

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 STA 12747

STATEMENT OF SUPPORT
Substance Abuse Treatment and Prevention

Addiction is taking a heavy toll on Alaska's people, culture and economy. Alaska ranks #1 in the nation in alcohol-related deaths and Alaskans with substance abuse problems, or co-occurring mental and substance abuse disorders, are more likely to be homeless, spend time in correctional facilities, and become involved in child protective service proceedings. The financial impact of addiction is staggering, costing the state an estimated \$738 million a year in health care costs, accidents, lost productivity, criminal justice and correctional facilities.

Something must change. We support updating Alaska statutes to promote expanding access to a wide spectrum of treatment, identifying those with co-occurring mental health and substance abuse disorders, and addressing substance abuse among youth and populations with higher incidences of addiction.

Please add my name/organization to the list of supporters.

Name GREG R. PEASE
Organization GASTINEAU HUMAN SERVICES CORPORATION
Title EXECUTIVE DIRECTOR
Signature [Signature]
Address 5597 AISEK ST JUNEAU AK 99801
Phone 907 780 3011 Fa: 907 463 3535
Email greg.pease@ghscorp.org Website www.ghscorp.org

We would also be willing to:

- Publish an article in our newsletter
- Participate in media events

- Mobilize our membership
- Contact legislators

Please return this form to:
Office of Senator Johnny Ellis
State Capitol, Rm. 9
Juneau, AK 99801

GASTINEAU HUMAN SERVICES
CORPORATION
"A Chance For Change"

5597 Aisek Street
Juneau, AK 99801
Phone: (907) 780-3011
Fax: (907) 463-3535
Email: greg.pease@ghscorp.org

Greg Pease
Executive Director

Mission Statement

To serve individuals, their families and the community by providing structured residential treatment and employment program opportunities with an emphasis on those persons who are criminal offenders and/or substance abusers.

Kate Herring

From: Sen. Johnny Ellis
Sent: Friday, March 02, 2007 10:56 AM
To: Kate Herring
Subject: FW: March Community Council Update replyD

Supporter file

-----Original Message-----

From: sheila higgins [mailto:higginsheila@hotmail.com]
Sent: Thursday, March 01, 2007 7:47 PM
To: Sen. Johnny Ellis
Subject: RE: March Community Council Update replyD

Dear Senator,

I am behind this all the way. Let me know what I can do to help. This is Alaska's biggest problem and one that has to be dealt with.

Like I stated before anything I can do to help.

I neither drink nor drug. I have a glass of wine every 2 to 5 years or so.

Love and light to you your staff and family.

Sheila Higgins

From: "Sen. Johnny Ellis" <Senator_Johnny_Ellis@legis.state.ak.us>
To: "Sen. Johnny Ellis" <Senator_Johnny_Ellis@legis.state.ak.us>
Subject: March Community Council Update
Date: Thu, 1 Mar 2007 13:36:48 -0900

Airport Heights --- South Addition --- Downtown
Fairview --- Government Hill --- North Star --- Rogers Park

This Month in Community Councils

Senator Ellis and Representative Gara spend time with constituent Peggy Burgin last summer.

From
Senator Johnny Ellis

Dear Neighbor,

Session is flying by, and I've been making the most of my time here in Juneau. I recently introduced Senate Bill 100, legislation to fight the epidemic of substance abuse in our state. Please contact my office if you'd like more information on this, or any other legislation we're working on this session.

Below is the Community Council schedule for the month of March. Agenda items are provided when available.

AIRPORT HEIGHTS Thursday, Mar. 29th 7pm. Abbott Loop Community Church
For more information, contact Al Tamagni at atamagni@alaska.net or 349-1736.

Kate Herring

From: Sen. Johnny Ellis
Sent: Tuesday, March 13, 2007 8:55 AM
To: aslpb1@uaa.alaska.edu
Subject: RE: Legislation to Fight Substance Abuse Introduced

You are welcome, Lorne. I will keep pushing.

-----Original Message-----

From: Lorne Preston Bailey [mailto:aslpb1@uaa.alaska.edu]
Sent: Monday, March 12, 2007 9:11 PM
To: Sen. Johnny Ellis
Subject: Re: Legislation to Fight Substance Abuse Introduced

On Wednesday 28 February 2007 12:51 pm, you wrote:
Thank you for working hard at getting people who are addicted to drugs and alcohol, but want to get their life in order the tools they need to do it.

Lorne Bailey

> For Immediate Release: February 28, 2007

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> Legislation to Fight Substance Abuse Introduced

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> Prioritizes Treatment for Pregnant Women, Creates Innovative Pilot Program

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> (JUNEAU) - Today, Sen. Johnny Ellis (D-Anchorage) introduced Senate Bill 100, which aims to stem the tide of alcohol and substance abuse in Alaska.

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> "It's plain and simple; addiction is costing the state too much. It's time for the state to address this problem in a meaningful way," Ellis said. "It's not just about throwing money at the problem; we have to make changes to the system."

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> The cost of drug and alcohol abuse to the state is an estimated \$738 million a year in lost productivity, health care, criminal justice, accidents and public assistance costs. At the same time, a recent study showed that only 15.2 percent of Alaskans who need treatment receive it, and funding for substance abuse treatment fell 52 percent between 2002 and 2007.

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> SB 100 proposes several common-sense changes to the statutes involving substance and alcohol abuse. It would mandate priority treatment for pregnant women in all state-funded substance abuse programs, so that their children will feel fewer effects of their addiction.

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> The bill also creates a pilot program for a secure treatment facility for involuntary commitment cases. The program will target persons with addictions or co-occurring substance abuse and mental health disorders who often present a danger to themselves and others, and chronically

Kate Herring

From: Sen. Johnny Ellis
Sent: Saturday, March 03, 2007 1:46 PM
To: Kate Herring
Subject: FW: Legislation to Fight Substance Abuse Introduced

From: Darrel Hess [mailto:gmpeon@alaska.net]
Sent: Friday, March 02, 2007 4:58 PM
To: Paul Bauer; Pamela Jennings; Ken Stout; Janice Shamberg; Dick Traini; Debbie Ossiander; Dan Sullivan; Dan Coffey; Chris Birch; Allan Tesche; Bill Starr
Cc: Sen. Johnny Ellis; Rep. Les Gara; Mayor Mark Begich; Noel Rea; Allen Kemplen; Dave Brossard; Justina Meyer; Sharon Chamard; Harry Deuber; Lee Ross; Benita White
Subject: Legislation to Fight Substance Abuse Introduced

Members of the Anchorage Assembly,

Johnny Ellis's SB100, including a provision for involuntary commitment and treatment for substance abusers, could be a useful tool in the fight to "clean up" our streets and street corners. For too many years we have let a small group of individuals dictate the quality of life for literally tens of thousands of hard working Anchorage residents.

Title 47 just does not have the teeth needed to make it an effective tool in this effort. I hope that you will all take a look at the pilot involuntary commitment/treatment program in SB100, and offer your support if you feel that it will help our City and our Neighborhoods combat the continuing negative impact of chronic inebriates.

More importantly, the program is the last, best hope for these individuals to turn their lives around. ***Thanks for all that you do for our City and our Neighborhoods, and have a GREAT Weekend!***

Darrel Hess
Chair, Fairview Community Council

From: Darrel Hess [mailto:gmpeon@alaska.net]
Sent: Friday, March 02, 2007 6:30 AM
To: Sen. Johnny Ellis
Cc: Kate Herring; Stephanie Kesler; Bonnie Harris; Allan Tesche; Rep. Les Gara; Mayor Mark Begich; donp@jlproperties.com; Noel Rea; Allen Kemplen; Dave Brossard; Justina Meyer; Sharon Chamard; Harry Deuber; Lee Ross; Benita White
Subject: RE: Legislation to Fight Substance Abuse Introduced

Johnny,

We discussed SB100 at last night's FVCC Executive Board Meeting. The Board was very supportive, especially of a pilot program for involuntary commitment. If successful, this type of program could have a positive impact on the quality of life for thousands of your constituents, and help improve the lives of many addicted individuals.

