

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

March 26, 2004

8:06 a.m.

TAPE(S) 04-27&28

MEMBERS PRESENT

Senator Ralph Seekins, Chair
Senator Scott Ogan, Vice Chair
Senator Gene Therriault
Senator Johnny Ellis
Senator Hollis French

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 311

"An Act providing for a special deposit for workers' compensation insurers; relating to the board of governors of the Alaska Insurance Guaranty Association; relating to covered workers' compensation claims paid by the Alaska Insurance Guaranty Association; stating the intent of the legislature, and setting out limitations, concerning the interpretation, construction, and implementation of workers' compensation laws; relating to restructuring the Alaska workers' compensation system; eliminating the Alaska Workers' Compensation Board; establishing a division of workers' compensation within the Department of Labor and Workforce Development and assigning certain Alaska Workers' Compensation Board functions to the division and the Department of Labor and Workforce Development; establishing a Workers' Compensation Appeals Commission; assigning certain functions of the Alaska Workers' Compensation Board to the Workers' Compensation Appeals Commission; relating to agreements that discharge workers' compensation liability; providing for hearing officers in workers' compensation proceedings; relating to workers' compensation awards; relating to an employer's failure to insure and keep insured or provide security; providing for appeals from compensation orders; relating to workers' compensation proceedings; providing for supreme court jurisdiction of appeals from the Workers' Compensation Appeals Commission; providing for a maximum amount for the cost-of-living adjustment for workers' compensation

benefits; providing for administrative penalties for employers uninsured or without adequate security for workers' compensation; relating to assigned risk pools and insurers; and providing for an effective date."

HEARD AND HELD

CS FOR HOUSE BILL NO. 230(STA)

"An Act relating to political signs on private property."

HEARD AND HELD

SENATE BILL NO. 308

"An Act increasing the duration of certain provisions of domestic violence protective orders from six months to one year."

HEARD AND HELD

SENATE BILL NO. 345

"An Act relating to civil liability associated with aircraft runways, airfields, and landing areas."

MOVED CSSB 345(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 311

SHORT TITLE: INSURANCE & WORKERS' COMPENSATION SYSTEM

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/09/04	(S)	READ THE FIRST TIME - REFERRALS
02/09/04	(S)	L&C, FIN
02/10/04	(S)	L&C AT 1:30 PM BELTZ 211
02/10/04	(S)	Heard & Held
02/10/04	(S)	MINUTE(L&C)
02/19/04	(S)	L&C AT 1:30 PM BELTZ 211
02/19/04	(S)	Heard & Held
02/19/04	(S)	MINUTE(L&C)
02/26/04	(S)	L&C AT 1:30 PM BELTZ 211
02/26/04	(S)	Heard & Held
02/26/04	(S)	MINUTE(L&C)
03/04/04	(S)	L&C AT 1:30 PM BELTZ 211
03/04/04	(S)	Moved SB 311 Out of Committee
03/04/04	(S)	MINUTE(L&C)
03/05/04	(S)	L&C RPT 1DP 1DNP 2NR
03/05/04	(S)	DP: BUNDE; DNP: FRENCH; NR: SEEKINS,
03/05/04	(S)	STEVENS G
03/12/04	(S)	JUD REFERRAL ADDED AFTER L&C
03/26/04	(S)	JUD AT 8:00 AM BUTROVICH 205

