

ALASKA STATE LEGISLATURE  
**SENATE JUDICIARY COMMITTEE**

April 23, 2001  
1:44 p.m.

**MEMBERS PRESENT**

Senator Robin Taylor, Chair  
Senator Dave Donley, Vice Chair  
Senator John Cowdery  
Senator Gene Therriault  
Senator Johnny Ellis

**MEMBERS ABSENT**

All Members Present

**COMMITTEE CALENDAR**

CS FOR HOUSE BILL NO. 32(JUD) am  
"An Act relating to the forfeiture of property used to possess or distribute child pornography, to commit indecent viewing or photography, to commit a sex offense, or to solicit the commission of, attempt to commit, or conspire to commit possession or distribution of child pornography, indecent viewing or photography, or a sexual offense."

MOVED SCS CSHB 32(JUD)

CS FOR SENATE BILL NO. 116(HES)  
"An Act relating to the Alaska temporary assistance program; and providing for an effective date."

MOVED CSSB 116(JUD) OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 11  
Proposing an amendment to the Constitution of the State of Alaska to guarantee the permanent fund dividend, to provide for inflation proofing, and to require a vote of the people before changing the statutory formula for distribution that existed on January 1, 2001.

MOVED CSSJR 11(JUD) OUT OF COMMITTEE

CS FOR SENATE BILL NO. 135(HES)  
"An Act relating to mental health information and records; and providing for an effective date."

MOVED CSSB 135(JUD) OUT OF COMMITTEE

SENATE BILL NO. 178  
"An Act relating to the detention of delinquent minors and to temporary detention hearings; amending Rule 12, Alaska Delinquency

Rules; and providing for an effective date."  
MOVED SB 178 OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

HB 32 - See Judiciary minutes dated 4/20/01.

SB 116 - See HESS minutes dated 4/9/01.

SJR 11 - See Judiciary minutes dated 4/18/01.

SB 135 - See HESS minutes dated 4/9/01.

SB 178 - See HESS minutes dated 4/20/01.

**WITNESS REGISTER**

Representative Joe Hayes  
Alaska State Capitol  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Sponsor of HB 32

Mr. Jim Nordlund, Director  
Division of Public Assistance  
Department of Health &  
Social Services  
PO Box 110601  
Juneau, AK 99801-0601  
**POSITION STATEMENT:** Testified on SB 116

Ms. Christine Baumengen, Assistant AG  
Department of Law  
PO Box 110300  
Juneau, AK 99811-0300  
**POSITION STATEMENT:** Testified on SB 116

Ms. Nicole Nelson  
Anchorage, AK  
**POSITION STATEMENT:** Supported SB 116

Senator Jerry Ward  
Alaska State Capitol  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Sponsor of SJR 11

Ms. Pat Davidson, Legislative Auditor  
Legislative Agencies & Offices  
PO Box 110200  
Juneau, AK 99811-3300  
**POSITION STATEMENT:** Testified on SB 135

Ms. Anne Henry, Special Projects Coordinator  
Division of Mental Health & Developmental Disabilities  
Department of Health &  
Social Services

PO Box 110601

Juneau, AK 99801-0601

**POSITION STATEMENT:** Testified on SB 135

Ms. Holly Morris  
Staff to Senator Therriault  
Alaska State Capitol  
Juneau, AK 99801-1182

**POSITION STATEMENT:** Testified on SB 135

Mr. Robert Buttane, Legislative & Administrative Liaison  
Division of Juvenile Justice  
Department of Health &  
Social Services

PO Box 110601

Juneau, AK 99801-0601

**POSITION STATEMENT:** Testified on SB 135

#### **ACTION NARRATIVE**

#### **TAPE 01-21, SIDE A**

Number 001

**CHAIRMAN ROBIN TAYLOR** called the Senate Judiciary Committee meeting to order at 1:44 p.m. Senator Ellis, Senator Therriault, Senator Cowdery and Chairman Taylor were present. Senator Donley arrived at 2:02 p.m. Chairman Taylor announced the first order of business would be HB 32.

