuntary commitment  
12 order. The petition must allege that the person is an alcoholic or drug abuser who (1)  
13 has threatened, attempted to inflict, or inflicted physical harm on another and that  
14 unless committed is likely to inflict physical harm on another; or (2) is incapacitated  
15 by alcohol or drugs. A refusal to undergo treatment does not constitute evidence of  
16 lack of judgment as to the need for treatment. The petition must be accompanied by a  
17 certificate of a licensed physician, physician assistant, or advanced nurse  
18 practitioner who has examined the person within two days before submission of the  
19 petition, unless the person whose commitment is sought has refused to submit to a  
20 medical examination, in which case the fact of refusal must be alleged in the petition.  
21 The certificate must set out the physician's, physician assistant's, or advanced nurse  
22 practitioner's findings of the examination in support of the allegations of the  
23 petition.

24 \* Sec. 4. AS 47 37.200(a) is amended to read:

25 (a) At the hearing for a 30-day commitment required under AS 47.37.190(b),  
26 the court shall hear all relevant testimony, including, if possible, the testimony of at  
27 least one person [LICENSED PHYSICIAN] who has examined the person whose  
28 commitment is sought under AS 47.37.180(b) or 47.37.190(a). The person whose  
29 commitment is sought shall be present unless the court believes that being present is  
30 likely to be injurious to the person, in which case the court may conduct the hearing  
31 telephonically. The court may examine the person in open court, or, if advisable,

1           examine the person out of court. If the person has refused to be examined under  
2           AS 47.37.180(b) or 47.37.190(a) [BY A LICENSED PHYSICIAN], the person shall  
3           be given an opportunity to request examination by a court-appointed licensed  
4           physician, physician assistant, or advanced nurse practitioner. If the person fails  
5           to request a medical examination and there is sufficient evidence to believe that the  
6           allegations of the petition are true, or, if the court believes that more medical evidence  
7           is necessary, the court may issue a temporary order committing the person to a private  
8           or public facility for a period of not more than five days for purposes of a diagnostic  
9           examination.

10        \* **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).

Steven Pearce  
8101 E. 5th Ave #C  
Anch., AK 99504  
wr. 24-439/u

**Subject: HB 115 Concerns**

**Date: Thu, 03 May 2001 17:54:48 -0700**

**From: Steven Pearce <cohrights@qwest.net>**

**To: Senator\_Lyda\_Green@legis.state.ak.us**

Dear Senator Green:

According to testimony given on HB 115 in the House, "Anne Henry, Special Projects Coordinator, Division of Mental Health & Developmental Disabilities, Department of Health & Social Services, came forth to testify on HB 115. She stated:

"The Division of Mental Health & Developmental Disabilities supports the efforts to expand the pool of mental health professional available to do mental health civil commitments..."

Now, in a response to criticism of HB 115, on May 2nd she now states:

"The number of people hired to do emergency services evaluations should not increase."

These statements about HB 115 are clearly in conflict with each other.

Add to this comments by Rep. Kapsner in her sponsor statement: "Licensure that includes masters level mental health clinicians enlarges the pool of Mental Health Professionals." "Expanding the pool of qualified professionals..."

Clearly the intent is to enlarge the pool of mental health professionals, which would lead to increased evaluations and likely increased commitments and more dependence on long term care.

Clearly the language in HB 115 regarding commitment due to being intoxicated is geared toward expanding the pool of who can certify commitment.

It is inherent in the mental health statutes that commitment entails a loss of liberty, and increasing the number of practitioners that can do mental health commitments and drug commitments to cover practitioners that are less qualified to make these medical decisions will do damage to health and increase costs to the state.

I would also like to point out that it is not just the Citizens Commission on Human Rights that is concerned about this bill. The ACLU has concerns as well which have been communicated to the sponsor of this bill, Rep. Kapsner and the members of the Senate Health Education & Social Services Committee. I see none of those suggestions reflected in the current bill.

I respectfully request that this proposed legislation be thoroughly reviewed based on the above concerns.

Sincerely,

Steven Pearce  
Director

Citizens Commission on Human Rights of Seattle  
300 LENORA STREET, #B252 \* SEATTLE, WASHINGTON 98121 \*  
1-877-448-8517 \* E-mail: sepearce@aol.com

22-LS0059L  
Ford  
5/3/01

SENATE CS FOR CS FOR HOUSE BILL NO. 115( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES KAPSNER, James, Dyson, Wilson, Cissna, Joule

SENATOR Olson

A BILL

FOR AN ACT ENTITLED

1 "An Act allowing a physician assistant or advanced nurse practitioner to certify the  
2 need for emergency treatment as a result of intoxication."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 \* Section 1. AS 47.37.180(b) is amended to read:

5 (b) The certifying physician, phvsician assistant, advanced nurse  
6 practitioner, spouse, guardian, or relative of the person to be committed, or any other  
7 responsible person, may make a written application for commitment under this  
8 section, directed to the administrator of the approved public treatment facility. The  
9 application must state facts to support the need for emergency treatment and be  
10 accompanied by a physician's, phvsician assistant's, or advanced nurse  
11 practitioner's certificate supporting the need for emergency treatment and stating that  
12 the physician, physician assistant, or advanced nurse practitioner has examined the  
13 person sought to be committed within two days before the certificate's date.

