



March 29, 2022

Senator David Wilson
Chair, Senate Health & Social Services
State Capitol Room 205
Juneau AK, 99801

via e-mail

Re: SB124

Dear Sen. Wilson:

I listened to your committee's hearing on SB 124 today and feel there may be some misunderstanding of my views and position. The bottom line is with the amendments I suggested in my [March 7th letter](#) being incorporated, the legislation should be passed. We shouldn't lose sight of the importance of making less restrictive alternatives available and the major problems with the bill as introduced last year have been fixed.

Sen. Reinbold maybe misstated, and definitely overstated, my level of concern if her amendments were not passed. She perhaps left the impression I was working closely with her or even drafted her amendments. Sen. Reinbold reached out to me for my views and I responded, which I would to any member's request. The amendments I have drafted are contained in my [March 7th](#) and [March 23rd](#) letters. The latter one pertains to inserting the word "serious" before harm in various statutes.

With respect to that, at today's hearing, Mr. Bookman said the Alaska Supreme Court had held in *E.P. v. Alaska Psychiatric Institute*,¹ that the statute is to be interpreted to include the word "serious," and therefore, Mr. Bookman stated, the amendment is not necessary. There are two problems with this. First, many people reading the statute, including mental health professionals, lawyers and judges, will not be aware of this. Second, the decision is not that clear on the issue. In the case before Judge Rindner I mentioned in my [March 23rd letter](#), I cited *E.P.*, and he said "it sort of clears up some of this." We can do better than this. The fix is simple, it is noncontroversial, and should be made in my view. Even so, I wouldn't say the bill should be killed if this is not included.

SB 124 could no doubt be improved, but the perfect should not be the enemy of the good. Hopefully, "serious" can be added in Judiciary, but even if not it should be passed.

Sincerely,

A handwritten signature in blue ink, appearing to read "James B. Gottstein", written over a horizontal line.

James B. (Jim) Gottstein, Esq.

¹ 205 P.3d 1101 (Alaska 2009).