#HB 32

#### **HB 32-SEX CRIME AND PORNOGRAPHY FORFEITURES**

REPRESENTATIVE JOE HAYES, sponsor of HB 32, said he had new intent language for HB 32, which had the actual case law without the Latin word.

CHAIRMAN TAYLOR said he thought the language in the amendment was much clearer.

SENATOR ELLIS moved to adopt amendment 1, Luckhaupt 4/20/01, which reads as follows.

Page 1, lines 7- 12:

Delete all material and insert:

**Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INTENT. The forfeitures contemplated by this Act are intended to be forfeitures imposed in connection with conviction for a crime. The legislature intends for the courts to continue to provide hearings to interested persons who have an ownership interest in equipment subject to forfeiture under this Act and to allow for remission to innocent nonnegligent third parties as applied in *State v. Rice*, 626 P.2d 104 (Alaska 1981), *Fehir v. State*, 755 P.2d 1107 (Alaska 1988), and *Baum v. State*, P.2d (Alaska App. 2001).

CHAIRMAN TAYLOR noted the amendment was a rewrite of the intent language in the first Section of HB 32. He asked if committee members had any questions of the sponsor.

SENATOR THERRIAULT said he had talked with Representative Hayes earlier in the week about the new language being wordier than what was envisioned but he liked the fact that specific cases were referred to in the bill and he also liked the new intent language.

CHAIRMAN TAYLOR thanked Representative Hayes for adding this amendment because he felt the original language was confusing.

CHAIRMAN TAYLOR asked if there were any objections to amendment 1. There being no objection, amendment 1 was adopted.

SENATOR COWDERY moved SCS CSHB 32(JUD) from committee with individual recommendations. There being no objection, SCS CSHB 32(JUD) moved from committee.

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#SB 116

#### **SB 116-AK TEMP. ASSISTANCE PROGRAM AMENDMENTS**

MR. JIM NORDLUND, Director, Division of Public Assistance, Department of Health and Social Services (DHSS), said the original bill was introduced by the governor and dealt with one provision that had been removed from SB 116, with the concurrence of DHSS. The governor introduced the bill because there was a 60-month limit to client benefits under the Alaska Temporary Assistance Program (ATAP). This program was created with the welfare reform legislation that passed five years ago. Although ATAP contains a 60-month limit to benefits for clients, 20 percent of those individuals may be exempt from that limit. Congress recognized that there would always be people on welfare who would not be able

to support themselves and would need to receive benefits beyond the 60-month limit. The problem is that the 20 percent exemption applies to the current caseload rather than the caseload "as it was way back when." And since the caseload had been lowered from 12,000 families to 5,000 families, the number of exempt families is much smaller. DHSS has a problem with that and Senator Green said the HESS committee would take that issue up next year. The urgency would be greater next year because the first families will be hitting the five-year limit in July 2002.

MR. NORDLUND noted that Section 2 of CSSB 116(HES) dealt with a two parent court case that DHSS lost. He explained:

During the summer, DHSS reduces benefits for two parent families by half, a policy choice made by the legislature and the administration five years ago. That policy was developed because it was felt that two parent families were better able to work during the summer months because there was more employment in Alaska during the summer and because one of the parents would be able to stay home with the children.

MR. NORDLUND said that when language regarding two parent families was put into the new law, antiquated language from the AFDC law was carried over saying benefits would be provided to two parent families. The court looked at that language literally and said that DHSS had to do an eligibility determination of two parent families to determine who was the principal wage earner and what the unemployment status was of that person. It was the intent of the legislature and the administration to say all two parent families would have their benefits cut during the summer, except families with one parent who was incapacitated. But the court did not look at it that way and said that DHSS had to do the eligibility determination. The determination would have a cost attached and there would be some two parent families receiving full benefits through the summer in a way that would be unrelated to the intent of the legislation.