14 \* Sec. 2. AS 47.37.180(f) is amended to read:

1  
2  
3  
4  
5

(f) A copy of the written application for commitment and of the physician's, physician assistant's, or advanced nurse practitioner's certificate, and a written explanation of the person's right to legal counsel, shall be given to the person within 24 hours after commitment by the administrator, who shall provide a reasonable opportunity for the person to consult with legal counsel.

**SENATE CONCURRENT RESOLUTION NO.**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-SECOND LEGISLATURE - FIRST SESSION**

**BY SENATOR OLSON**

**Introduced:**  
**Referred:**

**A RESOLUTION**

1 **Suspending Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State**  
2 **Legislature, concerning House Bill No. 115, relating to the definition of 'mental health**  
3 **professional' for certain mental health proceedings and treatments; relating to the**  
4 **services of certain medical professionals in civil proceedings for the commitment of**  
5 **certain intoxicated persons; allowing a physician assistant or advanced nurse**  
6 **practitioner to certify the need for emergency treatment as a result of intoxication.**

7 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 That under Rule 54, Uniform Rules of the Alaska State Legislature, the provisions of  
9 Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State Legislature, regarding  
10 changes to the title of a bill, are suspended in consideration of House Bill No. 115, relating to  
11 the definition of "mental health professional" for certain mental health proceedings and  
12 treatments; relating to the services of certain medical professionals in civil proceedings for the  
13 commitment of certain intoxicated persons; allowing a physician assistant or advanced nurse  
14 practitioner to certify the need for emergency treatment as a result of intoxication.

**Subject: Concerns about HB 115 and expansion of mental health professionals**

**Date:** Wed, 02 May 2001 16:02:01 -0700

**From:** Steven Pearce <cohrights@qwest.net>

**To:** Senator\_Lyda\_Green@legis.state.ak.us

May 2, 2001

Senator Green:

I'm E-mailing you regarding HB 115, which is currently being being considered in the Senate HES Committee. This bill deals with mental health professionals and who can certify the need for emergency treatment as a result of intoxication.

This bill is significant in that it gives too much power to those in the healthcare industry by expanding the law on who can involuntarily commit Alaskan citizens and potentially denies citizens their civil liberties.

Additional information that I have been able to discover. HB 115 is not so narrowly focused after all. With the new definitions and inclusion of more practitioners, the potential number of those that would be granted legal authority to commit Alaskans or be able to "medically" certify commitment increases dramatically. Currently from testimony in the House it is estimated that 140 currently deal with either mental health or intoxication commitments of which about half are "qualified" under current law to do so. Yet Alaska is supposed to have 600 Physicians and about 150 physicians assistants.

Under proposed language in HB 115, expanding the intoxication laws to allow advanced nurse practitioners would theoretically allow 440 more people to certify commitments. Due to the changes in the definition of "mental health professional" adding counselors and clinical social workers could enable another 500-1000 or more (depending on exact qualifications) practitioners who can ascertain "medical conditions" and can initiate involuntary commitments and loss of liberty.

More on this below - in an editorial I have written on this issue.

ARE YOUR CIVIL LIBERTIES BEING DENIED?

Would you like to be involuntarily committed by your Marriage Counselor? Under a new law being worked on in Juneau (House Bill 115) the definition of "mental health professional" is expanded to include "marital and family therapist," "professional counselor," and "clinical social worker," among the practitioners who would gain the legal authority to have you involuntarily put in a psychiatric institution.

People that are distraught over current life situations could be "hauled off" ? supposedly for their own good ? for a 48-hour period while a judge (whom you don't see) makes a "probable cause" decision based on the information presented by the Marriage Counselor!

You then are taken to an evaluation facility where you are held for up to 72 hours. These times do not include Saturdays, Sundays and holidays or transportation time to and from facilities. So you could be held for 5 days before you are required to be examined by anyone.

This is a chilling scenario and one which does not correspond with the purpose of the 1981 Alaska civil commitment laws which aim to balance the legal and constitutional rights to liberty and public safety concerns "by providing due process safeguards at all stages of commitment proceedings."

Another part of this bill is problematic - the part that deals with commitment of those who are intoxicated. HB 115 proposes changing the law to allow physicians assistants and advanced nurse practitioners to be the "equal" of physicians with regards to certifying the medical condition of being intoxicated.

Under this bill, in an emergency situation an advanced nurse practitioner or physicians assistant can certify commitment on someone for being intoxicated, which can lead to an individual being held for up to 10 days before getting in front of a judge.

Further, under non-emergency situations, HB 115 gives them the authority to certify additional 30-day involuntary commitments. This gives them the power of a physician without the appropriate medical knowledge - and therein lies the problem.

The logic behind giving physicians assistants and advanced nurse practitioners the right to certify medical conditions on their own is based upon a fallacy which is part of the psychiatric and pharmaceutical industry's marketing campaign - that behavior problems, whether chemically induced or supposedly "mental phenomena," exist separately from overall physical health - which is simply not true. Medical conditions are capable of causing and contributing to someone being "intoxicated." Are we to ignore this for the sake of expediency?

