ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE
April 10, 2001
5:30 p.m.

MEMBERS PRESENT

Representative Norman Rokeberg, Chair
Representative Jeannette James
Representative John Coghill
Representative Ethan Berkowitz

MEMBERS ABSENT

Representative Scott Ogan, Vice Chair
Representative Kevin Meyer
Representative Albert Kookesh

COMMITTEE CALENDAR

HOUSE BILL NO. 179
"An Act relating to underage drinking and drug offenses; and providing for an effective date."

- HEARD AND HELD

CS FOR SENATE BILL NO. 105(FIN)
"An Act relating to victims' rights; relating to establishing an office of victims' rights; relating to the authority of litigants and the court to comment on the crime victim's choice to appear or testify in a criminal case; relating to compensation of victims of violent crimes; relating to eligibility for a permanent fund dividend for persons convicted of and incarcerated for certain offenses; relating to notice of appropriations concerning victims' rights; amending Rules 16 and 30, Alaska Rules of Criminal Procedure, Rule 9, Alaska Delinquency Rules, and Rule 501, Alaska Rules of Evidence; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 133
"An Act relating to restitution for criminal and delinquency acts; authorizing the state to collect restitution on behalf of victims of crime and delinquent acts and the release of certain information related to that collection; relating to the forfeiture of certain cash and other security for payment of

other restitution; relating to access by the Violent Crimes Compensation Board to certain records regarding delinquency acts to award compensation to victims; relating to immunity for damages related to certain collections of restitution; amending Rule 82, Alaska Rules of Civil Procedure; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 134
"An Act relating to the rights of crime victims, the crime of violating a protective injunction, mitigating factors in sentencing for an offense, and the return of certain seized property to victims; clarifying that a violation of certain protective orders is contempt of the authority of the court; expanding the scope of the prohibition of compromise based on civil remedy of misdemeanor crimes involving domestic violence; providing for protective relief for victims of stalking that is not domestic violence and for the crime of violating an order for that relief; providing for continuing education regarding domestic violence for certain persons appointed by the court; making certain conforming amendments; amending Rules 65.1 and 100(a), Alaska Rules of Civil Procedure; amending Rules 10, 11, 13, 16, and 17, Alaska District Court Rules of Civil Procedure; and amending Rule 9, Alaska Rules of Administration."

- HEARD AND HELD

HOUSE BILL NO. 67
"An Act requiring proof of motor vehicle insurance in order to register a motor vehicle; and relating to motor vehicle liability insurance for taxicabs."

- SCHEDULED BUT NOT HEARD

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 68
"An Act relating to civil liability for transporting an intoxicated person or for driving an intoxicated person's motor vehicle; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: HB 179
SHORT TITLE:OFFENSES RELATING TO UNDERAGE DRINKING
SPONSOR(S): JUDICIARY

Jrn-Date	Jrn-Page		Action
03/13/01	0560	(H)	READ THE FIRST TIME - REFERRALS
03/13/01	0560	(H)	JUD, FIN
03/26/01		(H)	MINUTE(JUD)
03/28/01		(H)	JUD AT 1:00 PM CAPITOL 120
03/28/01		(H)	<Bill Postponed TO 3/30/01>
03/30/01		(H)	JUD AT 1:00 PM CAPITOL 120
03/30/01		(H)	Heard & Held MINUTE(JUD)
03/31/01		(H)	JUD AT 11:00 AM CAPITOL 120
03/31/01		(H)	Heard & Held MINUTE(JUD)
04/10/01		(H)	JUD AT 5:00 PM CAPITOL 120

BILL: SB 105
SHORT TITLE:VICTIMS' RIGHTS/ PRISONER'S PFD
SPONSOR(S): SENATOR(S) HALFORD

Jrn-Date	Jrn-Page		Action
02/20/01	0432	(S)	READ THE FIRST TIME - REFERRALS
02/20/01	0432	(S)	JUD, FIN
02/28/01		(S)	JUD AT 1:30 PM BELTZ 211
02/28/01		(S)	Moved CSSB 105(JUD) Out of Committee
02/28/01		(S)	MINUTE(JUD)
03/01/01	0555	(S)	JUD RPT CS 4DP SAME TITLE
03/01/01	0555	(S)	DP: TAYLOR, DONLEY, ELLIS, THERRIAULT
03/01/01	0556	(S)	FN1: (COR)
03/01/01	0556	(S)	FN2: INDETERMINATE(LAW)
03/01/01	0556	(S)	FN3: ZERO(REV)
03/01/01	0562	(S)	COSPONSOR(S): TAYLOR
03/14/01	0655	(S)	FIN RPT CS FORTHCOMING 4DP 3NR 1AM
03/14/01	0656	(S)	DP: DONLEY, WILKEN, LEMAN, WARD;
03/14/01	0656	(S)	AM:KELLY; NR: AUSTERMAN, HOFFMAN, OLSON
03/14/01	0656	(S)	FN1: (COR)
03/14/01	0656	(S)	FN2: INDETERMINATE(LAW)
03/14/01	0656	(S)	FN3: ZERO(REV)
03/14/01	0656	(S)	FN4: (LAA)
03/14/01		(S)	FIN AT 9:00 AM SENATE FINANCE 532

03/15/01	0674	(S)	CS RECEIVED NEW TITLE
03/20/01	0735	(S)	RULES TO CALENDAR 3/20/01
03/20/01	0737	(S)	READ THE SECOND TIME
03/20/01	0737	(S)	FIN CS ADOPTED UNAN CONSENT
03/20/01	0737	(S)	ADVANCED TO THIRD READING UNAN CONSENT
03/20/01	0737	(S)	COSPONSOR(S): LINCOLN, DAVIS, COWDERY,
03/20/01	0737	(S)	WARD, GREEN
03/20/01	0737	(S)	READ THE THIRD TIME CSSB 105(FIN)
03/20/01	0738	(S)	PASSED Y20 N-
03/20/01	0738	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
03/20/01	0738	(S)	COURT RULE(S) SAME AS PASSAGE
03/20/01	0740	(S)	TRANSMITTED TO (H)
03/20/01	0740	(S)	VERSION: CSSB 105(FIN)
03/20/01		(S)	RLS AT 10:45 AM FAHRENKAMP 203
03/20/01		(S)	MINUTE(RLS)
03/22/01	0677	(H)	READ THE FIRST TIME - REFERRALS
03/22/01	0677	(H)	JUD, FIN
04/09/01		(H)	JUD AT 1:00 PM CAPITOL 120
04/09/01		(H)	<Bill Postponed>
04/10/01		(H)	JUD AT 5:00 PM CAPITOL 120