MR. NORDLUND noted that Section 2 strips the original bill of that antiquated language and brings the legislation back to the original intent. If SB 116 does not pass, DHSS would have to do the eligibility determination this summer and would probably end up paying benefits to some families who would otherwise not be eligible.

CHAIRMAN TAYLOR asked about Section 3.

Number 690

MR. NORDLUND said under ATAP, all families are required to develop a family self-sufficiency plan, which is a plan that charts their course from welfare to work. The original law exempted families where one parent was disabled or incapacitated. DHSS thinks it is a good idea for all families to have a self-sufficiency plan because it assists DHSS in helping families, even disabled families, improve their situation in life.

SENATOR THERRIAULT asked if that was just the exception from the self-sufficiency plan.

MR. NORDLUND said that is correct.

CHAIRMAN TAYLOR asked if Section 4 is a transition section set up to allow each of the others to go into effect so the department could draw up new regulations. Mr. Nordlund indicated that is correct.

CHAIRMAN TAYLOR asked if Sections 5 and 6 are effective date clauses. Mr. Nordlund indicated that is correct.

SENATOR THERRIAULT asked if Section 4 speeds up the process rather than waiting for the statutes to become effective. Mr. Nordlund said that is correct.

CHAIRMAN TAYLOR asked if they even need Section 1 at this time.

MR. NORDLUND replied that Section 1 is an attempt to conform with federal law.

CHAIRMAN TAYLOR asked if that is the section the Senate HESS Committee would take up next year.

MR. NORLUND indicated that was not correct; that the section they would take up next year was already taken out of the original bill. He said they are now looking at the committee substitute.

CHAIRMAN TAYLOR said he thought the first section talked about the five year program.

MR. NORDLUND replied that it was related to the section that was stripped out of the bill, but federal law says that anybody who is living in an Alaska Native village is exempt from the five-year limit. "That's a provision in federal law."

MR. NORDLUND explained that our state law does not have such a provision and so that section conforms state law to federal law in

that regard.

CHAIRMAN TAYLOR asked if this exempts them from the 20 percent rule.

MR. NORDLUND responded, "Yes."

CHAIRMAN TAYLOR said that by exempting them for five years, the administration doesn't have to find a job for any person living in a Native village.

MR. NORDLUND responded:

It is a two-edged sword, I think. This provision is not something that we necessarily originally promoted in the federal law... Even the Native community would tell you that they see this as good and bad. The fact of the matter is that there aren't jobs in so many of those Native villages and cutting off individuals from public assistance when there's absolutely no hope of employment is very harsh.

CHAIRMAN TAYLOR asked about the qualifications of a Native village.

MR. NORDLUND replied, "The reference in the federal law is to ANCSA, which recognizes the Native communities in the state."

CHAIRMAN TAYLOR asked if it was only the village corporations that would apply.

MR. NORLUND responded, "Locations or communities that are recognized in the federal law as being Native villages under ANCSA."

MR. NORLUND said there is a list of those communities in committee packets.

Number 1038

SENATOR COWDERY asked why the term "gainful activity" was used in Section 2.

MR. NORLUND replied that was a good question and he didn't know why they couldn't use the word "employment" because that is what it's intended to mean.

CHAIRMAN TAYLOR said he thought it might be defined somewhere in Title 47.

SENATOR COWDERY asked if increased employment in Alaska and welfare have remained in proportion to each other.

MR. NORDLUND replied, "Definitely. The fact that we've had a policy change, first of all, is a big piece of it, that we're now requiring clients to look for work."

He said that the fact that the economy has been so good in Alaska has been a huge contributor to the fact that the welfare cases have come down so much across the nation. Another reason for success is that basically the legislature and administration have been willing to put forward a budget that's necessary to help move folks into work - money for child care and case management.

MS. KRISTEN BAUMENGEN, Assistant Attorney General, said:

The term "gainful activity" is used in other places in this particular statute and so it is a kind of term of art that has been adopted in AS 47.27.015, AS 47.25.025 and AS 47.27.030. It was a part of the original ATAP bill. The term was used to describe general employment activities. There is a definition that's been generated in a substantial section in the regulations that address this. Using this term now would make it consistent with the other applications of the terms in the act."