As Sydney Walker M.D. stated in "A Dose Of Sanity," "...patients are victims of a dangerous trend in modern psychiatry: the failure to diagnose" and that "very little is undiagnosable, but much is not being diagnosed." It is folly to think that we can save healthcare costs by making it easier to involuntarily commit people and force them into treatment.

What this bill really leads to is more long-term cost to taxpayers because these individuals often become patients for life in the mental health system. Then add to this the hidden cost in human terms of not treating the undiagnosed and undiscovered physical ailments. If we allow less qualified health care practitioners to make health decisions, this can also open up expensive lawsuits from patients who were not given health care, but rather addiction care or psychiatric care instead.

HB 115 does not remedy the shortage of qualified health care resources in Alaska. It simply lowers the standards on health care for all Alaskans, gives too much power to those in the health care field who are not medical doctors and potentially denies citizens basic civil liberties. This inevitably will lead to more problems needing to be addressed in the future.

Steven Pearce, Director  
Citizens Commission on Human Rights  
Washington \*Alaska \* Montana  
300 Lenora Street, #B252  
Seattle, Washington 98121  
1-877-448-8517 (toll free)  
E-mail: sepearce@aol.com

# HB115 Emergency Commitment Orders

## HES CS

### FOR THE FLOOR

The changes made in Senate HESS were:

- ❖ Removed section 1 dealing with expanding the definition of mental health professional.
- ❖ On page <sup>2</sup>~~3~~, line <sup>21</sup>~~4~~ after “physician’s” added “, physician’s assistant’s, or advanced nurse practitioner’s.” This language had unintentionally been left out of this section.

# CS for HB 115 (HES) EMERGENCY COMMITMENT ORDERS & TREATMENT

## By Representative Mary Kapsner

*ordered amendments*  
1-3  
4/24/01

### Sectional Analysis

Mike Foed

Sec.	Statute	Existing	Changes
1	AS 47.30.915(11) Welfare, Social Services & Institutions Mental Health Miscellaneous Provisions Definitions	Definition of mental health professional.	Definition expanded to include marital and family therapists licensed by the Board of Marital and Family Therapy and professional counselors licensed by the Board of Professional Counselors. Also, updated reference to social worker to reference the fact that the Board of Social Work Examiners now licenses social workers.
2	AS 47.37.180(b) Welfare, Social Services & Institutions Uniform Alcoholism and Intoxication Treatment Act Emergency commitment	A certifying physician, spouse, guardian, relative, or any other responsible person of the person to be committed can make written application for commitment directed to the administrator of the public treatment facility. The application must state facts to support the need for emergency treatment and be accompanied by a physician's certificate supporting the need for emergency treatment that states that the physician examined the person within two days of commitment.	Additionally, physician assistants and advanced nurse practitioners may make application and provide a certificate and examine the patient.
3	AS 47.37.180(f) Welfare, Social Services & Institutions Uniform Alcoholism and Intoxication Treatment Act Emergency commitment	A copy of the written application for commitment and the physician's certificate and a written explanation of the person's right to legal counsel must be given to the person within 24 hours after commitment by the administrator.	The certificate may also be from a physician assistant or an advanced nurse practitioner.
4	AS 47.37.190(a) Welfare, Social Services & Institutions Uniform Alcoholism and Intoxication Treatment Act Involuntary commitment	A spouse or guardian, relative, certifying physician or the administrator in charge of a treatment facility can petition the court for a 30-day involuntary commitment order. A certificate of a licensed physician who has examined the person within two days, unless the person has refused to submit to a medical examination must accompany the petition. The certificate must set out the physician's findings in support of the allegations.	A certifying physician assistant or advanced nurse practitioner may also petition the court for an involuntary commitment order. A certificate of a physician assistant or advanced nurse practitioner may also accompany the petition. <b>Note: CS needed for page 3, line 4 to add physician assistant or advanced nurse practitioner.</b>

**CS for HB 115 (HES) EMERGENCY COMMITMENT ORDERS & TREATMENT  
By Representative Mary Kapsner**

**Sectional Analysis**

Sec.	Statute	Existing	Changes
5	AS 47.37.200(a) Welfare, Social Services & Institutions Uniform Alcoholism and Intoxication Treatment Act Hearing on petition for involuntary commitment	At the hearing for a 30-day commitment, the court must hear all testimony, including the testimony of at least one physician who has examined the person, if possible. If the person has refused to be examined by a physician, the person will be given the opportunity to request examination by a court-appointed physician.	Reference to testimony given changed to at least one person (which would include whoever examined the person). References to other sections of this chapter added for clarification. The court may also appoint a physician assistant or advanced nurse practitioner. <b>Note: Suggested CS for page 3, line 17: perhaps a physician should be the only one able to be appointed by the court?</b>
6	effective date		This Act takes effect immediately.