BILL: HB 230

SHORT TITLE: POLITICAL SIGNS ON PRIVATE PROPERTY

SPONSOR(S): REPRESENTATIVE(S) HOLM

03/31/03	(H)	READ THE FIRST TIME - REFERRALS
03/31/03	(H)	TRA, STA
04/29/03	(H)	TRA AT 1:30 PM CAPITOL 17
04/29/03	(H)	Heard & Held
04/29/03	(H)	MINUTE(TRA)
05/06/03	(H)	STA AT 8:00 AM CAPITOL 102
05/06/03	(H)	Scheduled But Not Heard
05/06/03	(H)	TRA AT 1:30 PM CAPITOL 17
05/06/03	(H)	Moved CSHB 230(TRA) Out of Committee
05/06/03	(H)	MINUTE(TRA)
05/07/03	(H)	TRA RPT CS(TRA) 4DP 2NR
05/07/03	(H)	DP: OGG, KOOKESH, FATE, HOLM;
05/07/03	(H)	NR: KOHRING, MASEK
05/07/03	(H)	STA AT 8:00 AM CAPITOL 102
05/07/03	(H)	Scheduled But Not Heard
05/08/03	(H)	STA AT 8:00 AM CAPITOL 102
05/08/03	(H)	Heard & Held
05/08/03	(H)	MINUTE(STA)
05/09/03	(H)	STA AT 8:00 AM CAPITOL 102
05/09/03	(H)	Moved CSHB 230(STA) Out of Committee
05/09/03	(H)	MINUTE(STA)
05/12/03	(H)	STA RPT CS(STA) 3DP 3NR
05/12/03	(H)	DP: GRUENBERG, HOLM, LYNN; NR: SEATON,
05/12/03	(H)	DAHLSTROM, WEYHRAUCH
05/17/03	(H)	CORRECTED CS(STA) RECEIVED
05/17/03	(H)	TRANSMITTED TO (S)
05/17/03	(H)	VERSION: CSHB 230(STA)
05/18/03	(S)	READ THE FIRST TIME - REFERRALS
05/18/03	(S)	STA, JUD
02/12/04	(S)	STA AT 3:30 PM BELTZ 211
02/12/04	(S)	Heard & Held
02/12/04	(S)	MINUTE(STA)
03/09/04	(S)	STA AT 3:30 PM BELTZ 211
03/09/04	(S)	Scheduled But Not Heard
03/11/04	(S)	STA AT 3:30 PM BELTZ 211
03/11/04	(S)	Moved SCS CSHB 230(STA) Out of Committee
03/11/04	(S)	MINUTE (STA)
03/12/04	(S)	STA RPT SCS FORTHCOMING 3NR
03/12/04	(S)	NR: STEVENS G, STEDMAN, GUESS
03/15/04	(S)	STA SCS RECEIVED
03/26/04	(S)	JUD AT 8:00 AM BUTROVICH 205

BILL: SB 308

SHORT TITLE: DOMESTIC VIOLENCE PROTECTIVE ORDERS

SPONSOR(s): SENATOR(s) FRENCH

02/09/04 (S) READ THE FIRST TIME - REFERRALS
02/09/04 (S) STA, JUD
03/11/04 (S) STA AT 3:30 PM BELTZ 211
03/11/04 (S) Moved SB 308 Out of Committee
03/11/04 (S) MINUTE (STA)
03/12/04 (S) STA RPT 3DP
03/12/04 (S) DP: STEVENS G, STEDMAN, GUESS
03/12/04 (S) FIN REFERRAL ADDED AFTER JUD
03/26/04 (S) JUD AT 8:00 AM BUTROVICH 205

BILL: SB 345

SHORT TITLE: LIABILITY FOR AIRPORTS AND AIRSTRIPS

SPONSOR(s): SENATOR(s) SEEKINS

02/16/04 (S) READ THE FIRST TIME - REFERRALS
02/16/04 (S) TRA, JUD
03/16/04 (H) TRA AT 1:30 PM CAPITOL 17
03/16/04 (S) Moved SB 345 Out of Committee
03/16/04 (S) MINUTE(TRA)
03/17/04 (S) TRA RPT 3DP
03/17/04 (S) DP: WAGONER, COWDERY, THERRIAULT

WITNESS REGISTER

Ms. Linda Hall
Division of Insurance
Department of Community & Economic Development
PO Box 110800
Juneau, AK 99811-0800

POSITION STATEMENT: Explained the contents of SB 311

Mr. Paul Lisankie
Division of Workers Compensation
Department of Labor & Workforce
Development
PO Box 21149
Juneau, AK 99802-1149