SENATOR COWDERY said that assumes the term was being used correctly in the other parts of the statute.

MS. BAUMENGEN said she had a reference to the definition as it was generated in the regulations, if that would helpful. They indicated assent.

SENATOR ELLIS asked if Mr. Nordlund had addressed the House's concern about an exemption for caretakers of disabled children.

MR. NORDLUND replied:

Yes, there was a discussion on the House side. The House version of the bill does have an additional exemption in here. The exemption you're seeing in this version brings it back to the status quo situation. That is, in a two parent family, we will exempt them from getting the two parent benefit cut in the summer months if one of the parents is incapacitated. The amendment that was added on the House side says that as well, if in a two parent family, if they have a child who has a severe disability, then that two-parent family is exempt from the two-parent

benefit cut in the summer months. That is not in this version.

SENATOR ELLIS asked what his position was on that.

MR. NORDLUND said they were neutral on that addition by Representative Dyson.

SENATOR ELLIS said he raised that as an issue for the committee to consider because there were some compelling examples, specifically the Jackson family from Pt. Baker.

MR. NORDLUND said he had an amendment that they prepared for the House.

CHAIRMAN TAYLOR said they wanted to make certain that that option is available.

SENATOR THERRIAULT asked if the federal exemption was over the 20 percent for state exemptions.

MR. NORDLUND answered that is correct.

SENATOR THERRIAULT pointed out that language says, "The department shall disregard the months that are required to be disregarded under that federal law." He thought Mr. Nordlund explained that it was just a location-based exemption across the board.

MR. NORDLUND replied:

What we do as long as somebody is living in that exempt village, we simply do not count that month. We just stop the clock for those folks. If they move back to an unexempt village, the clock picks up again. Even though we consider stopping the clock for purposes of the way our computer system works, the Department of Law tells us it doesn't matter. From the state's standpoint, it still counts on the state clock. So, if they run up to 60 months, for the purposes of the state law, we have to count those folks within that 20 percent exemption category. This is just the terminology we use to say that we're stopping the clock for those families.

SENATOR THERRIAULT asked if this was an example of lawful discrimination.

MR. NORDLUND said he wasn't qualified to answer that question.

SENATOR THERRIAULT explained:

We're treating different groups of people differently, based on some reasoning. If we treat them differently, we've discriminated between the benefits one group can get that another group can't get. The Congress has found that there is justification for doing that and made that discrimination lawful. Is that a correct interpretation?

MS. BAUMENGEN responded that this was based on federal law and the special relationship with Native American and the Alaska Native populations in the Welfare Reform law. She said:

This language was generated after the time the state accepted its language for the ATAP program and it's a specific disregard that mandates in 'shall' language that the states disregard those months.

SENATOR THERRIAULT asked if it treats individual Alaskans differently based on some criteria in federal law and this change to state law would make that acceptable.

MS. BAUMENGEN responded, "Yes, it addresses all adults who live in an Alaska Native village."

CHAIRMAN TAYLOR said, "Interestingly, a person need not be a Native Alaskan, but if you find yourself living in that area, you qualify."

MS. BAUMENGEN replied that is correct.

CHAIRMAN TAYLOR said to Senator Ellis, "If we conform [the amendment] by putting in page 1, line 13, that's the word 'activity' that we are seeking to modify. Is that right Kristen?"

MS. BAUMENGEN responded that is correct.

SENATOR ELLIS moved to adopt amendment , which reads as follows.

**AMENDMENT 1**

Page 2, line 7

Following "activity":

**Insert "or to be providing care for a child who is experiencing a disability"**

MS. NICOLE NELSON, Anchorage, said she supported the amendment on caretaker relatives of disabled children and had no further comments.

SENATOR DONLEY said he didn't agree with the analysis that is contained in paragraph 3 of the sponsor statement that says Alaska sets an extremely excessive goal compared to other states regarding welfare reform. He pointed out, "I have seen several analyses that have appeared in national publications saying that we were the least aggressive on welfare of any state in the Union."