We will of course write a letter of support. The Board also authorized me to testify by teleconference in support of the bill when it comes up for public hearings. I am copying the Chairs of surrounding Councils, in hopes that they too will offer support for the bill. Thanks for responding to the needs of your constituents.

Darrel

-----Original Message-----

From: Sen. Johnny Ellis
Date: 02/28/07 16:24:20
To: Darrel Hess
Cc: Kate Herring
Subject: RE: Legislation to Fight Substance Abuse Introduced

I do need a letter of support from any council willing to provide one. Thx.

From: Darrel Hess [mailto:gmpeon@alaska.net]
Sent: Wednesday, February 28, 2007 4:22 PM
To: Sen. Johnny Ellis
Cc: Allan Tesche; Rep. Les Gara; Noel Rea; Allen Kemplen; Dave Brossard; Justina Meyer; Sharon Chamard; Harry Deuber; Lee Ross; Benita White
Subject: Re: Legislation to Fight Substance Abuse Introduced

Johnny,

Let us know if you need a letter of support, etc from the FVCC. Involuntary commitment is the only way we are going to cure some individuals and get them off the streets. It's about time!

Darrel

-----Original Message-----

From: Sen. Johnny Ellis

Kate Herring

From: Sen. Johnny Ellis
Sent: Wednesday, February 28, 2007 4:12 PM
To: Linda Kellen
Cc: Kate Herring
Subject: RE: Legislation to Fight Substance Abuse Introduced

Hi Linda,

Thanks for your msg. and words of support. Alcohol control and substance abuse related bills always have a hard time since there are powerful economic interests arrayed against them. The lobbyists for the liquor industry are on top of every bill and every detail that impacts their clients.

I am pretty optimistic that Rep Meyer and Senator French will work out a good ignition interlock bill this year. The future of the other bills is less clear.

KTUU News in Anchorage has done a pretty good series on substance abuse issues. The key is publicity that gains the attention of legislators and the governor as well as personal contact with these policy makers and budget writers. Pls encourage folks who think as we do to speak out ASAP. Thx for your help. I will keep pushing. ---Johnny Ellis

From: Linda Kellen [mailto:celticdivaak@yahoo.com]
Sent: Wednesday, February 28, 2007 1:58 PM
To: Sen. Johnny Ellis
Subject: Re: Legislation to Fight Substance Abuse Introduced

Senator Ellis:

I appreciate that you have introduced SB100 and am especially heartened to see treatment at the heart of it.

However, I am concerned about the status of the other substance abuse related bills and wonder what it bodes for yours:

HB14 - Alcohol purchase restriction - it hasn't moved since Jan 16th

HB19 - Ignition Interlock - as of Feb 21 it has been revised in 2 committees and is now in its 3rd. Should we be prepared for this Bill to die on the vine?

And it seems in some ways we are backsliding:

- HB51 - Recorking - This bill has already passed the House - a bill which gives the appearance of being MORE tax on substance abuse and blurs the lines between the separate liquor licenses...and...

- HB19 - Ignition Interlock - Repeals AS 28.15.201(d) and 28.15.201(e), removing treatment/counseling in any form as a sentencing or probationary requirement.

I have been a long-time supporter of you and Sen Davis wholeheartedly and I know where your "hearts" lie. However, is there something those of us who are serious about treatment and prevention should do

with the rest of these people to try and get things moving and what form of communication has the most impact?

Thanks!

Linda Kellen Biegel
3001 Sheldon Jackson St. Unit A
Anchorage, AK 99508
907-339-9537

"Sen. Johnny Ellis" <Senator_Johnny_Ellis@legis.state.ak.us> wrote:

For Immediate Release: February 28, 2007

Legislation to Fight Substance Abuse Introduced *Prioritizes Treatment for Pregnant Women, Creates Innovative Pilot Program*

(JUNEAU) - Today, Sen. Johnny Ellis (D-Anchorage) introduced Senate Bill 100, which aims to stem the tide of alcohol and substance abuse in Alaska.

"It's plain and simple; addiction is costing the state too much. It's time for the state to address this problem in a meaningful way," Ellis said. "It's not just about throwing money at the problem; we have to make changes to the system."

The cost of drug and alcohol abuse to the state is an estimated \$738 million a year in lost productivity, health care, criminal justice, accidents and public assistance costs. At the same time, a recent study showed that only 15.2 percent of Alaskans who need treatment receive it, and funding for substance abuse treatment fell 52 percent between 2002 and 2007.

SB 100 proposes several common-sense changes to the statutes involving substance and alcohol abuse. It would mandate priority treatment for pregnant women in all state-funded substance abuse programs, so that their children will feel fewer effects of their addiction.

The bill also creates a pilot program for a secure treatment facility for involuntary commitment cases. The program will target persons with addictions or co-occurring substance abuse and mental health disorders who often present a danger to themselves and others, and chronically recycle through existing non-secure treatment services. This group draws heavily on law enforcement, corrections, the court system and community services, and could be better served by a secure detoxification facility, where they could then continue into a treatment setting.

"Involuntary commitment for alcohol treatment is a last resort but we must hold people accountable for chronic and costly alcohol abuse," Sen. Ellis said of the pilot program. "This legislation is long over due. These common-sense changes will save money, and help the thousands of Alaskans addicted to alcohol and other drugs," said Jeff Jessee, CEO of The Alaska Mental Health Trust Authority.

SB 100 is currently awaiting a hearing in the Senate Health, Education & Social Services Committee.

For more information, contact Kate Herring at 465-3704 or Kate_Herring@legis.state.ak.us

Kate Herring

From: Sen. Johnny Ellis
Sent: Thursday, March 01, 2007 11:01 AM
To: Deborah Rickard
Subject: RE: Legislation to Fight Substance Abuse Introduced
Follow Up Flag: Follow up
Flag Status: Red

Deb,

My thoughts exactly. Its good to hear it from someone who has been there.

From: Deborah Rickard [mailto:homefree25@msn.com]
Sent: Wednesday, February 28, 2007 10:10 PM
To: Sen. Johnny Ellis
Subject: RE: Legislation to Fight Substance Abuse Introduced

Dear Senator Ellis,

Bravo and it is so true. I am supportive of treatment and involuntary comittment certainly since so many are just program wise and seem to know what to do to make our recovery rate lower. I am 20 years clean and sober so I know the drill as I have served to sponsor a whole lot of people over the years. I didn't enjoy getting in trouble so chose to avoid the consortium of twisted realities. Frankly, I like to stay in the now ar.J watch everything grow for the greater good. People who live on the street can't get off the ride without a serious effort and continued long-term care. I learned to celebrate living in Alaska and got into recovery in Alaska. I prefer living as close to normal as possible. Personally, I believe too much money goes into corrections facilities that aren't serving the purpose of rehabilitation. Sadly, there are too many people who simply fall through the cracks. I fight substance abuse by staying on a vigilant note. As long as there is a market for the substances there will be those whom abuse it and ruin the lives of loved ones. I know about this too. The fact is, people have to want sobriety to achieve it and running it down their throats doesn't work. The legislation would make it easier to contain the victim of substance abuse with order and structure long enough for them to get the hang of it. The enforcement is the hard part with our police being few in number. I know you are really working hard to mend this state and am proud to be in contact with you. It's an honor and I appreciate your diligence.deb

Subject: Legislation to Fight Substance Abuse Introduced
Date: Wed, 28 Feb 2007 12:51:20 -0900
From: Senator_Johnny_Ellis@legis.state.ak.us
To: Senator_Johnny_Ellis@legis.state.ak.us

For Immediate Release: February 28, 2007

Legislation to Fight Substance Abuse Introduced *Prioritizes Treatment for Pregnant Women, Creates Innovative Pilot Program*

(JUNEAU) - Today, Sen. Johnny Ellis (D-Anchorage) introduced Senate Bill 100, which aims to stem the tide of alcohol and substance abuse in Alaska.