*Do we need to change the effective date to allow for regulations?*

AMENDMENT

OFFERED IN THE SENATE

TO: CSHB 115(HES)

1 Page 3, line 4, following "physician's":

2 Insert "physician assistant's, or advanced nurse practitioner's"

# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
Bill Version: CSHB 115(HES)  
( H ) Publish Date: 3/26/01

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Health & Social Services  
Title: Certifications for alcohol commitments BRU: Alcoholism and Drug Abuse Svcs  
Component: Alcohol and Drug Abuse Grants  
Sponsor: Representative Kapsner  
Requester: House (HES) Component Number: 1279

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill will allow physicians assistants and advanced nurse practitioners to sign Certificates of Necessity and to perform other alcohol and drug abuse commitment functions under Title 47.

There will be no additional costs incurred by the Division of Alcoholism and Drug Abuse.

Prepared by: Ernest Turner Phone 465-5810  
Division: Alcoholism and Drug Abuse Date/Time 1/26/01 12:55PM  
Approved by: Elmer A. Lindstrom, Special Assistant Date 3/17/01 3:03 PM  
Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

# SENATOR LYDA GREEN

## PHONE MESSAGE CONTACT FORM

Name: Bill Hogan, Exec. Dir. at Lifequest Date: 04/19/01

Phone: 352-32307

Address: \_\_\_\_\_

Message: He supports HB 115, Emergency Commitment Orders & Treatment. This is very important for rural areas, where access to doctors is limited. If you have any questions, please give him a call.

Check if No Response Needed - Message Only. Message Taken by: AH

Lyda's Response/Staff Instructions: \_\_\_\_\_

PHYSICIAN'S CERTIFICATE OF NECESSITY FOR INVOLUNTARY COMMITMENT  
AS 47.37.190 (30 DAY COMMITMENTS OR RECOMMITMENTS)

Patient: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_  
Date and Time of Examination: \_\_\_\_\_  
Date of this certificate: \_\_\_\_\_  
Name of physician: \_\_\_\_\_

I have examined the patient named above and hereby certify to the following facts and opinions in support of a petition for the necessity for the involuntary commitment of the patient named above.

A. Qualifications (check one box to indicate status)

- I am licensed under the laws of the State of Alaska to practice medicine.  
 I am a medical officer of the Government of the United States while in Alaska in the performance of official duties.  
 I am a medical officer of the State of Alaska.  
 I am a physician currently licensed under the laws of the State of \_\_\_\_\_.

B. Patient is an Alcoholic or Drug Abuser. As a result of my examination and information presented to me it is my opinion that the patient is (check one) \_\_\_\_\_ an alcoholic, \_\_\_\_\_ a drug abuser, or \_\_\_\_\_ an alcoholic and a drug abuser.

It is my opinion that patient demonstrates increased tolerance to alcohol or drugs, suffers from withdrawal when alcohol or drugs are not available, patient's habitual lack of self-control concerning the use of alcohol or drugs causes significant hazard to the patient's health, and patient continues to use alcohol or drugs despite the adverse consequences.

C. Patient is incapacitated. It is my opinion that patient is incapacitated by alcohol or drugs. Patient's judgment is so impaired that patient:

- (1) is incapable of realizing and making rational decisions with respect to the need for treatment and
- (2) is unable to take care of the person's basic safety or personal needs, including food, clothing, shelter, or medical care

The facts which support my opinions are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I also relied on the following facts communicated by others:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_  
Signature of M.D.: \_\_\_\_\_  
Printed name: \_\_\_\_\_

**Mary Lou Follett**, ANP, RNCS, MS, MA

RECEIVED

APR 19 2001

April 20, 2001

Dear Senator Green:

I am writing to you to urge you to schedule a hearing for HB115. I am an Advanced Nurse Practitioner in the State of Alaska. I practiced as a Public Health Nurse for many years, traveling here in Southeast rural communities before opening a local clinic and doing a private practice.

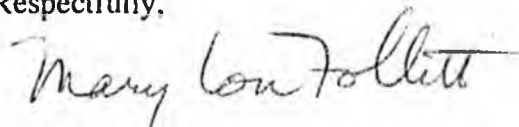
I am writing to you today to urge your support of this bill, because HB115 is very important to Alaskan families. I have seen the tragic results of alcoholism and drug abuse, and am aware of the difficulties in getting people into treatment when they are so wracked with addiction that they are endangering their lives. I have seen all forms of abuse and domestic violence linked to out of control addiction. Families, communities and indeed all of us pay a price when we are unable to get help for these individuals.

Often, an alcoholic will cycle in and out of jail because there is no doctor in a community to sign the Certificate of Necessity to begin the civil commitment process. It takes a great deal of time, documentation and coordination of multiple parties to effect an alcohol civil commitment. But in rural areas, and in most areas outside of Alaska's three major cities, there are no doctors to even begin the process. HB115 allows physician assistants and advanced nurse practitioners, the people who practice medicine and know the people of the rural communities, to do these important evaluations and sign the Certificates of Necessity.

I support and urge you and the legislature to support HB115. It is an important bill in the pursuit of healthier, safer lives for Alaskans, Alaskan families and communities.

Thank you for your support.

