

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

May 11, 2002

5:50 p.m.

MEMBERS PRESENT

Representative Norman Rokeberg, Chair
Representative Jeannette James
Representative John Coghill
Representative Kevin Meyer

MEMBERS ABSENT

Representative Scott Ogan, Vice Chair
Representative Ethan Berkowitz
Representative Albert Kookesh

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 369(RLS)

"An Act relating to trusts, including trust protectors, trustee advisors, and transfers of trust interests, and to creditors' claims against property subject to a power of appointment; and providing for an effective date."

- MOVED HCS CSSB 369(JUD) OUT OF COMMITTEE

PREVIOUS ACTION

BILL: SB 369

SHORT TITLE:POWERS OF APPOINTMENTS/TRUSTS/CREDITORS

SPONSOR(S): JUDICIARY

Jrn-Date	Jrn-Page		Action
04/29/02	3024	(S)	READ THE FIRST TIME - REFERRALS
04/29/02	3024	(S)	JUD
05/01/02		(S)	JUD AT 3:30 PM BELTZ 211
05/01/02		(S)	Moved Out of Committee -- Time Change --
05/01/02		(S)	MINUTE(JUD)
05/02/02	3101	(S)	JUD RPT 2DP 1NR
05/02/02	3101	(S)	DP: TAYLOR, COWDERY; NR: THERRIAULT
05/02/02	3101	(S)	FN1: ZERO(LAW)
05/07/02		(S)	RLS AT 9:30 AM FAHRENKAMP 203

			MINUTE(RLS)
05/09/02	3260	(S)	RULES TO CALENDAR W/CS 5/9 SAME TITLE
05/09/02	3260	(S)	FN1: ZERO(LAW)
05/09/02	3267	(S)	READ THE SECOND TIME
05/09/02	3268	(S)	RLS CS ADOPTED UNAN CONSENT
05/09/02	3268	(S)	ADVANCED TO 3RD READING FLD Y14 N6
05/09/02	3268	(S)	ADVANCED TO THIRD READING 5/10 CALENDAR
05/10/02	3312	(S)	READ THE THIRD TIME CSSB 369(RLS)
05/10/02	3312	(S)	PASSED Y19 N- A1
05/10/02	3312	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
05/10/02	3321	(S)	TRANSMITTED TO (H)
05/10/02	3321	(S)	VERSION: CSSB 369(RLS)
05/11/02	3510	(H)	READ THE FIRST TIME - REFERRALS
05/11/02	3510	(H)	JUD
05/11/02		(H)	JUD AT 5:45 PM CAPITOL 120

WITNESS REGISTER

SUSAN SULLIVAN, Child Support Enforcement Division (CSED)
 Department of Revenue
 550 West 7th Avenue, Suite 310
 Anchorage, Alaska 99501
 POSITION STATEMENT: During the discussion of SB 369, expressed
 a concern and suggested the adoption of proposed Amendment 1.

HEATHER M. NOBREGA, Staff
 to Representative Norman Rokeberg
 House Judiciary Standing Committee
 Alaska State Legislature
 Capitol Building, Room 118
 Juneau, Alaska 99801
 POSITION STATEMENT: Responded to questions during discussion of
 SB 369.

DIANE WENDLANDT, Assistant Attorney General
 Collections and Support Section
 Civil Division (Anchorage)
 Department of Law (DOL)
 1031 West 4th Avenue, Suite 200
 Anchorage, Alaska 99501-1994

POSITION STATEMENT: During discussion of SB 369, indicated that she had reviewed proposed Amendment 1.

ACTION NARRATIVE

TAPE 02-65, SIDE A
Number 0001

CHAIR NORMAN ROKEBERG called the House Judiciary Standing Committee meeting to order at 5:50 p.m. Representatives Rokeberg, James, Coghill, and Meyer were present at the call to order.