BILL: HB 133
SHORT TITLE:RESTITUTION FOR CRIMES OR DELINQUENCY
SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
02/19/01	0365	(H)	READ THE FIRST TIME - REFERRALS
02/19/01	0365	(H)	JUD, FIN
02/19/01	0365	(H)	FN1: (LAW)
02/19/01	0366	(H)	GOVERNOR'S TRANSMITTAL LETTER
02/19/01	0366	(H)	REFERRED TO JUDICIARY
04/09/01		(H)	JUD AT 1:00 PM CAPITOL 120
04/09/01		(H)	<Bill Postponed>
04/10/01		(H)	JUD AT 5:00 PM CAPITOL 120

BILL: HB 134
SHORT TITLE:CRIME VICTIMS RTS/CRIMES/PROTECTIVE INJ.
SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page	Action

02/19/01	0367	(H)	READ THE FIRST TIME - REFERRALS
02/19/01	0367	(H)	JUD, FIN
02/19/01	0367	(H)	FN1: INDETERMINATE(ADM)
02/19/01	0367	(H)	FN2: INDETERMINATE(COR)
02/19/01	0367	(H)	FN3: ZERO(LAW)
02/19/01	0368	(H)	GOVERNOR'S TRANSMITTAL LETTER
02/19/01	0368	(H)	REFERRED TO JUDICIARY
04/09/01		(H)	JUD AT 1:00 PM CAPITOL 120
04/09/01		(H)	<Bill Postponed>
04/10/01		(H)	JUD AT 5:00 PM CAPITOL 120

WITNESS REGISTER

HEATHER M. NOBREGA, Staff
to Representative Norman Rokeberg
House Judiciary Standing Committee
Alaska State Legislature
Capitol Building, Room 118
Juneau, Alaska 99801
POSITION STATEMENT: Presented the proposed CS for HB 179, Version L, on behalf of the House Judiciary Standing Committee.

ROBERT BUTTCANE, Legislative & Administrative Liaison
Division of Juvenile Justice
Department of Health & Social Services
PO Box 110635
Juneau, Alaska 99811-0635
POSITION STATEMENT: During discussion of HB 179, explained the concept of community diversion panels.

DEAN J. GUANELI, Chief Assistant Attorney General
Legal Services Section-Juneau
Criminal Division
Department of Law
PO Box 110300
Juneau, Alaska 99811-0300
POSITION STATEMENT: During discussion of HB 179, answered question regarding proposed Amendment 4. Presented HB 133 and HB 134 and discussed how they could tie in with SB 105.

ELMER LINDSTROM, Special Assistant
Office of the Commissioner
Department of Health and Social Services
P.O. Box 110601
Juneau, Alaska 99811-0601
POSITION STATEMENT: Testified on HB 179.

JULI LUCKY, Staff
to Senator Rick Halford
Alaska State Legislature
Capitol Building, Room 111
Juneau, Alaska 99801
POSITION STATEMENT: Presented SB 105 on behalf of Senator Halford, sponsor.

CINDY CASHEN
Juneau Chapter
Mothers Against Drunk Driving
211 4th Street
Juneau, Alaska 99801
POSITION STATEMENT: Testified in support of HB 133 and HB 134.

LAUREE HUGONIN, Director
Alaska Network on Domestic Violence and Sexual Assault
130 Seward
Juneau, Alaska 99801
POSITION STATEMENT: Testified on HB 133 and HB 134.

ACTION NARRATIVE

TAPE 01-61, SIDE A
Number 0001

CHAIR NORMAN ROKEBERG called the House Judiciary Standing Committee meeting to order at 5:30 p.m. Representatives Rokeberg, James, Coghill, and Berkowitz were present at the call to order.

HB 179 - OFFENSES RELATING TO UNDERAGE DRINKING

Number 0234

CHAIR ROKEBERG announced that the first order of business would be HOUSE BILL NO. 179, "An Act relating to underage drinking and drug offenses; and providing for an effective date."

CHAIR ROKEBERG mentioned that there were amendments he'd numbered according to the order in which they would be taken up. He offered that the amendments could mesh well together.

Number 0346

CHAIR ROKEBERG made a motion to adopt Amendment 1, 22-LS0564\L.4, Ford, 4/5/01, which reads:

Page 1, line 8, following "of":
Insert "**at least $200 but not more than**"

Page 1, line 9:
Delete "**shall suspend the full amount of the fine and**"
Insert "**may suspend a portion of the fine imposed under this subsection that exceeds $200 if the court requires the person to pay for education or treatment recommended by the court and shall**"

CHAIR ROKEBERG explained that Amendment 1 would provide the courts with flexibility by setting a base of $200, and would allow for a suspension of a portion of that fine if it exceeds $200. He clarified that the fine would be at least $200 and not more than $600.

Number 0406

CHAIR ROKEBERG noted that there were no objections. Therefore, Amendment 1 was adopted.

[It was clarified later that the amendments pertained to Version L, not yet adopted. Following the adoption of Version L, the adoption of Amendments 1 and 2 was reconfirmed.]

Number 0414

CHAIR ROKEBERG made a motion to adopt Amendment 2, 22-LS0564\L.3, Ford, 4/6/01, which reads:

Page 2, lines 19 – 21:
Delete "The following conditions of probation apply:
(1) the person shall pay for and enroll in a juvenile alcohol safety action program;
(2)"
Insert "The court may require the person to pay for and enroll in a juvenile alcohol safety action program. The court shall impose the following conditions of probation:
(1)"

Renumber the following paragraphs accordingly.

Page 7, line 15:
Delete "**has enrolled**"
Insert "**, if required to participate**"

Page 7, line 16:
Delete "**and**"
Insert "**has**"

Page 9, line 22:
Delete "has enrolled"
Insert ", if required to participate"

Page 9, line 23:
Delete "and"
Insert ", has"

CHAIR ROKEBERG explained that Amendment 2 would provide flexibility to the court by allowing the judge to be the "gatekeeper" with regard to attendance by the offender in any Juvenile Alcohol Safety Action Program (JASAP) that may be established.

Number 0501

CHAIR ROKEBERG made a motion to adopt the proposed committee substitute (CS) for HB 179, version 22-LS0564\L, Ford, 4/4/01, as a work draft.

Number 0531

REPRESENTATIVE BERKOWITZ objected for the purpose of discussion.

Number 0555

HEATHER M. NOBREGA, Staff to Representative Norman Rokeberg, House Judiciary Standing Committee, Alaska State Legislature, presented the proposed CS, Version L, on behalf of the committee. She explained that Version L incorporates the recommendations made by the Department of Law (DOL), deletes the JASAP requirements for first-time offenders, and requires education courses for first-time offenders. These changes originally took the form of amendments adopted on 3/31/01.