CHAIRMAN TAYLOR said the fiscal note confused him and asked how it could be zero when, if this law was left unchanged, there would be greater savings. By changing the law, they are going to spend more.

MR. NORDLUND explained the reason is:

Any time the Alaska Temporary Assistance Program is changed, is because of the way the funding mechanism for the program works. We get a set block grant from the federal government regardless of what happens to the case load and regardless of what we do with that caseload, what kind of programs we're providing. Also, that's the federal side. On the state side, we're required to put up what's known as a maintenance of effort, 80 percent of the funding that we provided in 1994. So, essentially, the state amount is fixed, as well.

You have a fixed amount of money, both federal and state to run this program and if the caseload goes down, basically what you do is you're freeing up money from the benefit side of the program to move over to services. In addition, what the legislature has done in the past few years is take a lot of those savings, which really are federal savings, using it to fund other programs in state government that are allowed under the TANF Program and there's been some general fund savings to the state in that way. As an example, we used to fund childcare with about \$10 million from the general fund. With the savings of welfare reform, we've been able to move those federal funds over, supplant that, take the G.F. out and you get a budget savings that way. But the overall amount of money we have for the program is set. So, as the caseload goes down, we can shift the money over, but it's internal to the program. It doesn't really show up in the fiscal note.

CHAIRMAN TAYLOR said they understand and commented that they do an accounting and, at the end of that process, they usually end up shifting some funds within the budgeting process.

Number 1840

SENATOR DONELY said the sponsor statement, dated February 21, 2001, doesn't say what bill number it's referring to.

MR. NORDLUND explained that this is the Governor's bill and it usually has the Governor's transmittal letter. He didn't think they had a sponsor statement, per se.

SENATOR DONLEY asked if there were any parts of the sponsor statement that were no longer applicable to the committee substitutes that were produced. He asked for an updated sponsor statement.

MR. NORDLUND said he would do that; but he didn't know that as a rule, they rewrite their transmittal letters.

CHAIRMAN TAYLOR said he thought that would be a good idea since the bill had changed so much.

SENATOR ELLIS moved to pass CSSB 116(JUD) from committee with individual recommendations. There were no objections and it was so ordered.

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#SJR11

**SJR 11-CONST AM: PERM FUND INCOME DISTRIBUTION**

CHAIRMAN TAYLOR announced SJR 11 to be up for consideration.

SENATOR THERRIAULT asked if the earnings reserve would be maintained, but would be treated as part of the corpus of the Permanent Fund now.

SENATOR WARD answered yes.

CHAIRMAN TAYLOR said they have a committee substitute that includes actual language instead of leaving the statutory references within the Constitution.

SENATOR COWDERY moved to adopt the CS, Cook 4/20/01, to SJR 11. There were no objections and it was so ordered.

SENATOR DONLEY said drafting the bill in this way has allowed them to review the existing formula for calculating the dividend on page 2, lines 7 - 9, which says, "The dividend may not exceed the net income of the fund for the fiscal year just ended, plus the balance of the earnings reserve account."

He said that language was the basis for the argument during the September 1999 advisory ballot debate. "It was a complicated calculation. It was a speculative argument, but people just assumed

it as fact for some of the arguments that were being put out there to the public. I think that language is problematic..."

SENATOR DONLEY said before he could support that section, which he disagrees with in current statute, he would want an extensive analysis. He didn't think the sponsor agreed with the technical way it might function, either.

SENATOR WARD explained: "I didn't put the language into law and if there was going to be a simplification of what he was trying to accomplish and what the people of Alaska were trying to accomplish, this would be the proper place to do it."

SENATOR TAYLOR said all they did in the bill was state existing state law.

SENATOR WARD said it would take a constitutional amendment to change the formula.

SENATOR WARD did not want to change existing law at this time, because people in his district like it the way it is.