SB 369 - POWERS OF APPOINTMENTS/TRUSTS/CREDITORS

[Contains mention of the companion bill, HB 316.]

Number 0026

CHAIR ROKEBERG announced that the committee would hear CS FOR SENATE BILL NO. 369(RLS), "An Act relating to trusts, including trust protectors, trustee advisors, and transfers of trust interests, and to creditors' claims against property subject to a power of appointment; and providing for an effective date." He noted that there is a proposed amendment, hereafter referred to as Amendment 1, which read [original punctuation provided]:

Page 4, Line 4:

Delete: "or"

Insert: [or]

Page 4, Line 6:

Delete: [.]

Insert; ;

Page 4, Line 7:

Insert: **(5) the creditor is seeking to satisfy a claim for child support.**

Page 5, Line 25, after "except," through line 30:

Delete all material.

Insert:

(a) to the extent that a donee of an inter vivos or testamentary power of appointment

(1) is permitted by the donor of the power to appoint the property to the donee's estate or to the creditors of the donee's estate; and

(2) effectively exercises the power of appointment in favor of the donee's estate or the creditors of the donee's estate; or

(b) when the creditor is seeking to satisfy a claim of child support.

Number 0057

SUSAN SULLIVAN, Child Support Enforcement Division (CSED), Department of Revenue, testified via teleconference and said the CSED's concern with SB 369 and its companion bill - HB 316 - is that there will be an unintended consequence. She warned that certain provisions of this legislation would make it easier for an unscrupulous parent to avoid supporting his or her children. She offered that Amendment 1 would resolve this potential problem.

Number 0147

HEATHER M. NOBREGA, Staff to Representative Norman Rokeberg, House Judiciary Standing Committee, Alaska State Legislature, in response to a question, indicated that she had drafted Amendment 1.

Number 0155

DIANE WENDLANDT, Assistant Attorney General, Collections and Support Section, Civil Division (Anchorage), Department of Law (DOL), testified via teleconference, stating simply that she has reviewed Amendment 1.

MS. NOBREGA, in response to a question, pointed out that the portion of Amendment 1 that will alter page 5 of SB 369 begins after the word "except" on line 25.

MS. SULLIVAN remarked that Ms. Wendlandt has suggested that the last line of Amendment 1 be amended to read: "(b) to the extent that the creditor is seeking to satisfy a claim of child support."

MS. NOBREGA noted that such an amendment would merely involve deleting "when" and inserting "to the extent that".

CHAIR ROKEBERG indicated that Amendment 1 would be amended to incorporate that suggestion.

Number 0360

REPRESENTATIVE JAMES made a motion to adopt Amendment 1 [as amended]. There being no objection, Amendment 1, as amended, was adopted.

REPRESENTATIVE JAMES pointed out that Section 1 contains a reference to another statute - AS 47.07.020(f) - and asked what that statute is.

CHAIR ROKEBERG surmised that the "trust boys" probably made the suggestion to add that language to SB 369, thereby creating one of the differences between SB 369 and HB 316.

MS. NOBREGA noted that AS 47.07.020(f), which says, "A person may not be denied eligibility for medical assistance under this chapter on the basis of a diversion of income, whether by assignment or after receipt of the income, into a Medicaid-qualifying trust", can be found in the chapter pertaining to medical assistance for needy persons.

REPRESENTATIVE JAMES indicated that the reference in SB 369 to that statute is appropriate.

CHAIR ROKEBERG agreed. He then suggested that the House Judiciary Standing Committee's [draft minutes] regarding HB 316 be included as part of the record for SB 396.

Number 0547

REPRESENTATIVE JAMES moved to report CSSB 369(RLS), as amended, out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, HCS CSSB 369(JUD) was reported from the House Judiciary Standing Committee.

ADJOURNMENT

Number 0575

CHAIR ROKEBERG announced at 6:00 p.m. that the House Judiciary Standing Committee would be recessed to a call of the chair. [This meeting was never reconvened.]