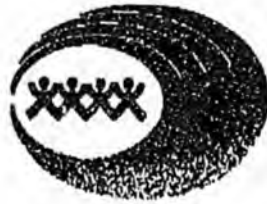
Respectfully,



Mary Lou Follett, ANP, RNCS, MS, MA.

12175 Glacier Hwy A201  
Juneau, AK 99801  
VR: 04-370/D

(907) 780-5288 • Fax (907) 780-5288  
5750 Glacier Highway • Suite D-12, Box 10  
Juneau, Alaska 99801



ALASKA  
CHILDREN'S  
SERVICES

# Confidential

The information in this fax is confidential and intended for the designated recipient's use only. If you receive this in error, please return by mail to the address below:

Alaska Children's Services  
4600 Abbott Road  
Anchorage, Alaska 99507

To: Senator Lyda Green Fax No: \_\_\_\_\_

From: Chris Reynolds MS Fax No: (907) 563-6922

Date: 4/20/01 No. of Pages, Including Cover Sheet: 2

Re: \_\_\_\_\_

Comments: \_\_\_\_\_

4600 Abbott Road, Anchorage, Alaska 99507-4314 • (907) 346-2101 • Fax (907) 346-2748



ACS is a Christian mission of American Baptist Churches • USA, Evangelical Lutheran Church in America, United Methodist Church, and Christian Church (Disciples of Christ). A United Way agency, ACS is Accredited by the Joint Commission on Accreditation of Healthcare Organizations.

**American Counseling Association of Alaska**  
**2440 East Tudor Road, #311**  
**Anchorage, AK 99508**

April 19, 2001

Dear Senator Lyda Green,

I am writing you out of concern for HB 115, which is currently in your HES committee. As the president of the Alaska Chapter of the American Counseling Association, I am concerned that Licensed Professional Counselors (LPC's) are not in the state's definition of a "mental health professional."

Licensed Professional Counselors have at least 60 hours of graduate training in counseling, as well as two years of post graduate supervision prior to being licensed. This standard is in excess of what is required for licensure as a Licensed Psychological Associate (which is included in the definition of a mental health professional.) The statutes clearly need to be updated to include licenses that the state of Alaska has added throughout the years.

The rest of the bill, pertaining to civil commitment evaluations, will also serve to increase the accountability of people who are doing these evaluations. Every effort should be made to ensure that these commitments are done in the most ethical and professional manner, and HB 115 will serve to increase the standard of care for Alaska residents.

Please schedule HB 115 for a hearing in your committee. Thank you, and please contact me if you have any questions or need further information. I can be reached at the following number and address:

(907) 563-5340 ext. 20  
acaak@alaska.net

Sincerely,



Chris Reynolds, President  
American Counseling Association of Alaska

VR: 17-345/D

*Representative Mary Kapsner*

State Capitol • Juneau, Alaska 99801-1182

Phone: (907) 465-4942 • Fax: (907) 465-4589

E-Mail: [Representative\\_Mary\\_Kapsner@legis.state.ak.us](mailto:Representative_Mary_Kapsner@legis.state.ak.us)

House District 39

Lower Kuskowukm and Upper Bristol Bay

Aktachak

Akiak

Aleknagik

Atmautluak

Bethel

Chefornak

Clarks Point

Dillingham

EEK

Eluk

Elwok

Goodnews Bay

Kasigluk

Kipnuk

Koliganek

Kongiganak

Kwethluk

Kwigillingok

Manokotak

Napakiaik

Napaskiak

New Stuyahok

Nunapitchuk

Oscarville

Platinum

Portage Creek

Quinhagak

Togiac

Tuntutuliak

Twin Hills

**MEMORANDUM**

TO: SENATOR LYDA GREEN  
Chairman-HESS Committee

FROM: REPRESENTATIVE MARY KAPSNER *Mary*

DATE: April 17, 2001

RE: Scheduling CS HOUSE BILL NO. 115 (HES)

I would like to request a hearing in the Senate HESS Committee on Committee Substitute for HOUSE BILL NO. 115, "Emergency Commitment Orders." This bill passed unanimously out of the House last thursday and I would appreciate a Senate HESS hearing on this bill at your earliest convenience.

Thank you.

## Alaska Civil Liberties Union

*An Affiliate of the American Civil Liberties Union*

P. O. Box 201844, Anchorage, AK 99520-1844

Phone: (907) 258-0044 Fax: (907) 258-0288 Email: akclu@alaska.net

To: Senate HES Committee (Senators Green, Leman, Ward, Wilken and Davis)

From: Jennifer Rudinger, Executive Director *JR*

Date: April 26, 2001

### Statement in Opposition to (CS) House Bill 115

Dear Chairperson Green and Honorable Members of the Senate HES Committee:

I understand that House Bill 115 (expanding who can recommend civil commitment) is scheduled for a hearing in Senate HES tomorrow afternoon. Unfortunately, I will be unavailable to testify tomorrow, so I am submitting my comments to you now for your consideration. I have also e-mailed this statement to you and to Rep. Kapsner this evening.