Kate Herring

From: Sen. Johnny Ellis
Sent: Thursday, March 01, 2007 10:43 AM
To: Arthur Curtis
Subject: RE: Legislation to Fight Substance Abuse Introduced
Follow Up Flag: Follow up
Flag Status: Red

Art,

Thx for your feedback. I cannot remember the name of that program either. When it comes to substance abuse policy, we are considering all the options. ---Johnny

From: Arthur Curtis [mailto:artcurtis@gci.net]
Sent: Wednesday, February 28, 2007 6:31 PM
To: Sen. Johnny Ellis
Subject: Re: Legislation to Fight Substance Abuse Introduced

Dear Johnny,

Your SB 100 sounds sensible. And I would support additional sensible ways to help people who need treatment. The program in Anchorage (can't remember the name) which allows people to remain in the program housing even after planned binges has a high success rate. (People gradually reduce their binges). I wonder if such a program is could be more widely used.

Art

On Feb 28, 2007, at 12:51 PM, Sen. Johnny Ellis wrote:

For Immediate Release: February 28, 2007

Legislation to Fight Substance Abuse Introduced

***Prioritizes Treatment for Pregnant Women, Creates
Innovative Pilot Program***



Municipality of Anchorage

P.O. Box 196650 • Anchorage, Alaska 99519-6650 • 825 "L" Street • <http://www.muni.org>



Mayor Mark Begich

Department of Health and Human Services

March 16, 2007

Senator Johnny Ellis
State Capital, Room 9
Juneau, Alaska 99801

Subject: SB 100

Dear Senator Ellis:

I applaud your efforts regarding SB 100. The Department of Health and Human Services here in Anchorage is engaged in an ongoing struggle with the issues of drug and alcohol abuse.

The changes that you are recommending to SB 100 will do nothing but help not only our efforts but those of 100's of dedicated professionals and service providers across the state. Our statistics in Alaska for Domestic Violence, Fetal Alcohol Syndrome, and DUI, to name a few, are alarming. All of these, and more, have direct links to drug and alcohol abuse and co-occurring mental disorders.

Other issues, like the effective use of AS Title 47 with respect to Involuntary Commitments have proven to be especially difficult here in Anchorage due, in part, to the lack of effective secure facilities for alcohol commitments.

Again, I appreciate everything you are doing in this area. Please do not hesitate to call me directly at 343-6300 or 343-6718, if I can be of assistance in any way.

Sincerely,

Beverly Wooley for


Beverly Wooley
Director

STATEMENT OF SUPPORT
Substance Abuse Treatment and Prevention

Addiction is taking a heavy toll on Alaska's people, culture and economy. Alaska ranks #1 in the nation in alcohol-related deaths and Alaskans with substance abuse problems, or co-occurring mental and substance abuse disorders, are more likely to be homeless, spend time in correctional facilities, and become involved in child protective service proceedings. The financial impact of addiction is staggering, costing the state an estimated \$738 million a year in health care costs, accidents, lost productivity, criminal justice and correctional facilities.

Something must change. We support updating Alaska statutes to promote expanding access to a wide spectrum of treatment, identifying those with co-occurring mental health and substance abuse disorders, and addressing substance abuse among youth and populations with higher incidences of addiction.

Please add my name/organization to the list of supporters.

Name Susan H. Bomalaski
Organization Catholic Social Services
Title Executive Director
Signature 
Address 225 Cordova St Anchorage AK 99515
Phone 907-297-7742 Fax 907-272-7370
Email Susan.bomalaski@cssalaska.org Website www.cssalaska.org

I/We would also be willing to:

Publish an article in our newsletter
 Participate in media events

Mobilize our membership
 Contact legislators

Please return this form to:

Office of Senator Johnny Ellis
State Capitol, Rm. 9
Juneau, AK 99801

Kate Herring

From: Anna Sappah [annasappah@hotmail.com]
Sent: Wednesday, March 21, 2007 9:37 AM
To: Ser. Con Bunde; Sen. Lesil McGuire; Sen. Lyda Green; Sen. Gary Stevens; Sen. Hollis French
Cc: Kathryn L Craft; Angela Salerno; Kate Herring
Subject: SB100

Dear Senators,

I am writing today to voice my support of SB100 that was introduced by Senator Johnny Ellis. This piece of legislation can help to save the lives of Alaskans.

I am a recovering heroin addict. I have been clean for over 11 years. The reason that I am clean today is because I was able to receive appropriate treatment for my disease. Available treatment is the key to addicts being able to stop using long enough to learn the life skills they need to live without the use of drugs, including alcohol.

When I was using, I was a drain on my community and on the resources of our State. I collected welfare & medicaid and was unable to support myself or raise my children without assistance. I was a victim of domestic violence on numerous occasions. As a result of completing treatment, I have become a productive member of my society. I am able to parent my own children. I work full time and I am co owner of a family business. I attend APU full time seeking a double bachelors degree. I serve on the Advisory Board for Alcohol and Drug Abuse and volunteer for the Substance Abuse Directors Association, Meeting the Challenge Program and am a board member of the Narcotic Drug Treatment Center in Anchorage.

SB 100 can reduce the occurrence of FAS/FAE, reduce expenditures in Corrections and court costs and better serve people with co-occurring disorders. Addicts do recover and treatment is effective. Please support SB 100. Help to end the cycle of addiction that is killing Alaskans.

Respectfully,
Anna Sappah

1711 Logan Street
Anchorage, AK 99508
907-277-8796

Senator Johnny Ellis
State Capitol Room 9
Juneau, Alaska 99801

March 15, 2007

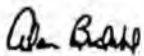
Dear Senator Ellis,

On behalf of our all-volunteer Board of Directors and professional staff, we are writing to extend Boys & Girls Clubs' support for Senate Bill 100, legislation designed to help prioritize evidenced-based substance abuse prevention programs. As a second-year grantee with SAMHSA Drug Free Communities program, Boys & Girls Clubs will again co-lead Anchorage's youth substance abuse prevention campaign with the Alaska Red Ribbon Coalition. Senate Bill 100 will empower Coalition partners to leverage existing resources with state grants to make a marked difference in youth substance use and abuse. We applaud your vision for healthier young Alaskans.

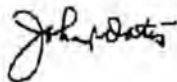
As you are aware, Boys & Girls Clubs also advocates for public awareness of youth development and substance abuse problems facing today's youth through its associations with United Way, America's Promise, The Center for Missing and Exploited Children and Alaska Suicide Prevention Council. Club professionals contribute their personal and professional time and resources to ensure that a consistent and collaborative voice and vision reach policymakers and the general public. The development of a statewide substance abuse prevention plan, as mandated in Senate Bill 100, will provide further direction for Boys & Girls Clubs and our partnering agencies.

Again, thank you for sponsoring this legislation. Boys & Girls Club appreciates your support of our prevention programs and your commitment to Alaska's youth.

Sincerely,



Alan Budahl
Board of Directors, Chair



John P. Oates
President and Chief Executive



Main Office
2300 W. 38th Avenue
Anchorage, Alaska 99517
Tel: 907-248-5437
Fax: 907-248-0047

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Tel: 907-770-7337
Fax: 907-770-7348
joates@bgcalaska.org

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* Past Chairs, Board of Directors

Investing in Alaska's most valuable resource - our children.