POSITION STATEMENT: Explained the impact of SB 311 on the
Division of Workers Compensation

Mr. Joe Michel
Staff to Senator Seekins
Alaska State Capitol

Juneau, AK 99801-1182

POSITION STATEMENT: Presented SB 345 for the sponsor

Mr. Tom George
Alaska Aircraft Owners and Pilots Association

POSITION STATEMENT: Supports SB 345

Mr. Felix McGuire
Alaska Airmen's Association

POSITION STATEMENT: Supports SB 345

Mr. James F. Dieringer III
Fairbanks, AK

POSITION STATEMENT: Described problems with the current restraining order process (SB 308)

Ms. Barbara Brink
Public Defender Agency
Department of Administration
900 W 5th Ave., Suite 200
Anchorage, AK 99501-2090

POSITION STATEMENT: Expressed concerns about SB 308

Ms. Lauri Hugonin
Alaska Network on Domestic Violence and Sexual Assault
Juneau, AK

POSITION STATEMENT: Supports SB 308

Mr. Todd Larkin
Staff to Representative Holm
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Presented HB 230 for the sponsor

ACTION NARRATIVE

TAPE 04-27, SIDE A

CHAIR RALPH SEEKINS called the Senate Judiciary Standing Committee meeting to order at 8:06 a.m. Senators Therriault, Ellis, French and Seekins were present. The first order of business to come before the committee was SB 311.

SB 311-INSURANCE & WORKERS' COMPENSATION SYSTEM

MS. LINDA HALL, Director of the Division of Insurance, told members that she and Mr. Lisankie would describe the bill sections and indicated that the team that worked on SB 311 has been involved in discussions with other interested parties in an attempt to reach consensus on sections of the bill that are causing dissention. They hope to present a committee substitute next week that will reflect some agreement on those issues. She then offered to provide some background information on what prompted the bill.

CHAIR SEEKINS announced that, at the request of the sponsor, he would not take public testimony today, but the bill would be rescheduled next week. He hoped to have a bill before the committee next week that would be ready to move out of committee. He then asked Ms. Hall to proceed.

MS. HALL indicated that all members have heard her discuss the cash deficit in the Guaranty Association. She said she would also discuss the unhealthy workers' compensation environment in Alaska. The Division of Insurance is dealing with four problematic areas. The first is the lack of profitability in the workers' compensation market from 1997 to 2002, when losses ranged from 99.9 percent to 154 percent. The high of 154 percent means that insurance companies spent \$1.54 for workers' compensation claims for every dollar of premium collected. The average over that same 5-year period was 124 percent, which is 5 percent higher than the national average. Alaska's workers' compensation claims are more expensive and costly than the national average, which isn't attractive either. The cost of medical benefits has increased substantially, which tend to increase the cost of workers' compensation claims and result in higher premiums.

MS. HALL told members the Division of Insurance approved a rate increase effective January 1, 2004, which averaged 21.2 percent. As the cost of claims increased, the actuarial analysis showed that historical claims and projections of future claim costs indicated the need for a substantial rate increase. Within the 21.2 percent average, about 30 classifications decreased, mostly related to marine industries. However, 17 classifications had rate increases in excess of 50 percent.

MS. HALL said the last factor in the increase is the assigned risk pool. Because of the mandatory nature of workers' compensation, the Division has a mechanism to ensure that everyone can afford to purchase workers' compensation insurance. That market has also suffered substantial losses; the dollars

spent on claims have not met the revenue in premiums. Alaska has had the highest rate of any state of workers' compensation assessments for its assigned risk pool from 1997 through 2001. In 2002, Alaska dropped to number six. The average burden has ranged from 4 percent to 10 percent and is an additional cost to insurance companies on top of their operating costs, again making Alaska an unattractive marketplace. She emphasized that Alaska's workers' compensation environment has become very expensive for employers and unattractive to insurers. She said from her perspective, the state cannot continue to just increase workers' compensation premiums. The state needs to look for ways to stem increasing costs and bring about some efficiency in the system. The state needs a stable, sustainable workers' compensation environment that will encourage companies to do business here and provide affordable insurance so that employers can continue to develop jobs.