SENATOR DONLEY agreed with Senator Ward, but he thought that there were very few Alaskans that know the ramifications of those three sentences for some future calculation of their dividend. "That's what worries me. That sentence hasn't kicked in yet, but if it did, I think there would be a lot of shocked people out there."

SENATOR WARD said he didn't disagree with that. "If the Finance Committee wants to change existing law in the form of a vote of the people, then I think it's something they, as a committee, need to come up with - what the ramifications are and the various models of that, because we're talking dollars now."

SENATOR COWDERY moved to pass CSSJR 11(JUD) from committee with individual recommendations.

SENATOR ELLIS objected:

This on its face has some popular appeal, but I can't be the only one at this table who is concerned about the potential risks and the chain of events this could set in motion. There was a lot of discussion at the last committee hearing about the IRS. I got more and more nervous as that discussion went on. I think if there's any contact with the IRS, I think that's a bad idea to start with....If there's any contact to be done, I would hope it could be done in an institutional fashion, in a very reserved and careful way so that we ask the right

questions. I think asking the questions is dangerous in and of itself.

SENATOR ELLIS again said he wasn't the only person at the table who was concerned about this and he knew there was a perception in the public, but he didn't think the Permanent Fund Dividend was in imminent danger from this legislature.

CHAIRMAN TAYLOR said that he also has grave concerns about the same subject, but he thought they should have the discussion. There being no further discussion, he asked for a roll call vote.

SENATORS DONLEY, COWDERY, THERRIAULT, and TAYLOR voted yeah; SENATOR ELLIS voted nay; and the bill was passed from committee by a vote of 4 to 1.

**TAPE 01-21, SIDE B**

SENATOR THERRIAULT noted that the Trustees had requested that another proposal be introduced and he said he would move that alternative also, so that the Finance Committee has different ideas to look at.

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#SB135

**SB 135-MENTAL HEALTH INFO/RECORDS/COMMUNICATIONS**

CHAIRMAN TAYLOR announced SB 135 to be up for consideration.

**TAPE 01-22, SIDE A**

MS. PAT DAVIDSON, legislative auditor, said, "Without data, the Department is unable to determine if services are being paid dual billed, paid for both with Medicaid funds and state funds nor can they offer the providers feedback about services and associated costs."

SENATOR THERRIAULT asked if this concern came from the findings of an audit.

MS. DAVIDSON answered yes. The first audit was on mental health services in 1997. Senate Finance was concerned about escalating costs in that program. They found and in the subsequent follow-up (January 2001) is that a fee for service Medicaid financing plan and a state funded grant program are inherently difficult to work with. Providing client data to the Department to do the analysis will allow that Department to actually manage the program the way it needs to be done.

CHAIRMAN TAYLOR noted for the record that he was the one who requested that audit in 1997. He added that:

We found that the reserve accounts of a couple of our larger providers had grown significantly to the place where they had between half and two-thirds of a year cash income reserves setting in their account. Nobody was asking them to spend down those reserves before we gave them state money even though my mental health programs in Ketchikan and other places where communities assisted them, before the community would step in and assist, they would make sure those reserves were spent down to the place where they had maybe a month or six weeks worth of reserves. Some of these larger entities had six to nine months reserves and were paying themselves significant salary increases. In one year, south central paid a 14 percent across the board salary increase to every one of the employers, including their executive director, which would have violated state law, had they been paying it under state monies...

SENATOR ELLIS asked why the entire mental health record of an individual client is needed. He asked if it was possible to transmit only the information that was necessary for the express purpose. He also said that the broad title of this bill troubles him, although there was nothing specific he wanted to preclude.

Number 364

MS. ANN HENRY, Special Projects Coordinator, Division of Mental Health and Developmental Disabilities, answered Senator Ellis' question saying:

The information that we gather is demographic information that uses a unique identifier rather than the individual's name and social security number. We use initials, the last four digits of the social security number and the person's birth date to identify that person and then link that person to subsequent documents, which give information about the kind of encounters they have had, the duration of the encounter, that sort of thing...