SB

101

SENATE COMMITTEE REPORT

DATE: 3/14/07

FURTHER: Finance

DATE TURNED
IN TO OFFICE: _____

State Affairs Committee considered SENATE BILL NO. 101

SB 101 GUARDIANSHIP AND CONSERVATORS

"An Act relating to private professional conservators and private and public guardians."

and recommends:

- be replaced with SCS or CS SB 101 (STA)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

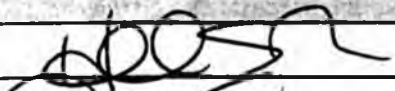


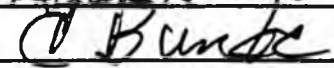
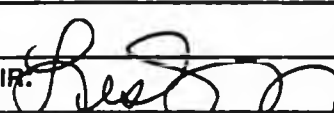
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
COMMERCE	03/07			✓	
ADMIN	02/06			✓	

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	French			x	
	Green			x	
	Green	✓			
	Bundo	✓			
CHAIR: 	McGuire	✓			

Alaska State Legislature

Session:

State Capitol, Rm. 125
Juneau, AK 99801
Phone: (907) 465-2995
Fax: (907) 465-6592



Interim:

716 W 4th Avenue, Suite 430
Anchorage, AK 99501-2133
Phone: (907) 269-0250
Fax: (907) 269-0249

Senator Lesil McGuire

Chair, Senate State Committee

Fax

To: Leg Legal (Bullard) **From:** Shalon Szymanski, SSTA Committee Aide

Fax: 2029 **Pages:**

Phone: **Date:** March 29, 2007

Re: Final CS Request (SB 101) **CC:**

Urgent For Review Please Comment Please Reply Please Recycle

● **Comments:**

ALASKA STATE LEGISLATURE

Sen. Lesil McGuire, Chair
Sen. Gary Stevens, Vice-Chair
Sen. Lyda Green
Sen. Hollis French
Sen. Con Bunde



State Capitol, Room 125
Juneau, AK 99801-1182
(907) 465-2995
Fax (907) 465-6592

SENATOR LESIL McGUIRE
CHAIR, STATE AFFAIRS

Memorandum

To: Leg. Legal (Bullard)
From: Shalon Szymanski, Committee Aide
Senate State Affairs Committee
Date: March 29, 2007
Re: Final CS Request

Please create a Final Committee Substitute (STA) for work order # **25-LS0559\K**, mirroring # **25-LS0559\K** but also including:

-1 attached amendment

SB 101 did move out of committee today and we would like to have it read across on the floor tomorrow.

Thank you!

Senator McGuire
25-LS0559\K

AMENDMENT # 1

**OFFERED IN THE SENATE
STATE AFFAIRS COMMITTEE**

Page 4:

Delete:

Section 4
Lines 14-16

25th
ALASKA STATE LEGISLATURE

Senator Johnny Ellis, Chair
Senator Bettye Davis
Senator Lyman Hoffman
Senator Gary Stevens
Senator Con Bunde



State Capitol, Room 9
465-3704

Senate Labor & Commerce Committee

Senate Bill 101, An Act relating to private professional conservators and private and public guardians

Sponsor Statement

The Senate Labor & Commerce Committee introduced Senate Bill 101, An Act relating to private professional conservators and private and public guardians, at the request of the Office of Public Advocacy. The bill seeks to encourage more private professional guardians in Alaska, while assuring that individuals providing that service are appropriately licensed and regulated. Additionally, it mandates that public guardians meet or exceed the same standards as private professional guardians.

Senate Bill 101, now CSSB 101 (L&C) would amend licensing statutes to require that all private professional guardians and conservators be licensed individually; the bill would repeal organizational licenses. Additionally, the bill would clarify that bonding and insurance requirements for guardians and conservators are those imposed by courts. The bill also specifies certain crimes that would disqualify an individual from obtaining a license and imposes a further test of any other crime that would indicate that the individual is unsuitable to competently and safely provide services to the protected person.

The Labor & Commerce Committee views SB 101 as a housekeeping measure.

25th
ALASKA STATE LEGISLATURE

Senator Johnny Ellis, Chair
Senator Gary Stevens, Vice Chair
Senator Bettye Davis
Senator Lyman Hoffman
Senator Con Bunde



State Capitol, Room 9
465-3704

Senate Labor & Commerce Committee

CSSB 101 (L&C) GUARDIANSHIP AND CONSERVATORS

Sectional Analysis

Section 1.

A.S. 08.26.010 is amended by inserting the phrase "private professional" before "guardian or conservator" to clarify that licensure is not required of family guardians and public guardians with the Office of Public Advocacy (OPA). Occupational Licensing has pointed out that public guardians could be construed to be "engaging in the business of providing private and professional services." OPA is also proposing an amendment to the Public Guardian statute that would specify that public guardians must meet or exceed the requirements for private professional guardians and conservators, except for the bonding and licensure requirements. See Section 12 below.

Section 2.

A.S. 08.26.020 is amended by deleting the term "individual" in the section title. This amendment is necessary as a result of the proposed repeal of the organizational license statute discussed in Section 13 below. The section title is also amended to clarify that an applicant does not need to obtain a separate conservator license if that applicant is willing to take "full" guardianship cases, which include conservatorship responsibilities. Currently, Occupational Licensing views these statutes as supporting a requirement that applicants obtain separate guardianship and conservatorship licenses. While it is possible that an applicant might only acquire a conservatorship license (which has different requirements) most applicants are going to be willing to act as full guardian and should not have to obtain a separate license to do so, so long as they meet the background and experience requirements to act as both guardian and conservator.

The requirement that an applicant provide proof that he or she is able to be bonded, contained in subsection (7), is also deleted. This requirement lacks meaning without identifying an amount, and that cannot be done without looking at the actual clients one would be taking. Under current law, the court may impose bonding requirements in individual cases based on the size of the estate and other considerations.

This section also clarifies the types of crimes which would preclude licensure if an applicant had been convicted within ten years of applying for a license. This would include any felony or misdemeanor offense involving fraud, misrepresentation, material omission, misappropriation, theft, or conversion in Alaska or any other state. Any other crime which could affect an individual's ability to provide guardianship services – such as assault on a vulnerable person – could also preclude licensure.

Finally, an amendment to the newly numbered subsection (6) would clarify that a person can obtain a "full guardian" license under AS 08.26.020 only if they meet the conservator background and qualification standards of AS 08.26.030.

Section 3.

A new subsection is added to AS 08.26.020(b) to address the rare situation in which a person might want to act as a private professional guardian without assuming conservatorship responsibilities, either because that individual does not meet the requirements of AS 08.26.030 or because the individual does not wish to assume financial responsibilities.

Section 4.

The phrase "individual" in the title of A.S. 08.26.030 is deleted because of the proposed repeal of A.S. 08.26.040, the organizational license. Insurance and bond requirements are repealed, and clarification is provided regarding the criminal convictions which would preclude licensure for private professional conservatorship licenses. See section 2 above.

Section 5.

Subsection (1) deletes language regarding the fingerprinting of members of an organizational applicant as such licenses are repealed. (See Section 13).

Subsection (2), the requirement for proof of insurance and the ability to obtain a bond is deleted.

Subsection (7) is deleted because it pertains to organizational applicants.

Section 6.

The annual report section is amended to require that the annual report be submitted to the Office of Public Advocacy where expertise exists to examine the reports.

Subsection (1) of A.S. 08.26.080 is revised to require that licensees annually submit evidence of any bond ordered by the court since the bonding requirement is a court determination.

The proposed change to subsection (3) would provide some specificity to the requirement that licensees annually submit an accurate financial statement.

Subsection (5) would be amended by adding the phrase "calendar year" to clarify that only the preceding year's tax returns and correspondence will be submitted with the annual report.

Subsection (6) would be deleted since it pertains to organizational applicants.

Section 7.

A new subsection (b) is created in A.S. 08.26.080 requiring the OPA to notify the Division of Occupational licensing regarding a licensee's compliance with the annual reporting requirements.

Section 8.

The term "individual" is substituted for the term "person" in this section and throughout the rest of this statutory scheme because "person" is defined in AS 01.10.060(a)(8) to "include a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person." Since the organizational license statute is being repealed, use of the term "individual" and not "person" clarifies that the statutory reference is to a "natural person" and not an organization.

Section 9.

A.S. 08.26.130 is amended to clarify that Occupational Licensing may refuse to renew a license as well as take disciplinary action if there is a determination that the licensee has not met his or her obligations under A.S. 08.26.130.