MS. HALL informed members that a healthy environment depends on adequate rates, a self-funded assigned risk pool and a viable workers' compensation system. She pointed out, "SB 311 is fairly unique as it represents cross-departmental solutions to various issues." She emphasized that the bill addresses a number of issues, many of which affect insurance and the marketplace. The focus and stimulus of the bill were to affect changes in the marketplace. She then addressed the insurance pieces of the bill:

Section 3 adds a requirement to increase the deposits of insurance companies that write workers' compensation. These special deposits would be for the benefit of workers in case of an insolvency.

Section 5 addresses the Board of Governors of the Guaranty Association. Today we have nine member boards, seven of those are insurance companies. They have done an excellent job so the change in the board representation is not a reflection on what they've done. But what I'd like to do is see a board that has representatives of all the stakeholders. We have - in the proposal I have two members of labor, two members of employers, an agent and four insurance companies. The number would stay the same but they would have a different representation.

Section 6 of the bill is called a net worth exclusion. It's a way to bring some cap to cost in the Guaranty Association. Currently, except [for] workers'

compensation, all claims and Guaranty Association [costs] are capped at \$500,000. Workers' compensation claims are unlimited. Thirty-two other states have what we call the net worth exclusion for workers' compensation and I'm proposing that we adopt that in our statutes. The purpose - the goal would be to not pay claims of employers whose net worth exceeds \$25 million. The other states that have such caps, and there are 32 of them, range from \$10 million to \$50 million - 25 seemed like a number that would work well for Alaskans.

Section 105 is the other section that is important to me in terms of our workers' compensation market. It repeals the 25 percent statutory cap on the surcharges for the assigned risk pool and exclusion for surcharges on policies under \$3,000. I feel that the assigned risk pool must be self-funding. There are nearly 8,800 policies, 17 percent of our market is in the assigned risk pool. 6,000 of those policies have premiums under \$3,000. The average premium for those policies is \$864. Small employers have claims equally big as large employers. The size of the employer does not normally correlate with the size of the claim. We have an average premium of \$864. A single claim will offset, probably in that size, several hundred of those policies. So I'm looking in this provision to make that pool self-funding to allow it to fluctuate as the losses in the pool fluctuate in the same way we allow rates for the traditional market to fluctuate based on the cost of claims. The assigned risk pool is probably one of the major factors that is a deterrent to new companies coming into our marketplace. When they look at that and know off the top they are going to pay anywhere from 4 to 6 percent of their income to offset work comp losses in the assigned risk pool, they frequently decide they don't want to do business here. It's a very fragile marketplace and I'd like to find ways to bring it to a healthier place where we encourage companies to do business in Alaska.

CHAIR SEEKINS announced that Senators Therriault and Ogan had joined the committee some time ago.

SENATOR THERRIAULT asked Ms. Hall to review the workings of the assigned risk pool.

MS. HALL explained the assigned risk pool is considered to be the market of last resort. It is a place to obtain coverage when an employer cannot get workers' compensation from a traditional carrier. Many small employers, particularly those with premiums under \$10,000, find it difficult to obtain coverage in the traditional marketplace. With a premium that size, a single loss costs enough that it is a losing proposition to underwrite that type of business. Some of the policies in the assigned risk pool are higher hazard, but not many. Usually employers with bad loss ratios are in the assigned risk pool, but about 93 percent of them are there because they are small. The pool losses have been exceeding the premiums collected since at least 1997 so the pool has been losing money at a very substantial rate. That 4 to 10 percent loss of money is a direct assessment back to the insurance companies that write business in our state. They must participate in those losses, known as reinsurance. That amount is not charged back to a policyholder, it is a direct obligation of the insurance company.