This bill makes fundamental changes regarding who can determine when someone should be committed and suffer loss of liberty, and there are good reasons why we require physicians to make these types of decisions – advanced nurse practitioners and physician's assistants are NOT QUALIFIED to make such drastic decisions! Furthermore, this bill does not just apply for emergency commitments. It also gives the power to the advanced nurse practitioners and physicians assistants to certify the need for 30-day involuntary commitment. This is substantial time of loss of liberty, and legal protections require medical protections to be in place as well.

I did meet with Rep. Kapsner last month to learn about the bill, and I understand her concerns about the shortage of physicians in rural areas. After discussing it with the Chairman of my Legislative Committee, I went back to her and conveyed to her (through her aide) that we have some grave concerns about this bill, and I proposed a number of alternative solutions. I am writing to you now to tell you what I suggested to her aide might be some better ways to go about this:

- (1.) If someone is a threat to themselves or others, the police can protect the person's immediate safety, but we think that commitment proceedings should at least require a p.a. to conduct the exam under direct supervision by a physician, even if the physician is only "present" telephonically.
- (2.) We also suggested a second approach, which is to ensure that p.a.'s and advanced nurse practitioners receive adequate training BEFORE being able to commit anyone.
- (3.) Finally, I suggested that if Rep. Kapsner and the co-sponsors of HB 115 going to go ahead and push for this expansion of the definition of a "mental health professional," why not at least limit the amount of time that a p.a. or advanced nurse practitioner can commit someone to, say, 48 or 72 hours?

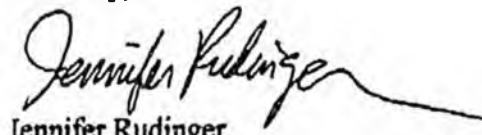
AkCLU Statement in Opposition to HB 115  
Page 2 of 2

Then, within that 48 or 72 hour time period, it would be required that a physician must examine the patient before a longer commitment could be recommended.

None of these suggestions are perfect, but we feel that they are much more narrowly tailored to address the sponsor's concerns about a shortage of mental health professionals while still affording some consideration for the rights of those whose liberty is being taken from them.

Thank you for your consideration of this very important matter. I am sorry that I cannot be available tomorrow to testify in person.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer Rudinger". The signature is written in black ink and has a long, sweeping horizontal line extending to the right.

Jennifer Rudinger  
Executive Director



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the HESS RE/ HB115  
Committee on HB115 Committee Name Dated April 27-01  
Bill / Subject

I am very much against HB115.

Only a highly trained medical doctor, should be able to make the very important decision to commit a person or not.

Making it easier to put people away, is not the solution to severe alcohol problems.

HB115 not only would open the door to violations of individuals freedom,

But also will result in lawsuits, when those rights are violated.

Please vote NO  
on HB 115

SIGNED:

Pom Wedemeyer

Testifier

Representing

307 MINNIE ST FAIRBANKS ALASKA 99701

Address / Phone Number

456-6762



**SENATOR LYDA GREEN**

CONSTITUENT & PHONE MESSAGE CONTACT FORM

Name: Marlin Bozone Date: 4/27/01

Phone: 376 2411 VR: 25-447 R

Address: PO Box 671951 Chugiak, AK 99567-1951

Message: He requests that you schedule House Bill 115 for a hearing in the HESS  
committee.

Check if No Response Needed - Message Only. Message Taken by: srh

Lyda's Response/Staff Instructions: \_\_\_\_\_

FACSIMILE TRANSMISSION FROM THE  
ALASKA CIVIL LIBERTIES UNION FOUNDATION

P.O. Box 201844 Anchorage, Alaska 99520-1844  
907-258-0044, Fax 907-258-0288, E-Mail: akclu@alaska.net

TO: Senator Lyda Green FAX NO: 465-3805  
WITH: Senate HESS Committee  
FROM: Jennifer Rüdinger DATE: 4-26-01  
NO. PAGES IN TRANSMISSION (INCLUDING COVER SHEET): 3

THIS IS A PRIVILEGED AND CONFIDENTIAL COMMUNICATION, TRANSMITTED FOR THE EXCLUSIVE USE OF THE ADDRESSEE. IT MAY NOT BE COPIED OR DISSEMINATED EXCEPT BY THE ADDRESSEE. SHOULD YOU RECEIVE THIS COMMUNICATION IN ERROR, PLEASE CALL ME IMMEDIATELY BY COLLECT PHONE CALL AND MAIL THE COMMUNICATION TO ME AT THE ABOVE ADDRESS BY FIRST CLASS MAIL. THANK YOU.

NOTES:

Please distribute to Senate HESS  
Committee members today re: HB 115.  
I'm sorry I will be unavailable to  
testify ...

Thank you!