Number 0643

CHAIR ROKEBERG noted that there were no further objections to the adoption of the proposed CS as a work draft. Therefore, Version L was before the committee.

Number 0660

CHAIR ROKEBERG renewed the motion to adopt Amendment 1. There being no objection, Amendment 1 was adopted.

MS. NOBREGA confirmed that Amendment 1 creates a minimum [fine] of $200, leaves the maximum [fine] at $600, and allows the judge to suspend between $200 and $600 in order that the defendant pay for the alcohol information safety school, as well as any JASAP fees.

CHAIR ROKEBERG expressed concern over the term "treatment" being added by Amendment 1.

MS. NOBREGA noted that another amendment yet to be discussed would add the possibility of requiring JASAP treatment for first-time offenders, and paying for treatment is already encompassed in HB 179 under a probation requirement provision.

Number 0776

CHAIR ROKEBERG renewed the motion to adopt Amendment 2.

Number 0787

REPRESENTATIVE COGHILL objected for the purpose of discussion. He asked: If the provision for mandatory payment were being taken out, would it be included elsewhere in the form of discretionary language? He clarified that he was referring to the first portion of Amendment 2.

REPRESENTATIVE JAMES pointed out that the language to be substituted in that portion of Amendment 2 still includes a mandatory payment provision should the judge require enrollment.

Number 903

CHAIR ROKEBERG noted that there were no further objections. Therefore, Amendment 2 was adopted.

Number 0912

CHAIR ROKEBERG made reference to Amendment 3, 22-LS0564\L.2, Ford, 4/5/01, which reads:

> Page 1, line 10, following "**section**":
> Insert "**. The court may require a person convicted under this subsection to comply with treatment recommended by a community diversion panel. In this subsection, "community diversion panel" means a group approved for treatment of alcoholism in persons under 21 years of age by the Department of Health and Social Services**"

CHAIR ROKEBERG said he wanted to delete "treatment recommended [by]" and insert "[the] jurisdiction [of]", and delete "treatment of alcoholism [in]" and insert "adjudication [of]". Thus, the amended version of Amendment 3 reads:

> Page 1, line 10, following "**section**":
> Insert "**. The court may require a person convicted under this subsection to comply with the jurisdiction of a community diversion panel. In this subsection, "community diversion panel" means a group approved for adjudication of persons under 21 years of age by the Department of Health and Social Services**"

CHAIR ROKEBERG explained that the intention of Amendment 3 was to set up a community diversion panel, similar to a "youth court" or a small-community restorative-justice panel; it was not intended to provide treatment.

REPRESENTATIVE JAMES asked who is going to pay for it and how much it is going to cost.

Number 0975

CHAIR ROKEBERG responded that it was his intention that the individual offender would pay the cost.

REPRESENTATIVE JAMES clarified that she was referring to the community diversion panel; that there must be some cost to that.

REPRESENTATIVE BERKOWITZ said it depends.

CHAIR ROKEBERG responded, "It depends; ... there certainly should be no fiscal note attached to it in this bill." He explained that the intent was to try and broaden the scope of the judiciary.

REPRESENTATIVE JAMES said she understood that [concept], but countered that every time the scope is broadened, it costs money.

CHAIR ROKEBERG inquired if Representative James wanted to amend that provision so that it would be self-supporting.

REPRESENTATIVE JAMES said she did not want to do so; she only wanted to know, for the record, what [the creation of a community diversion panel] would do to the cost, because she had no idea and there was not any definition of [a community diversion panel]. It was simply a title of something that was not listed anywhere else.

Number 1031

CHAIR ROKEBERG made a motion to adopt Amendment 3 [as amended].

REPRESENTATIVE BERKOWITZ said it seemed Amendment 3 would reduce the overall burden on the court system, and would allow alternative sentencing through community programs. He noted, for example, that the youth court is primarily funded through other means, and most restorative justice is done in a manner similar to community patrols; [Amendment 3] would reduce government burden and allow for more citizen participation.

CHAIR ROKEBERG confirmed that it was his intention [with Amendment 3] to reduce the court system's burden. He noted that any formal [community diversion panel] approved in the future by the [Department of Health and Social Services (DHSS)], is already addressed in Amendment 3.

REPRESENTATIVE JAMES said her concern centered around the fact that if there is never a community diversion panel, this whole section wouldn't do anything.

CHAIR ROKEBERG noted that there already are [community diversion panels].

Number 1120

ROBERT BUTTCANE, Legislative & Administrative Liaison, Division of Juvenile Justice, Department of Health & Social Services (DHSS), explained that "community diversion panel" is a term [the DHSS] is trying to incorporate into its process. Current statute has a section, under the delinquency chapter, that

relates specifically to youth courts. But as [the DHSS] has developed other types of panels around the state such as elders courts and community diversion panels, [the DHSS] has been trying to use a more inclusive term for the concept that was developed as a youth court. Thus community diversion panels are part of the delinquency process; they are part of the scheme that relates to the diversion of young offenders from the formal court process into community response processes.

MR. BUTTCANE said to his knowledge, [the DHSS] has not applied [community diversion panels] to persons outside of the delinquency system; therefore, all references in statute to community diversion panels relate to offenses committed [by] delinquents, and [community diversion panels] are the informal programs. He added that conceptually, [the DHSS] supports the idea [of Amendment 3], but has some problems with the wording.

REPRESENTATIVE JAMES asked whether the term "community diversion panel" is used elsewhere in statute or regulations.

MR. BUTTCANE responded that the term is not elsewhere in statute. Only the term "youth court" is used in statute, but as [the DHSS] negotiates with community groups, [the DHSS] favors the language of ["community diversion panel"], which will appear in individual negotiated agreements. Thus the elder's court in Togiak, for instance, is referred to as a community diversion panel. He added that it is a commonly used term.

REPRESENTATIVE JAMES noted that for her, that was the problem: "community diversion panel" is in Amendment 3 in quotations, even though the term has not yet been defined. She offered that every statute should have the benefit of having its terms defined.

Number 1268

CHAIR ROKEBERG argued that there are two safeguards: First, the court has to make the decision on whether to make the referral [to a community diversion panel]. And second, the [community diversion panel] has to be approved by the [DHSS]. He added that although he, too, preferred to have definitions included in statute, he recognized that the area of [community diversion panels] seemed to be growing.

REPRESENTATIVE JAMES commented that she was not opposed to the concept, just that she had concerns over the language being inserted.

Number 1338

CHAIR ROKEBERG agreed to review the specific language of [community diversion panel] further as the bill goes through the process.