AS 08.26.130 (12) is deleted because it pertains to organizational licenses.

For the reason discussed in Section 8 above, the phrase "individual" is being substituted for the phrase "person."

Section 10.

This section would clarify that employees of a financial institution are exempted from licensure requirements only to the extent they perform these responsibilities in the course of their professional employment.

Section 11.

The definition section is changed by deleting the definition in subsection (5), the organizational license, as previously discussed, and by replacing the term "person" with "individual."

The new subsections (6) and (7) are amended to clarify that an individual who is an immediate family member of the ward or respondent need not obtain a license to provide conservator or guardianship services to that family member even if he or she receives compensation for such services.

Section 12.

This proposed revision to A.S. 13.26.400, pertaining to employees of the Public Guardian section of the Office of Public Advocacy, specifies that public guardians (like private professional guardians and conservators) would be required to pass the criminal history check required of private professional guardians, and obtain certification by a nationally recognized organization in the field of guardianships within one year of employment.

Section 13.

This section repeals A.S. 08.26.040, which provides for an organizational license.

The Office of Public Advocacy, Occupational Licensing, and ASAGA believe that this section (Requirements for Organizational Licensing) should be repealed in its entirety. Currently, interested applicants are being told that they must maintain an organizational license if they meet the definition of an organization under this statute. This would require an additional fee and has a chilling effect on the number of person interested in entering this field. There is no need for an organizational license as long as the person within the organization who is providing guardianship and conservatorship services are individually licensed.

Section 14.

This section provides a transitional period such that current private professional guardians operating under an organizational license may continue to do so until the license expires. Thereafter, the individuals that had been operating under the organizational license would have 60 days to obtain an individual license under A.S. 08.26.



STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION OFFICE OF PUBLIC ADVOCACY

Sara Palin, Governor

900 W. 5th Ave., Suite 525
Anchorage, Alaska 99501
(907) 269-3500 Telephone
(907) 269-3535 Facsimile

Section 1.

A.S. 08.26.010 is amended by inserting the phrase "private professional" before "guardian or conservator" to clarify that licensure is not required of family guardians and public guardians with the Office of Public Advocacy. Occupational Licensing has pointed out that public guardians could be construed to be "engaging in the business of providing private and professional services". OPA is also proposing an amendment of a Public Guardian statute that would specify that public guardians must meet or exceed the requirements for private professional guardians and conservators, except for the bonding and licensure requirements. See Section 10 below.

Section 2.

A.S. 08.26.020 is amended by deleting the term "individual" in the section title which is necessary as a result of the proposed repeal of the organizational license statute discussed in Section 12 below. The section title is also amended to clarify that an applicant does not need to obtain a separate conservator license if that applicant is willing to take "full" guardianship cases, which include conservatorship responsibilities. Currently, Occupational Licensing views these statutes as supporting a requirement that applicants obtain separate guardianship and conservatorship licenses. While it is possible that an applicant might only acquire a conservatorship license (which has different requirements) most applicants are going to be willing to act as full guardian and should not have to obtain a separate license to do so, so long as they meet the background and experience requirements to act as both guardian and conservator. .

This section also clarifies the types of crimes which would preclude licensure if an applicant had been convicted within ten years of applying for a license. This would include any felony or misdemeanor offense involving fraud, misrepresentation, material omission, misappropriation, theft, or conversion in Alaska or any other state.

Finally, section 2 of the bill would, in subsection A.S. 08.26.020(7), clarify that a person can obtain a "full guardian" license under AS 08.26.020 only if they meet the conservator background and qualification standards of AS 08.26.030.

Section 3.

A new subsection is added to AS 08.26.020(b) to address the rare situation in which a person might want to act as a private professional guardian without assuming conservatorship responsibilities, either because that individual does not meet the requirements of AS 08.26.030 or because the individual does not wish to assume financial responsibilities.

Section 4.

The phrase "individual" in the title of A.S. 08.26.030 is deleted because of the proposed repeal of A.S. 08.26.040, the organizational license. Subsection (6) of this statute is amended in the same fashion as AS 08.26.020, discussed in Section 2 above, precluding individuals with certain criminal convictions from qualifying for private professional conservatorship licenses.

Section 5 .

Subsection (1) deletes language regarding the fingerprinting of members of an organizational applicant as such licenses are repealed. (See Section 13).

Subsection (2) addresses ambiguities in AS 08.26.060(2). This statute as currently written does not specify what type of insurance an applicant must possess and it is possible an applicant could argue that they satisfied this requirement by virtue of having automobile, life, or homeowner's insurance. Also, the current version of AS 08.26.080 does not require the licensee to annually submit proof of professional liability insurance. The proposed change would clarify that the applicant must provide proof of professional liability insurance.

Revised AS 08.26.060(2) would also clarify that the nature of the bond required is a surety bond imposed by the court. Under current law the court may impose a requirement of bonding on a conservator but is not obligated to do so. See AS 13.26.215.

Subsection (7) is deleted because it pertains to organizational applicants.

Section 6.

Subsection (1) of A.S. 08.26.080 is revised to require that licensees annually submit evidence of any bond ordered by the court since the bonding requirement is a court determination.

ASAGA also proposes that the phrase "required by a court" in current AS 08.26.080 be deleted to reflect the change to AS 08.26.060(2), previously discussed, that would make professional liability insurance an application requirement and not a judicial determination.

The proposed change to subsection (3) would provide some specificity to the requirement that licensees annually submit an accurate financial statement.

Subsection (5) would be amended by adding the phrase "calendar year" to clarify that only the preceding year's tax returns and correspondence will be submitted with the annual report.

Subsection (6) would be deleted since it pertains to organizational applicants.

Section 7.

The term "individual" is substituted for the term "person" in this section and throughout the rest of this statutory scheme because "person" is defined in AS 01.10.060(a)(8) to "include a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person." Since the organizational license statute is being repealed, use of the term "individual" and not "person" clarifies that the statutory reference is to a "natural person" and not an organization.

Section 8.

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AS 08.26.130 (12) is deleted because it pertains to organizational licenses.

For the reason discussed in Section 7 above, the phrase "individual" is being substituted for the phrase "person".

Section 9.

This section would clarify that employees of a financial institution are exempted from licensure requirements only to the extent they perform these responsibilities in the course of their professional employment.

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The definition section is changed by deleting the definition in subsection (5), the organizational license, as previously discussed, and by replacing the term "person" with "individual."

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March 7, 2007

Page 4 of 4

nationally recognized organization in the field of guardianships within one year of employment.

Section 12.

This section repeals A.S. 08.26.040, which provides for an organizational license.

The Office of Public Advocacy, Occupational Licensing, and ASAGA believe that this section (Requirements for Organizational Licensing) should be repealed in its entirety. Currently, interested applicants are being told that they must maintain an organizational license if they meet the definition of an organization under this statute. This would require an additional fee and has a chilling effect on the number of person interested in entering this field. There is no need for an organizational license as long as the person within the organization who is providing guardianship and conservatorship services are individually licensed.

Section 13.

This section provides a transitional period such that current private professional guardians operating under an organizational license may continue to do so until the license expires. Thereafter, the individuals that had been operating under the organizational license would have 60 days to obtain an individual license under A.S. 08.26.



STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION OFFICE OF PUBLIC ADVOCACY

Sara Palin, Governor

900 W. 5th Ave., Suite 525
Anchorage, Alaska 99501
(907) 269-3500 Telephone
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February 22, 2007

The Honorable Johnny Ellis
State Senator
Chairman, Labor and Commerce Committee
State Capitol, Room 9
Juneau, Alaska 99801-1182

Dear Senator Ellis:

Thank you for agreeing to introduce legislation through the Senate Labor & Commerce Committee to amend the licensure statute for private professional guardians and conservators. The amendments sought should go along way to help encourage the development of private professional guardians in Alaska, while providing some level of assurance that individuals providing such services are appropriately licensed and regulated.