SENATOR THERRIAULT affirmed that amount makes up the difference and then asked Ms. Hall to review Section 6.

MS. HALL said Section 6 pertains to the net worth exclusion so that if an employer's net worth is over \$25 million, the system would not pay the claims of the insolvent insurer for that employer.

CHAIR SEEKINS commented that since the state requires employers to purchase workers' compensation, the assigned risk pool is a very valuable asset to small companies that may not be able to use a major carrier.

SENATOR THERRIAULT asked Ms. Hall if she was speaking to the claims being paid out of the Guaranty Fund, in regard to Section 6.

MS. HALL said that is correct.

SENATOR THERRIAULT asked if the employers would pay into the Guaranty Fund, but if there was insolvency and a company had substantial assets, that company would still have to pick up its individual company claims.

MS. HALL replied:

Yes. The only way they would pay into the Guaranty Fund is in a situation where there is an assessment,

which is certainly the case today. We have assessments that are passed back on to that policyholder. But as I said, in many states, it's felt to be the best public policy. Those employers in theory have more financial resources to take back and be able to fund the claims - the workers' compensation obligations for their employees.

CHAIR SEEKINS asked if there is a mechanism in the bill that would allow a company who is subject to this risk to avoid the surcharge that would fund the Guaranty Fund.

MS. HALL said not as proposed.

CHAIR SEEKINS surmised that companies would have to pay into it as a part of their premiums, but would not be able to reap the benefits.

MS. HALL said that is correct.

CHAIR SEEKINS suggested the committee might address that.

MR. PAUL LISANKIE, Director of the Division of Workers' Compensation, Department of Labor and Workforce Development (DOLWD), told members he would provide a brief overview of the major portions of the bill as they would affect the Division of Workers' Compensation and the Workers' Compensation Board and then answer questions.

CHAIR SEEKINS interjected to announce that he intends to hear an introduction of the bill but not take public testimony today. He said the Division and other folks are working on a committee substitute to address the concerns that both sides have had on the issue. He believes this is a high impact bill and it is not his intention to ignore the entreaties of both sides of the matter. He intends to move some version of the bill out of committee by the end of the next week.

MR. LISANKIE noted that SB 311 has four major areas that will impact the current workers' compensation program. The first change would impact the current cost of living provisions. Under the existing program, a person who is injured and gets a workers' compensation rate established and moves to a higher cost area than Alaska would get a higher compensation rate than an Alaskan injured worker who resides in Alaska. Under SB 311, the rate would be capped at the Alaska rate so that no one would get a higher rate than an Alaskan injured worker.

The second important area of change is with uninsured employers. The Division currently fines employers that do not follow the law by properly insuring against their liability for workers' compensation benefits. The Division has a limited armament to use against employers. The Division can shut the business down but, more often, after detected the employer will get insurance so cannot be shut down. SB 311 will give the Division an accelerated procedure for imposing civil fines against employers who are working without the required insurance. The fine can be up to \$100 per day, per employee. The intent is to make the fine so repugnant that businesses will be sure to get coverage.

MR. LISANKIE said the third change SB 311 will make is to formally establish a Division of Workers' Compensation within DOLWD. The director will be required to have at least three years of experience in the field of workers' compensation. The formal establishment of a division will provide for a firm separation between the division and the group that resolves disputes. The division and division director will be responsible for investigations, administering the workers' compensation system, and attempting to informally resolve potential disputes about benefits. However, in the event that all attempts to resolve a dispute fail and the case has to be adjudicated, the case would go to a separate entity. The hearing before a separate entity should assure the parties involved that the previous attempts and players will not foreshadow the adjudication. That same procedure is now used informally.

MR. LISANKIE said one significant change in the bill addresses a problem the division sees too often. Some people are unable to get an attorney if a dispute is appealed. SB 311 will give the division and division director the opportunity, in questions of unsettled law, to represent the position of the person without an attorney. That will enable the pro se claimant to be more focused and prepared for the hearing.