CHAIR ROKEBERG noted there were no further objections. Therefore, Amendment 3, as amended, was adopted.

Number 1366

REPRESENTATIVE BERKOWITZ made a motion to adopt Amendment 4, which reads:

> (b) Upon probable cause of a violation of (a) of this section by a person who has not been previously convicted of such violation or previously subject to an order under this section, a peace officer shall apply to the district court for an injunction against the person. Such injunction shall restrain the person from violating section (a) and may
> (1) order the subject to participate in or comply with the treatment plan of a rehabilitation program;
> (2) prohibit the subject from consuming alcohol, inhalants, or intoxicating substances;
> (3) prohibit the subject from driving or seeking a driver's license;
> (4) order the subject to pay court costs.
>
> (c) Violation of this order may be punishable by a fine of [$]1,000 and 40 hours of community work.

Number 1375

REPRESENTATIVE COGHILL objected. He asked what portion of Version L Amendment 4 addresses.

REPRESENTATIVE BERKOWITZ explained that Amendment 4 would replace Sections 1 and 2; although it is more applicable to the original version of HB 179, he didn't have [Version L] in his possession at the time of drafting it. He went on to say that the bill has a scheme whereby at the first offense, a person has a violation; at the second offense, a person is guilty of repeat minor consuming, and at that point, real penalties are incurred. On the first offense (when the offender has slipped "under the

radar screen"), there are no costs involved; and on a third offense, there are additional penalties imposed.

REPRESENTATIVE BERKOWITZ said he fundamentally thinks that is a flawed scheme. Trying to get under the radar screen the first time would work if everyone were just a first-time offender; in using the first offense to create the second and third offenses, however, the penalties of the second and third offenses depend on the conviction of the first offense. And if the first offense conviction can be attacked because there was no attorney, or if some other doubt can be cast on "how good a conviction it was," then there is the potential for constitutional problems with the "habitual minor consuming" and other penalties.

Number 1456

REPRESENTATIVE BERKOWITZ offered that with Amendment 4, instead of having a first offense thought of the way it currently is, when an offender is caught for the first time, he/she is taken to the judge/magistrate, who then places the offender under a court order. Clearly, such an order - in addition to perhaps including some of the items listed in [Version L] - should tell the minor he/she could not drink again. Also, the court would have the discretion to order participation in alcohol information safety courses, restrict driving privileges, and require payment of court costs. And while these items may not normally be considered "penalties," there are costs associated with them.

REPRESENTATIVE BERKOWITZ continued. In this way, he said, because there would not be any criminal charge, there would not be any requirement for an attorney to become involved. It would be a civil order, similar to a domestic violence restraining order. If a person commits a second offense, not only would he/she enter into the minor-in-possession criminal world, he/she would also be in violation of the order imposed on the first offense, and thus be subject to the penalties of $1,000 and 40 hours of community work service. Representative Berkowitz said he was trying to get around the cost problem by not making the first offense criminal, but civil.

Number 1599

CHAIR ROKEBERG inquired if the idea was that there would be no fine or punishment unless there was a violation of the order.

REPRESENTATIVE BERKOWITZ responded that there would be no fine in the sense of what is normally thought of as a fine; it would not show up [as such]. But the court can order the individual to pay court costs. If someone is 16, he posited that it would not make much difference to that person if he/she had to pay a $200 fine or pay $200 in court costs. "The message of having to shell something out for something you did should be there," he said. Also, the provisions [of Amendment 4] would have an immediate impact; one of the problems with criminal cases, he added, was that the offense occurs but then it is a while before anything happens. In contrast, a court order goes into effect right away.

CHAIR ROKEBERG responded that he would be more comfortable with that theory if the fines and suspensions and the "EIS" educational school were mandated. He inquired, "Can we have a violation and a fine, as well as a requirement to attend school, and still make this work?"

REPRESENTATIVE BERKOWITZ said, "No. You can't have a violation and make it work with the first offense."

CHAIR ROKEBERG asked whether Representative Berkowitz believed, from a constitutional standpoint, that [the solution presented by Amendment 4] would hold up better.

REPRESENTATIVE BERKOWITZ answered that he thought it was more palatable, and although subject to some criticism, it would draw less criticism from a constitutional standpoint.

CHAIR ROKEBERG said he thought if there were an attempt to have a "look-back" at previous convictions - which, to his understanding, HB 179 did not have - it "wipes the slate clean."

REPRESENTATIVE BERKOWITZ countered that this did not wipe the slate clean.

Number 1699

DEAN J. GUANELI, Chief Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law (DOL), said he appreciated Representative Berkowitz's efforts to craft a solution to the problem - stemming from supreme court case law - of not being able to base a later crime on a prior offense in which the defendant did not have a right to counsel or to a jury trial. [The DOL] does not want to provide a right

to counsel or a jury trial for first-offense minor consuming because of costs.

MR. GUANELI said the solutions posed by Representative Berkowitz [via Amendment 4] and the proposed CS are similar in that, as part of some proceeding, the offender is put under a court order and a violation of that order triggers additional penalties. With Version L, it is a criminal proceeding for a violation; with Amendment 4, it is a civil proceeding of a restraining order. He believes both solutions are effective ways of dealing with the aforementioned supreme court case law, he said.

MR. GUANELI added, however, that he thought the solution offered by Version L would be more favorable to the courts because the decision, in terms of a criminal [proceeding] for a violation, will be based on proof beyond a reasonable doubt. By contrast, a decision in terms of a civil [proceeding] for of a violation of a restraining order will be based on proof by a preponderance of the evidence. The latter, a civil standard, is a much lower standard. Thus if courts have to make later decisions because of [repeat offenses], they would be more comfortable basing those decisions on [the higher standard of] proof beyond a reasonable doubt.

Number 1812

MR. GUANELI noted that another problem the civil standard of proof raises is that it is much more likely that minors would be subjected to a protective order. For example, if there is a party, the police arrive, and the kids scatter, then the police would not have to prove beyond a reasonable doubt that the kids were drinking; they would just need to find out the names of the kids and prove by a preponderance of the evidence - such as running away from the party - that they were guilty of minor consuming. He suggested the frequency of the kinds of complaints that arise now with the minor-consuming law would increase under a civil standard [as posed by Amendment 4].

MR. GUANELI referred to the point raised by Chair Rokeberg regarding an inability to impose a fine in a civil restraining order context. He said he thought it was an important aspect to have an amount of money suspended that the minor knows he/she will have to pay if he/she does not comply with the court's conditions.

CHAIR ROKEBERG surmised from Mr. Guaneli's testimony that the administration did not support Amendment 4.