Some history of licensure for private professional guardians and conservators may be helpful. In 2004 the legislature passed House Bill 280, the private professional guardianship and conservatorship reform bill. This legislation was supported by the Office of Public Advocacy (OPA) and the Alaska State Association for Guardianship and Advocacy (ASAGA) and by many advocates for seniors and vulnerable adults in our state. House Bill 280 was passed to ensure that those entrusted with managing the lives and finances of Alaskans in need of such services would be subject to licensure in order to prevent financial exploitation by private professional guardians and conservators. Prior to its passage, there was no licensure requirement for private professional guardians, and a number of Alaskans were victimized by their private guardians.

Unfortunately, since the passage of HB 280 three years ago, it has come to my attention, from numerous sources, that there are problems with the new licensure statute that need to be addressed. The proposed amendments will correct the statute in certain areas so as to achieve the original purposes of this legislation.

As you know, OPA is very supportive of engendering the development of private professional guardians and conservators in Alaska. We have an aging population that will need such services and yet have very few private professional guardians or conservators currently operating in the State. OPA provides such services through its public guardians but is meant to be an appointment of last resort – that is where there are no available family members, friends, or private entities that are able or willing to provide these services. Unfortunately, because of the paucity of current private entities

February 22, 2007
Page 2 of 2

in the State, OPA occasionally does receive appointments for individuals with sufficient assets such that if there were private guardians and conservators available the appointment could go to the private sector. It is my hope that with the following proposed amendments, we will further the goal of developing this industry, and remove current impediments (such as unnecessary multiple licensing fees) that were not intended when HB 280 was enacted.

Specifically, OPA believes that some of the provisions of A.S. 08.26 need to be amended. OPA and ASAGA have been in contact with the Division of Corporations, Business and Professional Licensing (Occupational Licensing) regarding promulgation of regulations which would advance the goals of protecting vulnerable Alaskans while encouraging the development of private sector guardians and conservators. Occupational Licensing has pointed out that some of the current statutory provisions must be changed before regulations can be implemented which will serve to encourage the development of a healthy and qualified private sector of guardians and conservators. OPA has also received concerns from private guardians attempting to comply with HB 280 but finding unintended impediments. The attached amendments should rectify this situation.

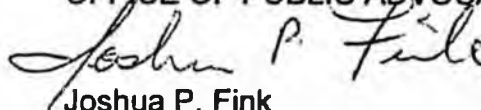
In addition to the proposed amendments to AS 8.26, I am also seeking amendments to AS 13.26, the provision regarding qualifications of public guardians and conservators. Alaska Statute 13.26.400 should be amended to require that public guardians obtain certification by a nationally recognized organization in the field of guardianships within one year of employment. This is a requirement for private professional guardians and conservators and is currently policy at OPA for its public guardians. This amendment would require that public guardians take and pass an exam as a registered or master guardian. Currently all of OPA's public guardians are so certified, but I would like to see this requirement in statute.

Finally, I would request that AS 13.26 be amended to require that public guardians pass the same criminal background check required of private professional guardians and conservators under AS 08.26.070. OPA recently initiated a policy to require such background checks, but again, sound public policy would incorporate this requirement into statute.

Thank you again for your assistance on this rather technical, but important piece of legislation. I look forward to working with you on enacting the attached changes.

Sincerely,

OFFICE OF PUBLIC ADVOCACY



Joshua P. Fink
Public Advocate



March 13, 2007

The Honorable Johnny Ellis, Chair
Senate Labor and Commerce Committee
Alaska State Capitol, Room 9
Juneau, AK 99801-1182

RE: SB 101 (Senate Labor and Commerce Committee)--Support

Dear Chair Ellis:

On behalf of the members of AARP in Alaska, we encourage you and your colleagues on the Senate Labor and Commerce Committee to support your Committee bill SB 101.

SB 101 is, in AARP's view, a consumer safeguard bill that builds on previous work to make certain our guardianship and conservatorship regulations work as they are intended.

Incapacitated elders are at risk of abuse, neglect and exploitation by guardians and conservators. SB 101 will help guard against fiduciary abuse.

As the need for guardians has grown, courts have found it more difficult to find family members or friends able and willing to accept the responsibilities of guardianship. Professional guardians and conservators are used more and more often. SB 101 will help improve the quality of guardians and prevent abuses. As Alaska insists on training and certification and reporting, we will ensure that all guardians are better informed about their responsibilities and the requirements for caring for incapacitated people.

AARP considers SB 101 as one more significant step creating safeguards in what will only become a growing industry. Government oversight is essential for quality control.

We urge an "AYE" vote on SB 101.

Should you have any questions about our position, please feel free to contact me (586-3637) or Patrick Luby, AARP Advocacy Director (907-762-3314).

Thank you for your consideration.

Sincerely,

Marie Darlin

Marie Darlin, Coordinator
AARP Capital City Task Force
415 Willoughby Avenue, Apt. 506
Juneau, AK 99801
586-3637 (voice)
463-3580 (fax)

CC: Senator Gary Stevens
Senator Bettye Davis
Senator Lyman Hoffman
Senator Con Bunde

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: SB101-DOA-OPA-3-6-07
 Bill Version: SB 101(L&C)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to private professional RDU Legal and Advocacy Services
conservators and private and public guardians Component Office of Public Advocacy
 Sponsor Labor and Commerce
 Requester Labor and Commerce Component No. 43

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will amend the current licensure requirements for private professional conservators and guardians so as to eliminate duplicative licenses and fees. This legislation would also impose requirements that public guardians and conservators undergo a criminal background check to determine whether the applicant has been convicted of any crimes of dishonesty within ten years of his or her application, and also require that Public Guardians receive certification from a national guardian/conservatorship organization within one year of employment at OPA. These two requirements are already imposed on private guardians. The costs of the criminal background checks and certification fees will be de minimus, and therefore, OPA submits a zero fiscal note.

Prepared by: Joshua Fink, Director Phone 907-269-3501
 Division Office of Public Advocacy Date/Time 3/6/07, 11:00 a.m.
 Approved by: Rachael Petro, Deputy Commissioner Date 3/6/07, 11:45am
 Agency Administration

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: SB101-COM-OL-03-07-07
 Bill Version: SB 101
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Guardianship and Conservators RDU Occupational Licensing (117)
 Component Occupational Licensing
 Sponsor Senate Labor & Commerce
 Requester Senate Labor & Commerce Component No. 2360

Expenditures/Revenues (Thousands of Dollars)
 Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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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--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation amends various provisions of AS 08.26 Professional Conservators and Guardians and is not expected to result in the need for additional funds to implement the provisions.

Prepared by: Chris Wyatt, Administrative Manager Phone (907) 465-2572
 Division Corporations, Business, and Professional Licensing Date/Time 3/7/07 3:29 PM
 Approved by: Emil Notti, Commissioner Date 3/7/2007
 Agency Commerce, Community, and Economic Development



STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION OFFICE OF PUBLIC ADVOCACY

Sara Palin, Governor

900 W. 5th Ave., Suite 625
Anchorage, Alaska 99501
(907) 269-3600 Telephone
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March 15, 2007

The Honorable Lesil McGuire
State Senator
Chairman, State Affairs Committee
State Capitol, Room 9
Juneau, Alaska 99801-1182

Dear Senator ^{Lesil} McGuire:

I am writing to request that you schedule Senate Bill 101, "An Act relating to private professional conservators and private and public guardians," for a hearing before the Senate State Affairs Committee at the Committee's earliest convenience.

This legislation amends the licensure statute for private professional guardians and conservators enacted by the legislature in 2004 in House Bill 280. The original legislation was sponsored by Representative Tom Anderson and enacted licensure requirements for private professional guardians and conservators. The amendments contained in SB 101 should go along way to help encourage the development of private professional guardians in Alaska, while providing some level of assurance that individuals providing such services are appropriately licensed and regulated.