SENATOR THERRIAULT asked if someone within the division would help the pro se claimant to focus on the appropriate legal points.

MR. LISANKIE said that is correct.

SENATOR THERRIAULT questioned whether the staff person would appear at the appeal hearing beside the claimant as legal counsel.

MR. LISANKIE said the staff person would not be legal counsel but would be involved in the proceeding. He then continued with the impacts of SB 311 on the Division of Workers' Compensation and said the fourth change pertains to how the initial disputes are heard and resolved and who will hear the appeals. SB 311 proposes to have hearing officers hear the initial cases and that appeals be heard by a new commission, named the Workers' Compensation Appeals Commission, which would stand in lieu of the Superior Court appeals process. The change will create a more efficient, consistent and predictable system for decision-making. Decisions with precedent value will be made sooner so that the period of uncertainty about a given point on the law will be shorter. He explained:

It sometimes happens now, for a variety of reasons, that the workers' compensation board can be of two minds on an issue and until it gets all the way to the Supreme Court, right now, you never know which one of those positions is going to be finally considered to be the correct one. As you go through the present system into the Superior Court appeal, you can get a decision from a Superior Court judge [indisc.] the question between you and your opponent in that particular dispute but it doesn't have broad precedential value across the board for anybody else. What this bill would do by having the workers' compensation appeals commission established is that first line of appeal would go to the Workers' Compensation Appeal Commission. Those commissioners would render a decision. That decision would be published and would have precedential value unless and until it was overturned by the Alaska Supreme Court, which would continue and be the final arbiter of what is and is not the law in the State of Alaska. So what it would do is give you a shortened period of uncertainty so that other parties that had read that decision could say all right, now we can base our decisions to pay or not pay - I am entitled, I am not entitled to certain benefits and they could move forward from that day on unless and until the Supreme Court gave other instructions.

SENATOR THERRIAULT noted that although Mr. Lisankie is claiming that change will create efficiency and consistency early in the process, one of the major criticisms leveled at that approach is the expense. He asked Mr. Lisankie to comment about its cost effectiveness.

MR. LISANKIE agreed it is difficult to quantify how much money a system that makes findings decisions more quickly will save. The intention is that if the insurance company or the employer and employee and their representatives have greater certainty in what their obligations are, they will be able to pay without having to litigate, which will create cost savings. He added:

There would also be, presumably, cost savings in the many claims that in the current environment where you're not certain what the obligations to pay are and what the entitlements are - most cases in our system never go to litigation, thank goodness. It would overwhelm us. Most of them are settled between the parties and what goes into the valuation of how much money changes hands is what the entitlements might be construed to be, what the liabilities might be construed to be. So, if there's less in the way of uncertainty about what the benefits are, and then more benefits can be paid without litigation, fewer benefits will have to go into litigation and ultimately be settled. With money changing hands - obviously if that settlement is litigated, somebody would have gotten more and somebody would have gotten less but you're not precisely sure who would get how much more or how much less and that would be some savings there. The commission itself is not a cost savings.

SENATOR THERRIAULT asked the projected cost of the commission.

CHAIR SEEKINS estimated the total cost to be \$750,[000] between the division and the courts. He noted the court system's fiscal note estimates the cost to be \$200,000.

MR. LISANKIE specified the DOLWD's projected cost is \$556,000, which includes some start-up costs that will not carry over.

SENATOR THERRIAULT asked for an explanation of the source of the funding for the commission.

MR. LISANKIE said the workers' safety account is comprised of a portion of the premiums paid by the insurers that insure their liability and an assessment against the self-insured employers based on the amount of the total paid out benefits.

8:40 a.m.

SENATOR FRENCH thought it is important to remember that the proposed structure of the appeals commission will be comprised of six attorneys who will hold hearings and who will be overseen by three appellate judges. He suggested that is a fairly top-heavy appeals system. He guessed there are about 30 Superior Court judges statewide and five Supreme Court justices to hear their appeals, which amounts to a 6:1 ratio. He maintained the 2:1 ratio in SB 311 is inefficient.