REPRESENTATIVE BERKOWITZ remarked, "Anything we work on is going to butt us up against that problem of trying to not pay for some constitutional protections or right to counsel." He added that what he was trying to do [with Amendment 4] was to say that it is not criminal problem the first time around; it is a civil problem. He suggested that the flaw of not providing counsel was present in [Version L] as well, because those later convictions are dependent on the earlier convictions, which under [Version L] would be done without benefit of counsel.

CHAIR ROKEBERG suggested the legislature needs to set the policy in such a way that the courts recognize that certain restraints need to be put on the administration of justice. For a first-time offense to mandate counsel and incur the whole panoply of the judicial system is not well-founded. He added that in this day and age of high costs, increasing efficiencies have to be kept in mind.

REPRESENTATIVE BERKOWITZ noted that "we keep telling people that our rights are priceless."

Number 1987

CHAIR ROKEBERG responded, "Their rights are priceless; that's why a judge is making this decision. They'll be before the bench." He noted that there had been previous testimony that said a district court jury trial would be 1 percent or 3.7 percent, depending on which study is referenced. He asked whether that was worth the protections offered by a jury trial for a first offense. He answered that it seemed to him to not be warranted in terms of the administration of justice.

Number 2001

MR. GUANELI added that the [expense of the] jury trial was one thing, but he thought that the Public Defender Agency (PDA) constituted the much bigger expense. He explained that a wide range of offenses under Alaska law subject someone to fines but don't carry a right to a jury trial or a right to counsel. Examples are speeding, which has a potential $300 fine; running a red light; any number of driving offenses; possession of alcohol in a local-option area, which can have a $1,000 fine; and commercial fishing violations, with fines ranging much higher than $1,000. Alaska law has a number of precedents where fines have been imposed without carrying a right to counsel/jury

trial; therefore, it is a matter of determining what rights are at stake and what social stigma is attached.

MR. GUANELI said he does not believe minor consuming, at least for the first offense, carries the social stigma of being labeled a criminal. He noted that the legislature determined a number of years ago to decriminalize minor consuming. Although "we're" taking a step away from that because of the problem of minors who habitually consume alcohol, Mr. Guaneli said he thinks the record is clear that the legislature does not label that a crime; thus it does not carry with it the right to counsel or a jury trial.

Number 2087

REPRESENTATIVE BERKOWITZ said "we" issue points for traffic violations, and if a certain number of points are aggregated, then the license is lost. He asked whether there are other penalties [imposed] if there are too many points.

MR. GUANELI responded that loss of license is the only one. It carries with it some mandatory insurance requirements and so forth, he added.

REPRESENTATIVE BERKOWITZ asked why [the committee] couldn't do some kind of "point scheme" for minors in possession [of alcohol].

MR. GUANELI replied that there are probably a lot of ways to address problems, and in the point system context there is an administrative process that leads to the revocation of a license. The reason no jury trial or right to counsel is associated with it is because there is a clear connection between the driving violations - and the points that one assesses - and one's fitness to drive; therefore, the state has a right to take one's license.

MR. GUANELI said what isn't present in the minor consuming situation, and isn't present in most instances, is that nexus between simply drinking and driving. While a scheme could be conceived whereby points could be assessed, there still has to be a connection made to driving, in order to take a license, unless there is a right to a jury trial and a right to counsel.

MR. GUANELI said it is a subject worth discussing, but this problem needs to be fixed now.

Number 2175

REPRESENTATIVE JAMES remarked that she'd said almost the same thing when [the legislature] passed the "Use It, Lose It" law.

REPRESENTATIVE BERKOWITZ withdrew Amendment [4].

CHAIR ROKEBERG asked Mr. Lindstrom whether he'd had a chance to look at [Amendment 1]. He asked if that discretionary "treatment" [language] should be left in or removed, and whether Mr. Lindstrom was going to add a fiscal note to it.

Number 2214

ELMER LINDSTROM, Special Assistant, Office of the Commissioner, Department of Health and Social Services, replied that [the department] didn't object to the amendment, and it hadn't occurred to him that this might "drive" a fiscal note. He said there are no added costs.

CHAIR ROKEBERG announced that [HB 179] would be held over. He asked Mr. Guaneli and Mr. Buttcane to work on it, and indicated he would be working on it as well.

REPRESENTATIVE COGHILL asked about the possibility of getting the (JASAP) up and running by June 1.

CHAIR ROKEBERG commented that he has another amendment that limits the JASAP program to a pilot area.

Number 2273

MR. LINDSTROM said [the department] assumed JASAP programs would be "rolling out" in six to eight communities based on the requested funding, both in the budget and on the fiscal note before the committee. The communities not listed in this amendment include Juneau, the Matanuska-Susitna area, Kenai, and maybe Bethel and Dillingham. He said "we" would still like the flexibility to get in as many communities as possible with the existing resources.

MR. LINDSTROM noted that previously, the committee had a truly "pilot project" bill, the therapeutic court bill, which is doing something new and has an evaluation component and so forth. Frankly, he said, the JASAP program is new technology. "We've" had the alcohol safety action program running successfully in

many communities for a number of years; the courts love it, and wish there were more, in different places.

MR. LINDSTROM explained that the JASAP program is essentially the same technology, and Fairbanks already had some experience with it. He said, "It will work. It does work. ... So the notion of a sunset or ... treating these as a pilot project ... doesn't make a lot of sense to us. It has proven technology." [The department] would hope to have as much flexibility to go into as many communities as possible with the resources available.

CHAIR ROKEBERG stated that he was not offering an amendment because Anchorage was incorrectly added, which was an [unintended mistake].

REPRESENTATIVE JAMES said she thought she heard Mr. Lindstrom say he has enough money to do what he wants, and she asked if [the committee] wants him to do that much or not.

REPRESENTATIVE BERKOWITZ pointed out that this is a question for the House Finance Committee.

Number 2360

CHAIR ROKEBERG announced that HB 179 would be held over, awaiting an amendment tomorrow.

SB 105 - VICTIMS' RIGHTS/ PRISONER'S PFD

[Contains discussion of HB 133 and HB 134]

CHAIR ROKEBERG announced that the next order of business would be CS FOR SENATE BILL NO. 105(FIN), "An Act relating to victims' rights; relating to establishing an office of victims' rights; relating to the authority of litigants and the court to comment on the crime victim's choice to appear or testify in a criminal case; relating to compensation of victims of violent crimes; relating to eligibility for a permanent fund dividend for persons convicted of and incarcerated for certain offenses; relating to notice of appropriations concerning victims' rights; amending Rules 16 and 30, Alaska Rules of Criminal Procedure, Rule 9, Alaska Delinquency Rules, and Rule 501, Alaska Rules of Evidence; and providing for an effective date."