Jennifer Rüdinger

Jennifer Rudinger  
1711 Lore Rd. #315  
Anch, AK 99527  
VR: 17-337N

**Subject: AkCLU Statement in opposition to HB 115 -- to HES Committee**

**Date: Thu, 26 Apr 2001 18:11:00 -0800**

**From: "Jennifer Rudinger" <akclu@alaska.net>**

**To: <Senator\_Lyda\_Green@legis.state.ak.us>, <Senator\_Loren\_Leman@legis.state.ak.us>, <Senator\_Jerry\_Ward@legis.state.ak.us>, <Senator\_Gary\_Wilken@legis.state.ak.us>, <Senator\_Bettye\_Davis@legis.state.ak.us>**

**CC: <Representative\_Mary\_Kapsner@legis.state.ak.us>**

Dear Senators Green, Leman, Ward, Wilken and Davis:

My name is Jennifer Rudinger, and I am the Executive Director of the Alaska Civil Liberties Union. I understand that House Bill 115 (expanding the definition of "mental health professional" for purposes of civil commitment) is scheduled for a hearing in Senate HES tomorrow afternoon. Unfortunately, I will be unavailable to testify tomorrow, so I am sending my comments to you now for your consideration.

This bill makes fundamental changes regarding who can determine when someone should be committed and suffer loss of liberty, and there are good reasons why we require physicians to make these types of decisions -- advanced nurse practitioners and physician's assistants are NOT QUALIFIED to make such drastic decisions! Furthermore, this bill does not just apply for emergency commitments. It also gives the power to the advanced nurse practitioners and physicians assistants to certify the need for 30 day involuntary commitment. This is substantial time of loss of liberty, and legal protections require medical protections to be in place as well.

I did meet with Rep. Kapsner last month to learn about the bill, and I understand her concern and the concerns of her constituents about the shortage of physicians in rural areas. After discussing it with the Chairman of my Legislative Committee, I went back to her and conveyed to her (through her aide) that we have some grave concerns about this bill, and I proposed a number of alternative solutions. I am writing to you now to tell you what I suggested to her aide might be a better way to go about this:

- (1.) If someone is a threat to themselves or others, the police can protect the person's immediate safety, but we think that commitment proceedings should at least require a p.a. to conduct the exam under direct supervision by a physician, even if the physician is only "present" telephonically.
- (2.) We also suggested a second approach, which is to ensure that p.a.'s and advanced nurse practitioners receive adequate training BEFORE being able to commit anyone.
- (3.) Finally, I suggested that if Rep. Kapsner and the co-sponsors of HB 115 going to go ahead and push for this expansion of the definition of a "mental health professional," why not at least limit the amount of time that a p.a. or advanced nurse practitioner can commit someone to, say, 48 or 72 hours? Then, within that 48 or 72 hour time period, it would be required that a physician must examine the patient before a longer commitment could be recommended.

None of these suggestions are perfect, but we feel that they are much more narrowly tailored to address the sponsor's concerns about a shortage of mental health professionals while still affording some consideration for the rights of those whose liberty is being taken from them.

Thank you for your consideration of this very important matter. I am sorry that I cannot be available tomorrow to testify in person.

Sincerely,

Jennifer Rudinger  
Executive Director, AkCLU

**Subject: HB 115 - testimony against**

**Date: Tue, 24 Apr 2001 21:57:51 EDT**

**From: SEPearce@aol.com**

**To: Senator\_Lyda\_Green@legis.state.ak.us**

Dear Senator Green:

TESTIMONY AGAINST HB 115  
BEFORE THE SENATE HEALTH EDUCATION  
AND SOCIAL SERVICES COMMITTEE

[HB 115 physician assistant or advanced nurse practitioner to certify the need for emergency treatment as a result of intoxication.]

From both a financial and a medical point of view, this legislation is ill considered. Sections 2 and 3, revising 47.37.180, say that an advanced nurse practitioner and a physicians assistant are as capable as trained medical doctors to make overall health decisions, without physician oversight for "emergency commitments" which can last for 48 hours or up to 10 days.

Further, In Section 4 of the bill revising 47.37.190(a), an even broader change is introduced. This proposed revision gives advanced nurse practitioners and physician assistants, under non-emergency situations, the authority to certify additional 30-day involuntary commitments. This gives them the power of a physician without the appropriate medical knowledge - and therein lies the problem.

The logic behind giving physicians assistants and advanced nurse practitioners the right to certify medical conditions on their own is based upon a fallacy which is part of the psychiatric and pharmaceutical industry's marketing campaign - that behavior problems, whether chemically induced or supposedly "mental phenomena," exist separately from overall physical health - which is simply not true.

Medical conditions are capable of causing and contributing to someone being "intoxicated." Are we to ignore this for the sake of expediency?

It is folly to think that we can save healthcare costs by making it easier to involuntarily commit people and force them into treatment. This type of treatment is expensive because the patient often becomes a patient for life in the mental health system.

There are also hidden costs in this legislation. Add to this the human cost of not treating the undiagnosed (unlooked for) and undiscovered physical ailments. There is also the risk of expensive lawsuits from patients given improper medical attention and undue loss of liberty.

Also, this bill does not remedy the shortage of qualified resources and it will inevitably compound the existing problems which will end up requiring legislative attention in the future.