She said they don't request the entire file or go through progress notes. "It's just the diagnosis, the person's housing situation, their legal status, things like that that allow us to determine what kind of help different communities need and what we're seeing in the big picture for the mental health situation for the state."

SENATOR THERRIault said, "We need to get enough information so that we can track how services are being offered to this person. If

we're looking for some accountability, you've got to know what the person is getting."

He also explained regarding the title, that when he had the bill drafted, he wasn't anticipating any chicanery or things tacked on. He wasn't opposed to tightening the title.

MS. HENRY continued saying that her division had worked with the community mental health providers for several years trying to get this data from them and haven't been successful for various reasons. She said the lawsuit by the Board of the Mental Health Center that was suing will be put aside with passage of this bill. That is why the bill covers some of the issues that it covers. She explained that they had also amended the initial bill to include requiring that the mental health centers provide data for the last two years.

SENATOR THERRIAULT said that the lawsuit was initiated by a Fairbanks provider and he concurred that they backed away from the litigation with the introduction of this bill.

SENATOR ELLIS moved to tighten up the title to SB 135. There were no objections and it was so ordered.

SENATOR COWDERY moved to pass CSSB 135(JUD) from committee with individual recommendations. There were no objections and it was so ordered.

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#SB178

**SB 178-DETENTION OF DELINQUENT MINORS**

CHAIRMAN TAYLOR announced SB 178 to be up for consideration.

MS. HOLLY MORRIS, staff to Senator Therriault, sponsor, said:

SB 178 doesn't change our statute. What it does is it brings us into compliance with a federal law and, in doing so, allows us to access some regulatory time exemptions to lower violation rates and preserve our federal funding. It is in regards to juveniles being detained in rural areas in an adult lock up facility. They have 24 hours to, as quickly and safely as possible, move those juveniles to a juvenile detention center. Our current statute allows us up to 48 hours, if that is necessary. However, in changing the statute to match the federal language, we don't extend the time that a juvenile may be held in an adult lock up facility. In fact, it allows, if a juvenile is going to be held in an adult lock up facility for longer than 24 hours, they are

to be given an arraignment in that period. So, it speeds up their due process if they can't get to a juvenile detention center. In changing the statute to comply with this federal law, it allows us to optimize our federal funding possibilities.

SENATOR THERRIAULT said that federal law says that for those states that require an initial hearing within 24 hours, if the state statute says 24 hours, we have access some federal exemptions. Our statute currently says 48 hours. So, we don't have access to that wiggle room to deal with our remote rural lock up situations where a juvenile might be housed while they are waiting for the weather to clear or a plane to be available to transport them to a juvenile detention facility. "We're in danger of losing about \$160,000 of federal funds that can be used for alternatives - youth courts and things of that nature. In addition, if we don't come into compliance, an additional \$500,000 of federal funds will be mandatorily steered to state moving towards compliance."

Mr. ROBERT BUTTCANE, Division of Juvenile Justice, said that Senator Therriault did an excellent job of explaining the bill and he didn't have anything to add.

CHAIRMAN TAYLOR asked if this would "prevent us from handcuffing them to a D8 Cat in Yakutat."

MR. BUTTCANE answered that he hoped they didn't ever have that authority, but when it has happened, they have probably had some time limits to deal with.

CHAIRMAN TAYLOR thanked him for the things that he had done over the years and noted that his division had gone a long ways towards restructuring the state's criminal justice system for juveniles and making it more accountable.

SENATOR THERRIAULT wanted verification that this would not change the speed with which juveniles who are in a more urban setting, where a youth facility is available, get to initial arraignments.

MR. BUTTCANE responded that was right. The 24-hour arraignment would apply only to those juveniles who would be housed in an adult facility in a remote part of the state. "We would continue the current law as it would apply to juveniles who would be incarcerated in a youth facility in an urban area."

SENATOR ELLIS moved to pass SB 178 with individual recommendations. There were no objections and it was so ordered.

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CHAIRMAN TAYLOR adjourned the meeting at 2:51 p.m.