Number 2384

JULI LUCKY, Staff to Senator Rick Halford, Alaska State Legislature, came forth to present SB 105 on behalf of Senator Halford, sponsor. She stated:

> The sponsor sees this as a practical application of the Victims' Rights Amendment to the Alaska Constitution, which was ratified by popular vote in 1994 by over 86 percent of the voters. ... [With] the amendment to the constitution, victims also have certain rights in statute.
>
> We feel that this will be setting up an office that will ensure that these victims of violent crime are aware of their rights, and also will advocate on their behalf in the court system. [A prior version of] the bill did pass unanimously ... and was vetoed by the governor last year. We're hoping to not be vetoed this year.

MS. LUCKY explained the changes between last year's House Judiciary Standing Committee version and the current version:

> As it left House Judiciary last year, it was located in the legislative branch. The bill that we introduced has it currently in the legislative branch, which ... we believe ... is better. As it left the House ... and conference committee last year, it was in the Department of Public Safety, which there were a lot of strenuous objections to.
>
> As far as the changes that are made in this year's bill, there [were] some changes in Senate Finance and on the Senate floor regarding a higher compensation cap for victims, which I believe is Section 2 of this bill.
>
> There's some added language requiring the victims' advocate to contract for services, which we believe fosters a complementary working relationship with victims' groups, and also allows the victims' advocate to privatize where appropriate. We added some language allowing grants to nonprofit victims' groups.
>
> As you may be aware, the funding mechanism is forfeited permanent fund dividends from repeat criminals. It is anticipated [that] there will be money to pay for the office and [have] additional

> funds. What we did was we added grants directly to nonprofit victims' groups as another allowable use of these funds that would be generated.
>
> There was an amendment offered in Senate Finance by Senator Donley regarding victims' choosing not to testify or appear at court, and there is also a proposed amendment ... to ... reword that language. ...

TAPE 01-61, SIDE B
Number 2483

MS. LUCKY continued explaining:

> ... We feel the victims go through a traumatic experience; some of them may not be able to testify based on fears or other problems that they have after the commission of the crime. ... Therefore, ... the statement shouldn't be made, "Well, the victim didn't care enough to come to court to testify and, therefore, we believe that the perpetrator shouldn't be sentenced to this amount of the crime." ...
>
> Senator Donley, after offering the amendment, spoke with the Department of Law and came up with some other language; they felt it was more appropriate to put this into the sentencing section as opposed to the victims' rights section of statute.

CHAIR ROKEBERG asked whether that amendment is [22-LS0219\J.1, Luckhaupt, 3/26/01], and whether the sponsor approves of it.

MS. LUCKY answered in the affirmative.

Number 2442

CHAIR ROKEBERG stated that it has been suggested that [the legislature] is creating a new office and that there already is an existing contract for victims' rights activities.

MS. LUCKY remarked that [the sponsor] believes the nonprofit victims' groups as well as the departments have done a good job focusing on the victim. The victims' advocate and the Office of Victims' Rights provide an advocate who is trained in the legal system and has confidentiality and standing to be able to find

out what's going on, whereas a nonprofit victims' group might not.

MS. LUCKY told members there is also the ombudsman function through which if someone feels his/her constitutional rights have been violated, he/she will have recourse. Victims could say, "We'd like you to investigate this and recommend some systemic changes." The ombudsman's office would then be able to make a report, the justice agency involved in the report would be able to review the report, and then those findings could be made public. Ms. Lucky said experiences in other states show that being able to have this conversation, have the report, and come up with recommendations makes the state more responsive to the victims.

REPRESENTATIVE JAMES asked Ms. Lucky whether this office would be established under the legislature.

MS. LUCKY concurred.

REPRESENTATIVE JAMES asked whether it would have any relationship to the ombudsman's office.

MS. LUCKY responded that the statutes almost mirror [those for] the ombudsman's office, but it would be a separate entity. This would deal specifically with violations of crime victims' rights and justice agencies.

REPRESENTATIVE JAMES remarked that she finds the purpose of this very different from the ombudsman's office, and it is hard for her to see a relationship between this office and the legislature.

MS. LUCKY explained:

> We believe that they are dealing with the victims, just like they would with constituents and the ... public safety and justice agencies. ... Some of the comments we've heard since we moved back in the legislature have been that ... people are having a problem, let's say, with the prosecutor's office; the witness coordinator isn't calling them back, or they're unable to find out what's going on with their case. ... The courts will say, "Well, we're ... the impartial body here, and we'll need to hear from the attorneys from the defense side and then the

> prosecution side, and then we will determine what needs to be done." ...
>
> The experience in other states has shown that people, when they feel like they're not getting a fair break from the police or they're not getting a fair break from the prosecutors or people are not calling them back, ... don't have any faith in the fact that calling another branch within that umbrella is going to give them any relief. ... Minnesota has a crime victims' ombudsman's office, and they have found that by calling this office, they feel that they have a neutral third party.

MS. LUCKY, for an example, referred to a murder case cited in the bill packets.

Number 2130

REPRESENTATIVE BERKOWITZ remarked that he has always thought this was a bad idea. He said he thinks the correct approach would be for [the state] to take the money and fund the victim witness coordinators and the district attorney offices across the state. Instead, a third party is going to be injected into an adversarial system that is not capable of doing that.

REPRESENTATIVE BERKOWITZ noted that nothing in the investigation section [of the bill] precludes the victims' advocate from, for example, subpoenaing the notes of the prosecutor or the defense attorney. That item alone could be incredibly problematic. He asked how Ms. Lucky anticipates the impact of trying to subpoena those notes, which could be something as simple as thinking a witness is marginal. Those things, he said, can be devastating if they are widely disseminated. There is a reason why privilege and confidentiality are attached to them. On the defense side, he stated, anything that the defendant tells his or her attorney is sacrosanct. There is no provision in this legislation that would recognize those features of the criminal process.

MS. LUCKY responded that she thinks the wish is that "throwing" money into the witness coordinator problem would fix the problem; however, since the witness coordinator is in the prosecutor's office, people feel that continually calling the prosecutor's office is biased. With regard to policy, Ms. Lucky said she thinks having a neutral party that looks out for the rights of the victims is the correct way to go.

REPRESENTATIVE BERKOWITZ commented that he finds it ironic that [the legislature] has a majority that ostensibly wants to cut the budget and reduce government bureaucracy, but is doing the exact opposite with [this legislation].

CHAIR ROKEBERG announced that SB 105 would be held over.