Sincerely,

Steven Pearce  
Director  
300 LENORA STREET, #B252 \* SEATTLE, WASHINGTON 98121 \* 1-877-448-8517  
E-mail: sepearce@aol.com

CITIZENS COMMISSION ON HUMAN RIGHTS (CCHR). CCHR is a psychiatric watchdog organization. CCHR is an international organization with more than 130

chapters in 31 countries and a chapter located in Anchorage, AK



## ***American Counseling Association of Alaska***

***2440 East Tudor Road, #311  
Anchorage, AK 99508***

April 19, 2001

Dear Senator Lyda Green,

I am writing you out of concern for HB 115, which is currently in your HES committee. As the president of the Alaska Chapter of the American Counseling Association, I am concerned that Licensed Professional Counselors (LPC's) are not in the state's definition of a "mental health professional."

Licensed Professional Counselors have at least 60 hours of graduate training in counseling, as well as two years of post graduate supervision prior to being licensed. This standard is in excess of what is required for licensure as a Licensed Psychological Associate (which is included in the definition of a mental health professional.) The statutes clearly need to be updated to include licenses that the state of Alaska has added throughout the years.

The rest of the bill, pertaining to civil commitment evaluations, will also serve to increase the accountability of people who are doing these evaluations. Every effort should be made to ensure that these commitments are done in the most ethical and professional manner, and HB 115 will serve to increase the standard of care for Alaska residents while making these evaluations available for people in rural areas.

Please schedule HB 115 for a hearing in your committee. Thank you, and please contact me if you have any questions or need further information. I can be reached at the following number and address:

(907) 563-5340 ext. 20  
acaak@alaska.net

Sincerely,

Chris Reynolds, President  
American Counseling Association of Alaska

**SENATOR LYDA GREEN**

CONSTITUENT & PHONE MESSAGE CONTACT FORM

Name: John Yates \_\_\_\_\_ Date: 4/18/01 \_\_\_\_\_

Phone: 524-3867 \_\_\_\_\_ VR: 36-610 D \_\_\_\_\_

Address: PO Box 238 \_\_\_\_\_ McGrath, AK 99627-0238 \_\_\_\_\_

Message: HB 115: Emergency Commitment Orders & Treatment. He urges you to  
schedule a hearing for HB 115. \_\_\_\_\_

Check if No Response Needed - Message Only. Message Taken by: srh \_\_\_\_\_

Lyda's Response/Staff Instructions: \_\_\_\_\_

**Subject: HB115**

**Date:** Wed, 02 May 2001 23:25:45 -0800

**From:** Elizabeth Morton <emorton@alaska.net>

**To:** Lyda Green <Senator\_Lyda\_Green@legis.state.ak.us>,  
Loren Leman <Senator\_Loren\_Leman@legis.state.ak.us>,  
Gary Wilken <senator\_garywilken\_@legis.state.ak.us>,  
Bettye Davis <Senator\_Bettye\_Davis@legis.state.ak.us>

I am concerned that if HB 115 is passed as written that the number of people authorized to commit a person will increase so much that there is a danger that the civil rights of the people who might be involuntarily committed might be compromised. I think that power is better left to the doctors and psychiatric nurses as is the case now. I think that there is a danger that the more people that have that power the more chances for that power to be abused.

Elizabeth E. Morton  
3177 19th Ave.  
Fairbanks, AK 99709

WR: 30-305/11

# SENATE COMMITTEE REPORT

DATE: 4/12/01

FURTHER: Judiciary

DATE TURNED IN TO OFFICE: 05/05/01

Health, Education and Social Services Committee considered

CS FOR HOUSE BILL NO. 115(HES)

EMERGENCY COMMITMENT ORDERS

and recommends:

- be replaced with SCS CS HB115 (HES)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
DH&SS	3/17/01	x		1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Andrew H. ...</i>	✓			
<i>Beth ...</i>	✓			
<i>... Wilber</i>			✓	
CHAIR: <i>Lynne Green</i>			✓	

# SENATE COMMITTEE REPORT

DATE: 4/12/01

FURTHER: Judiciary

DATE TURNED IN TO OFFICE: 05/05/01

Health, Education and Social Services Committee considered

CS FOR HOUSE BILL NO. 115(HES)

EMERGENCY COMMITMENT ORDERS

and recommends:

- be replaced with SCS CS HB115 (HES)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

same title

new title

**House Bill:**

same title

technical title

new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
DH&SS	3/17/01	x		1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>Andrew A. Heenan</i>	✓			
<i>Betty Brown</i>	✓			
<i>Tom Wilke</i>			✓	
CHAIR: <i>Lynne Green</i>			✓	

# SENATE COMMITTEE REPORT

DATE: 4/12/01

FURTHER: Judiciary

DATE TURNED IN TO OFFICE: 05/05/01

Health, Education and Social Services Committee considered

CS FOR HOUSE BILL NO. 115(HES)

**EMERGENCY COMMITMENT ORDERS**

and recommends:

- be replaced with SCS CS HB115 (HES)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

same title

new title

**House Bill:**

same title

technical title

new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
DH&SS	3/17/01	x		1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Arew A. Duncan</i>	✓			
<i>Bethie ...</i>	✓			
<i>Tom Miller</i>			✓	
CHAIR: <i>Lynne Green</i>			✓	