The original legislation was supported by the Office of Public Advocacy (OPA) and the Alaska State Association for Guardianship and Advocacy (ASAGA) and by many advocates for seniors and vulnerable adults in our state. House Bill 280 was passed to ensure that those entrusted with managing the lives and finances of Alaskans in need of such services would be subject to licensure in order to prevent financial exploitation by private professional guardians and conservators. Prior to its passage, there was no licensure requirement for private professional guardians, and a number of Alaskans were victimized by their private guardians.

Unfortunately, since the passage of HB 280 three years ago, it has come to my attention, from numerous sources, that there are problems with the new licensure statute that need to be addressed. The proposed amendments will correct the statute in certain areas so as to achieve the original purposes of this legislation.

As you know, OPA is very supportive of engendering the development of private professional guardians and conservators in Alaska. We have an aging population that will need such services and yet have very few private professional guardians or conservators currently operating in the State. OPA provides such services through its public guardians but is meant to be an appointment of last resort – that is where there

March 15, 2007
Page 2 of 2

are no available family members, friends, or private entities that are able or willing to provide these services. Unfortunately, because of the paucity of current private entities in the State, OPA occasionally does receive appointments for individuals with sufficient assets such that if there were private guardians and conservators available the appointment could go to the private sector. It is my hope that with the following proposed amendments, we will further the goal of developing this industry, and remove current impediments (such as unnecessary multiple licensing fees) that were not intended when HB 280 was enacted.

Specifically, OPA believes that some of the provisions of A.S. 08.26 need to be amended. OPA and ASAGA have been in contact with the Division of Corporations, Business and Professional Licensing (Occupational Licensing) regarding promulgation of regulations which would advance the goals of protecting vulnerable Alaskans while encouraging the development of private sector guardians and conservators. Occupational Licensing has pointed out that some of the current statutory provisions must be changed before regulations can be implemented which will serve to encourage the development of a healthy and qualified private sector of guardians and conservators. OPA has also received concerns from private guardians attempting to comply with HB 280 but finding unintended impediments. The attached amendments should rectify this situation.

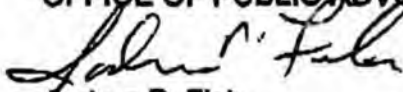
In addition to the proposed amendments to AS 8.26, I am also seeking amendments to AS 13.26, the provision regarding qualifications of public guardians and conservators. Alaska Statute 13.26.400 should be amended to require that public guardians obtain certification by a nationally recognized organization in the field of guardianships within one year of employment. This is a requirement for private professional guardians and conservators and is currently policy at OPA for its public guardians. This amendment would require that public guardians take and pass an exam as a registered or master guardian. Currently all of OPA's public guardians are so certified, but I would like to see this requirement in statute.

Finally, I would request that AS 13.26 be amended to require that public guardians pass the same criminal background check required of private professional guardians and conservators under AS 08.26.070. OPA recently initiated a policy to require such background checks, but again, sound public policy would incorporate this requirement into statute.

Thank you for your consideration of this request.

Sincerely,

OFFICE OF PUBLIC ADVOCACY



Joshua P. Fink
Public Advocate

SB

1 15

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 3/12/07

FURTHER: Labor and Commerce

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: _____

State Affairs Committee considered SENATE BILL NO. 115

SB 115 GIFT CARDS

"An Act relating to gift certificates and gift cards, and to unclaimed property; and making a violation of certain gift card prohibitions an unlawful trade practice."

and recommends:

- be replaced with SCS or CS SB 115 (STA)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____



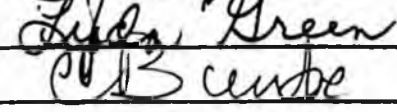

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
REV	03/19			✓	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	NO REC	AMEND
	French	x			
	Steven Green			✓	
	Bunde	✓			
CHAIR: 	McBune	✓			

Alaska State Legislature

Session:
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Juneau, AK 99801
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Senator Lesii McGuire

Chair, Senate State Committee

Fax

To: Leg Legal **From:** Shalon Szymanski, SSTA Committee Aide

Fax: 2029 **Pages:**

Phone: **Date:** March 22, 2007

Re: Final CS Request - SB 115 **CC:**

Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**

● **Comments:**

ALASKA STATE LEGISLATURE

Sen. Lesil McGuire, Chair
Sen. Gary Stevens, Vice-Chair
Sen. Lyda Green
Sen. Hollis French
Sen. Con Bunde



State Capitol, Room 125
Juneau, AK 99801-1182
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SENATOR LESIL McGUIRE
CHAIR, STATE AFFAIRS

Memorandum

To: Leg. Legal
From: Shalon Szymanski, Committee Aide
Senate State Affairs Committee
Date: March 22, 2007
Re: Final CS Request

Please create a Final Committee Substitute (STA) for work order # 25-LS0743\A, mirroring # 25-LS0743\A but also including:

-2 attached amendments

Thank you!

Senator McGuire
25-LS0743\A

AMENDMENT # 1

OFFERED IN THE SENATE
STATE AFFAIRS COMMITTEE

Page 1, Line 5:

Delete:

“certificates”

Insert:

“cards”

Senator McGuire
25-LS0743\A

AMENDMENT # 2

**OFFERED IN THE SENATE
STATE AFFAIRS COMMITTEE**

Page 3, Line 26:

After:

“includes”

Insert:

“a paper certificat. or”

TRANSACTION REPORT

MAR-22-2007 THU 12:49 PM

FOR: SEN. MCGUIRE

907 465 6592

SEND (M)

DATE	STAPT	RECEIVER	PAGES	TIME	NOTE	M#
MAR-22	12:48 PM	2029	4	58"	OK	25

*- Gift certificate : Gift card
throughout.

25-LS0743\A

SENATE BILL NO. 115

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Introduced: 3/12/07

Referred: State Affairs, Labor and Commerce

* *
* A BILL *

FOR AN ACT ENTITLED

1 "An Act relating to gift certificates and gift cards, and to unclaimed property; and
2 making a violation of certain gift card prohibitions an unlawful trade practice."

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

4 * Section 1. AS 34.45.240 is amended to read:

5 Sec. 34.45.240. Gift ~~certificates~~^{CARDS} and credit memos. (a) A gift card
6 [CERTIFICATE] or a credit memo, issued in the ordinary course of an issuer's
7 business, that remains unclaimed by the owner for more than three years after
8 becoming payable or distributable is presumed abandoned.

9 (b) In the case of a gift card [CERTIFICATE], the amount presumed
10 abandoned is the balance remaining on [PRICE PAID BY THE PURCHASER FOR]
11 the gift card [CERTIFICATE]. In the case of a credit memo, the amount presumed
12 abandoned is the amount credited to the recipient of the memo.

13 * Sec. 2. AS 34.45.760(8) is amended to read:

14 (8) "gift card [CERTIFICATE]" has the meaning given in

1 AS 45.45.940 [MEANS AN OBLIGATION OF A BUSINESS ASSOCIATION
2 ARISING FROM A TRANSACTION BETWEEN THE BUSINESS ASSOCIATION
3 AND A CONSUMER TO PROVIDE GOODS OR SERVICES AT A FUTURE
4 DATE; "GIFT CERTIFICATE" INCLUDES A GIFT CERTIFICATE, STORED
5 VALUE CARD, GIFT CARD, ON-LINE GIFT ACCOUNT, OR OTHER
6 REPRESENTATION OR EVIDENCE OF THE OBLIGATION OF A BUSINESS
7 ASSOCIATION];

8 * Sec. 3. AS 34.45.760(11) is amended to read:

9 (11) "intangible property"

10 (A) includes

11 (i) money, checks, drafts, warrants, deposits, interest,
12 dividends, and income;

13 (ii) credit balances, customer overpayments, gift cards
14 [CERTIFICATES], security deposits, refunds, credit memos, unpaid
15 wages, and unidentified remittances;

16 (iii) stocks and other intangible equity interests in
17 business associations;