HB 133 - RESTITUTION FOR CRIMES OR DELINQUENCY
HB 134 - CRIME VICTIMS RTS/CRIMES/PROTECTIVE INJ.

[Contains discussion of SB 105]

CHAIR ROKEBERG announced that next the committee would hear two bills: HOUSE BILL NO. 133, "An Act relating to restitution for criminal and delinquency acts; authorizing the state to collect restitution on behalf of victims of crime and delinquent acts and the release of certain information related to that collection; relating to the forfeiture of certain cash and other security for payment of other restitution; relating to access by the Violent Crimes Compensation Board to certain records regarding delinquency acts to award compensation to victims; relating to immunity for damages related to certain collections of restitution; amending Rule 82, Alaska Rules of Civil Procedure; and providing for an effective date," and HOUSE BILL NO. 134, "An Act relating to the rights of crime victims, the crime of violating a protective injunction, mitigating factors in sentencing for an offense, and the return of certain seized property to victims; clarifying that a violation of certain protective orders is contempt of the authority of the court; expanding the scope of the prohibition of compromise based on civil remedy of misdemeanor crimes involving domestic violence; providing for protective relief for victims of stalking that is not domestic violence and for the crime of violating an order for that relief; providing for continuing education regarding domestic violence for certain persons appointed by the court; making certain conforming amendments; amending Rules 65.1 and 100(a), Alaska Rules of Civil Procedure; amending Rules 10, 11, 13, 16, and 17, Alaska District Court Rules of Civil Procedure; and amending Rule 9, Alaska Rules of Administration."

Number 1934

DEAN J. GUANELI, Chief Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law (DOL), came forth to present HB 133 and HB 134. He stated that in 1984 the Alaska voters overwhelming passed the Victims'

Rights Amendment to the constitution, but 15 years earlier, in 1979, the Department of Law was already at the forefront of trying to provide for victims' rights.

MR. GUANELI explained that at that time, [the department] applied for federal grants that were available to provide for paralegal assistants in the district attorneys offices to act as assistants for victims and witnesses, to help guide them through the court process, and to help them to overcome the trauma that comes with testifying in court proceedings. [The DOL] provided [the paralegals and the prosecutors] with training, which continues today. Every year the criminal division of the DOL puts on a three-day conference funded by federal funds under the Violence Against Women Act. Training is provided in topics such as domestic violence, sexual assault, dealing with child victims, and cross-cultural communication with victims. Also, through the federal grant, [the DOL] has a volunteer coordinator whose job is to recruit volunteers from across Alaska to help out in the DAs (district attorneys) office, especially with contacting victims.

MR. GUANELI went on to say that [the DOL] has provided brochures for victims of domestic violence, explaining what families should know about child sexual abuse, sexual assault, crime victims' rights, and personalized safety plans. These brochures are in English, Yupik, and Inupiat. He noted that [the DOL] has done this because it is the right thing to do. [The DOL] realized long ago that the reason it loses criminal cases is that victims and witnesses don't cooperate.

MR. GUANELI told members the Department of Corrections [DOC] also has recognized that victims are important, and has an automated victim-notification system that informs victims of when offenders are being released from prison. Every pre-sentence report filed in felony cases has a specific section on victim impact.

MR. GUANELI reported that the DOC also has a victims' services unit that provides training to all DOC employees and provides classes to the offenders on victim impacts. The Division of Juvenile Justice has changed its focus to an equal focus on the offender and the victim; the division has found that bringing the victim into the process of dealing with juvenile offenders is helpful for the juvenile offender and the victim to bring the matter to closure.

Number 1683

MR. GUANELI noted that [the DOL] also listens to victims through the Council on Domestic Violence and Sexual Assault as well as the Network on Domestic Violence [and Sexual Assault]. Last fall, there was a victims' roundtable at which victims came together and told [the department] about some of the problems that they have been having. As a result, [the department] discovered that one of the primary problems [victims] have is collecting restitution. House Bill 133 provides a more effective way of collecting restitution for victims.

MR. GUANELI stated that the DOC has put on a number of community justice forums on crime and victimization. [The Department of Law] has also heard from victims of theft that when the stolen property is pawned, they have a difficult time getting it back from pawnshops. Part of HB 134, therefore, provides a streamlined method for establishing their claims to that property.

MR. GUANELI reported that [the department] has also listened to victims who have said it is great to have restraining orders against domestic violence, but there is a real gap in the law - there is no easy way to get a restraining order against someone who is stalking them. Providing a protective order that guards against stalking as well as domestic violence is part of HB 134.

MR. GUANELI noted that these bills are long and appear to be complex, but [the DOL] has a great deal of experience in collecting fines and judgments in favor of the state. House Bill 133 directs those same efforts to the civil division of the DOL and puts that unit to work collecting restitution on behalf of victims.

MR. GUANELI explained that HB 134 does a number of things, some of which were enacted last year. This year's bill adds the restraining order for victims of stalking, and it provides for additional remedies involving contempt of court for violations of protective orders where there is no effective remedy today. All of the provisions are ones that victims and victims' groups have said they need. Although it is late in the session, he said, it is important to the administration and the victims that HB 133 and HB 134 be enacted this year.

Number 1467

MR. GUANELI explained that combining these two bills with SB 105 will create a mechanism for getting these bills enacted this

year and for having a comprehensive victims' package. Through some informal discussions with Senator Halford's office, he said, he believes the Senator would consider this. He believes it is a win-win situation - a win for those in legislative leadership positions, and a win for victims - if all three bills can get passed.

MR. GUANELI said he believes SB 105 contains enough protections against potential abuses for [the DOL] to be comfortable with it. He added that in some cases it is important for victims to have a neutral advocate - someone outside of the prosecutor's office.

MR. GUANELI remarked that he is not alarmed by the notion that there might be a legislative-branch employee investigating [the DOL's] activities. In addition to reports that might criticize some agencies, there ought to be reports that indicate when agencies are doing a good job.

MR. GUANELI noted that the lead-in to the title of SB 105 indicates it is an Act relating to victims' rights. He said he thinks victims' rights is precisely what HB 134 is. Under the constitutional provision relating to victims' rights, one of the primary victims' rights is the right to receive restitution [from] the offender. The only effective way to do that is to provide a mechanism in the DOL using its existing collection unit. In conclusion, he stated that he thinks the language related to victims' rights is broad enough to encompass both of the governor's bills [HB 133 and HB 134].

Number 1223

REPRESENTATIVE BERKOWITZ asked Mr. Guaneli whether he would take a look at protections that could be added to SB 105 regarding work product and attorney-client [privilege].

MR. GUANELI responded that he would be happy to take a look at that. He noted that the current ombudsman bill also provides broad subpoena power for the ombudsman. In the past, ombudsmen have done limited investigations of the prosecutors' offices. Further, he noted that he doesn’t believe there has ever been a situation in which the ombudsman wanted any kind of confidential prosecutor's notes.

Number 1163

CINDY CASHEN, Juneau Chapter, Mothers Against Drunk Driving (MADD), came forth in support of HB 133. She stated:

> The MADD Juneau Chapter strongly supports the governor's victim rights package. MADD's mission statement includes aiding the victim of drunk driving. This bill is directly aimed at dealing with the drunk driving victims, and unless you have ever lost someone to drunk driving, you have no idea how vital this bill is to us.
>
> When my dad was killed, our minds and bodies went into shock. Unfortunately, we faced before us a mountain of paperwork. ... Writing a check for the urn, signing permission for organ donation, rewriting the will - these are just a few of the personal ones we had to deal with. We also had to learn how the system worked in [terms] of my mother's future. We were fortunate in that Dad was wise in his decision-making concerning his possible early demise, but many others have not been as fortunate as us. But even though my father acted in such a manner, it took weeks and even months to sort through the paperwork, and even now, almost one year later, there is still some to be dealt with.
>
> Victims don't just get to grieve and mourn. We have to carry on with our lives, ... much as we sometimes wish not. Sometimes it is all we can do to get out of bed and get dressed. At times, to have the resources, the energy, [and] the capability to focus on financial matters is simply not possible.
>
> It is common for the victim's brain to be in a frozen state of shock, one which can last for several months, even as long as a year. I can tell you that that is what is happening to me. ... It is during this time, however, that decisions need to be made concerning financial restitution.
>
> So, how can a victim deal with such a huge, complicated subject when merely remembering someone's name is impossible? This bill would eliminate or take away much of the stressful work from the victim. This package would allow the victims to concentrate on healing. It was very frustrating watching my mother try to get on with her life and at the same time deal with paperwork. ... This package is a good thing. It

shows the State of Alaska will care for its victims. Our chapter urges this committee to support this package.

Number 0975

MS. CASHEN further described her personal situation:

When my dad was killed, we were fortunate in that our drunk driver didn't fight back. He showed remorse and he dealt with it. We were the minority. But what happened was, we still had to go through the process, ... and it was extremely frustrating trying to figure why it took so long, for instance, to arrest him. It took weeks to arrest him, and it drove my mother crazy. ...

But ... we were fortunate ... [to have] this particular woman - she was a victims' advocate, but it was not her job to do what she did. What she did is what is written in this bill: ... she saved my mother's life. She became the go-between, and she explained to my mother what was going on. And for some reason ... when she said, "This is what's happening, this is what the police officers are doing, this is what the prosecutor is doing, this is what the defender is doing, and so forth," ... it was all right. When my mother had to wait for four days for the prosecutor to return a call because he's so over-worked and he has so many other cases that he did the best he could, ... she needed the answers now. ... This office would be able to do that. This office would care for the victim.

Number 0827

LAUREE HUGONIN, Director, Alaska Network on Domestic Violence and Sexual Assault, came forth and stated:

We are in a time right now where we're being challenged on the seriousness with which we take sexual assault, for example. The 9th [Circuit] Court of Appeals has struck down part of our sex offender registration system. And looking at their thinking behind that process, and seeing that ... some of the things that we considered when we were testifying for the legislation to help protect the public safety

[were] seen as overbroad or too harsh, is disheartening.

We've recently had a case in Alaska in a sentencing for a sexual assault in the second degree, which is a class B felony, in which the judge was making comments about not needing to listen to a victim in the context of a pre-sentence report or at a sentencing because he had heard her at trial and what really more did he have to learn? And on Sunday in Juneau we had a hostage situation where a perpetrator of domestic violence went into a church with a gun and held hostage his victim. In having all of those instances coming together at the same time when we're also looking at ways to help the system help victims and be responsive to what victims are saying as to what they need, is a very important nexus.

Mr. Guaneli spoke about the roundtable that the victims and victim service providers had back in the fall where restitution kept coming up as a forefront effort - that if we could get restitution to the victims ... it would be one of the most helpful things that could happen. They could pay some of their bills; they could have a sense of justice. They don't always see that the perpetrator is in the jail, but they can see that they have had that court order probably enforced and listened to by having the money in their hands. ... And to do it in such a way where the burden is not on the victim to recover that restitution, which in many situations now is how we have the system working, ... will be very helpful.

Number 0536

MS. HUGONIN went on to say:

Some of the provisions in HB [134], we think, are also very critical to assisting victims in being able to feel more safe and take some steps toward accepting some justice. For violating protective orders there are seven provisions where it can be a class A misdemeanor if you violate that order.

Unfortunately, there seems to be a need to have those provisions violated more than once before the case is in a situation where it can be successfully prosecuted

at that level of crime. Allowing for contempt violations to be prosecuted, I think, will be a more immediate way to say, "You can't do that, and here's a penalty." In some studies that have been done with perpetrators of domestic violence, it seems that the more quickly you can say, "Don't do that," ... and there's a penalty and it's immediate, their behavior changes. ...

I think that having a way that is easy for victims of stalking ... to get some protection is very important. I don't think there are a lot of cases in Alaska where this would be applicable, but there are some. ...

One of the provisions that was in a bill last year that made it through the House and not through the Senate was to change the definitions in the statute involving civil compromise. It has an older definition of domestic violence, and the suggestion is to change it to a crime involving domestic violence so it would capture the ... definition from the 1996 DV [domestic violence] Act. I think that's important because it particularly adds dating relationships. The federal Violence Against Women Act, too, has added dating relationships into its definition of domestic violence. ... Prior to 1996, we did have people in dating relationships that were violent; we afforded them the protection of being able to get a protective order. So we think it makes sense in this situation to have them excluded from that civil compromise.

A final section that may not get a lot of debate ... is a section that requires training for mediators, child custody investigators, and guardians ad litem. ... There'd be a training that's sponsored by the Council on Domestic Violence and Sexual Assault, so we can have some faith in the accuracy of the information that they're receiving in its currentness and its applicability to situations in which they will be making determinations that truly affect the lives of the families that are involved.

We hope for your thoughtful consideration of these bills. If the way to get them through is to put them in Senate Bill 105, then we hope that's something that you're able to work out, that you would consider being

cosponsors of the legislation, and that you would do what you could to ensure its passage this session.

Number 0214

CHAIR ROKEBERG announced that HB 133 and HB 134 would be held over.

ADJOURNMENT

Number 0188

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 7:02 p.m.