18 (iv) money deposited to redeem stocks, bonds, coupons,
19 and other securities, or to make distributions;

20 (v) amounts due and payable under the terms of
21 insurance policies;

22 (vi) amounts distributable from a trust or custodial fund
23 established under a plan to provide health, welfare, pension, vacation,
24 severance, retirement, death, stock purchase, profit-sharing, employee
25 savings, supplemental unemployment insurance, or similar benefits;
26 and

27 (vii) amounts due and payable as mineral proceeds;

28 (B) does not include

29 (i) unused airline tickets;

30 (ii) shares of stock issued by a corporation organized
31 under 43 U.S.C. 1601 et seq. (Alaska Native Claims Settlement Act) or

1 unclaimed dividends payable on the shares of stock; or
2 (iii) overpaid contributions by employers to the
3 unemployment compensation fund under AS 23.20.130;

4 * Sec. 4. AS 45.45 is amended by adding a new section to article 12 to read:

5 Sec. 45.45.940. Gift cards. (a) A person may not sell or offer to sell a gift card
6 unless the

7 (1) gift card is redeemable at full face value in perpetuity; and

8 (2) gift card's date of issuance is clearly

9 (A) identified on the face of the gift card; or

10 (B) printed, if the gift card is an electronic card with a banked
11 dollar value, on a sales receipt transferred to the buyer or another holder of the
12 electronic card or available through an Internet site or a toll-free telephone line.

13 (b) A person may not sell or offer to sell a gift card that imposes dormancy
14 fees, latency fees, administrative fees, periodic fees, service fees, or other fees that
15 have the effect of reducing the total amount for which the holder may redeem a gift
16 card.

17 (c) This section does not apply to a gift card that

18 (1) is distributed by the issuer of the gift card under an awards, loyalty,
19 or promotional program if the recipient does not give the issuer money or another
20 thing of value in exchange for the gift card;

21 (2) is donated to a nonprofit organization or a charitable organization
22 for fundraising purposes; or

23 (3) can be used to purchase goods or services from more than one
24 seller of goods or services.

25 (d) In this section,

26 (1) "device" includes an electronic card, but does not mean an access
27 number or authorization code, whether manually or electronically dialed, to make
28 calls;

29 (2) "gift card" means a device that is usable up to its face amount
30 instead of cash in exchange for goods or services, except telephone services, supplied
31 by a seller.

*Paper certificate, or am (PASSED)
Am#2 - mch...*

- 1 * **Sec. 5.** AS 45.50.471(b) is amended by adding a new paragraph to read:
2 (52) violating AS 45.45.940 (gift cards).

ALASKA STATE LEGISLATURE

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Chair
Senate State Affairs
Administrative Regulation Review

Member
Senate Judiciary Committee
Senate Resources Committee

SENATOR LESIL MCGUIRE

SPONSOR STATEMENT SB 115

"An Act relating to credit memos, gift certificates, and gift cards, and to unclaimed property; and making a violation of certain gift card prohibitions an unlawful trade practice."

Retailers and banks have been offering electronic "gift cards" in response to growing consumer demand for easier and more convenient gift options. Similar to a credit or debit card, these electronic gift cards allow recipients the flexibility to use the card at multiple locations. Most banks and retailers that issue these types of credit devices allow gift givers to choose from amounts as low as \$10 and as high as \$1,000.

Unfortunately, some banks and retailers have used this new opportunity to erode the purchasing power of gift cards by attaching a variety of fees and service charges, often failing clearly explain these provisions to purchasers and recipients. Commonly, issuers will attach a "dormancy fee" of \$2.50 or greater that is deducted monthly from the remaining balance as well as an "activation fee" of \$5 or more in order to begin using the card. A \$100 gift card would lose 35% of its value in one calendar year without making one purchase. Lastly, some of the issuers include expiration dates less than Alaska's unclaimed property laws.

In the last 5 years a number of states have adopted measures to limit or restrict fees attached to these gift cards as well as establish standard expiration periods allowing consumers a reasonable period to use their gift cards. HB 49 is modeled closely after Massachusetts statute that was adopted in 2002 and amended in 2003 and it is one of the most restrictive state laws in the country.

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SECTIONAL ANALYSIS

SB 115

"An Act relating to credit memos, gift certificates, and gift cards, and to unclaimed property; and making a violation of certain gift card prohibitions an unlawful trade practice."

Section 1 – Amends AS 34.45.240 to replace the original reference of “gift certificate” with “gift card” and provides conforming amendments to the original statutes structure based on this change.

Section 2 – Amends AS 34.45.760(8) to provide a definitional reference for the new definition of “gift card” as found in AS 45.45.940.

Section 3 – Amends AS 34.45.760(11) to add “gift cards” as “intangible property” and provides the statutory definitional reference for gift cards.

Section 4 – Creates a new subsection under AS 45.45 to properly define “gift cards” and the new definition covers previous references to “gift certificate”. This new section also identifies exclusions to the applicability of the new gift card provisions.

Section 5 – Adds a reference to “gift card” to unlawful acts and practices under AS 45.50.471.

**Consumers
Union.org**

Nonprofit Publisher of Consumer Reports

**Consumers
Union**

State Gift Card Consumer Protection Laws*

California:

- No expiration dates and no fees, with one exception.
- Permits a \$1 per month fee only when the card has a balance of \$5 or less, the card has been unused for 24 months, and the card is reloadable.
- Covers gift cards usable at a single store or chain. Multiple-use gift cards are not covered.

Connecticut:

- No expiration dates.
- No inactivity fees.

Hawaii:

- No expiration within the first two years.
- No fees.

Illinois:

- Discourages expiration dates and service fees by exempting funds for cards without expiration and fees from escheat.

Iowa

- No fees unless there is a written contract between the card issuer and the holder of the gift card.

Kansas

- No expiration for one year

- No fees for one year
- Does not cover prepaid cards purchased from banks.
- Becomes effective January 1, 2007.

Kentucky

- No expiration for one year
- No fees for one year
- Does not cover general use prepaid cards usable with multiple unaffiliated merchants or at ATMs.

Louisiana:

- No expiration dates shorter than five years.
- No service fees, except for a one-time handling fee of \$1.
- Covers cards issued to be redeemed in goods or services provided by the card seller.

Maine:

- No expiration dates.
- No fees unless printed on the card, allowed by written contract with the card owner, and not unconscionable.

Massachusetts:

- No expiration for the first seven years.
- Attorney General has stated that inactivity fees violate the state's rule against expiration within the first seven years.

Maryland:

- No expiration for the first four years..
- No fees for the first four years.
- Fees that do apply after the first four years must be disclosed on the certificate or card, attached sticker, or envelope, and may not be changed except to benefit the consumer.
- Does not apply to cards processed through a national debit or credit card service that are usable at multiple unaffiliated sellers of goods or services.

Nebraska

- Discourages expiration dates and fees through application of escheat law.

New Hampshire:

- For gift cards over \$100, no expiration earlier than the date the funds escheat to the state.
- For gift cards of \$100 or less, no expiration dates.
- No fees on cards of any amount.

New Jersey:

- Cards are "valid until presented."
- All other restrictions must be conspicuously printed on the card.
- Covers cards issued by retail merchandise establishments.

New York:

- No monthly service fees before 13th month of dormancy.

Nevada:

- No fees for the first 12 months.
- After 12 months, fees may not exceed \$1 per month.
- Covers gift cards usable at a single store or chain. Multiple use cards are not covered.

Montana

- No expiration dates.
- No fees.

Ohio

- No expiration in the first two years.
- No fees for the first two years.
- Covers cards "issued by a merchant" for the future delivery of goods or services. Does not cover cards usable with multiple unaffiliated merchants.

Oklahoma

- No expiration for the first five years.
- No service fees, with one exception.
- Permits a \$1 per month fee only when the card has a balance of \$5 or less, the card has been unused for 24 months, and the card is reloadable.
- Covers cards usable at a single retailer or chain. Multiple use cards are not covered.