SENATOR FRENCH said his second area of concern is removing the hearing officer positions from classified service. In the model act, the hearing officers remain in classified service. He felt this issue is important because the hearing officers will have to make rulings against their very employers, therefore they will need to have some measure of cover to be able to make truly independent decisions.

SENATOR FRENCH asked, in regard to the precedential weight being given to the appeals commission, how the opinions will be published to be sure everyone appearing before the commission has access to those opinions.

MR. LISANKIE said he could not provide the specifics about publication of the precedential opinions.

SENATOR FRENCH asked if the specifics will be worked out as the project progresses.

MR. LISANKIE said that is correct.

SENATOR FRENCH said he is also concerned about the commission's standard of review. SB 311 proposes a de novo review, meaning the commission's review will start afresh, so that it will give no deference to the facts given by the hearing officer. He noted that also strikes him as being inefficient.

CHAIR SEEKINS asked Mr. Lisankie if the current court review is a de novo review.

MR. LISANKIE said it is his understanding that the current review at the superior court level is constrained, meaning it only measures whether the fact finder had substantial evidence to support his or her fact finding. Therefore, the court review is not a de novo review.

CHAIR SEEKINS announced that he would set SB 311 aside and strongly encouraged the stakeholders to work out a bill that everyone involved finds acceptable.

SENATOR ELLIS requested that Chair Seekins provide public notice of a subsequent hearing on SB 311 at least one full working day before to provide adequate time for everyone to review the new version.

CHAIR SEEKINS said it has never been his policy to rush legislation through the committee and not allow members adequate time to consider the legislation.

SENATOR ELLIS also asked Chair Seekins to publicly announce the meeting one day in advance so that participants at teleconference sites will be aware of an opportunity to testify.

CHAIR SEEKINS said his intent is to reschedule the bill, not to bring it up unannounced under bills previously heard. He then stated:

Although, our notice - well I'll put it this way, our notice on intent to reschedule it may be required depending on how soon I get it to go outside of the normal notice process and still hold it under, but make sure that it's published to that effect. How would that be? Because if these guys - nobody should think if they - let me tell you - nobody is going to procedurally drag their feet to carry this thing forward, okay?

SENATOR ELLIS responded:

My concern is public notice. We have the CS. Since the CS is being talked about Mr. Chairman, by stakeholders, you know, behind closed doors or out in the hallway or wherever - outside the public process here until it becomes a committee CS presented by you, my interest is in adequate public notice so people can testify and [indisc.] the CS.

CHAIR SEEKINS said he has the same interest and intends to give plenty of notice so that people will have the opportunity to weigh in and review the proposed legislation before it gets to the committee.

SB 345-LIABILITY FOR AIRPORTS AND AIRSTRIPS

MR. JOE MICHEL, legislative aide to Senator Ralph Seekins, sponsor of the measure, explained that SB 345 is a short bill that makes one major change to one section of statute. It removes the word "natural" from the phrase "a natural person." The intent of [the original legislation] was to provide protection from civil liability to a natural person, meaning a human being, who clears or cleans an airfield in a rural area to prepare it for landing. According to Black's Law Dictionary, the definition of a natural person is a human being as distinguished from an artificial person created by law. In contrast, a person, as defined in Alaska statute, includes a corporation, company, partnership, firm, association, organization, business trust or society, as well as a natural person. SB 345 would provide liability protection to all types of businesses, corporations and organizations that want to maintain an airstrip for no compensation. This would not apply to airports or corporations that charge for aircraft landings on their runways. He noted the Alaska Miners Association endorses SB 345 because a number of miners maintain airstrips to access their mines.

CHAIR SEEKINS announced that a proposed committee substitute, version D, was before the committee.

SENATOR THERRIAULT moved to adopt version D as the working document before the committee.

CHAIR SEEKINS announced that without objection, version D was before the committee.

SENATOR OGAN asked if this applies only to the group that maintains the airstrip, no matter who owns the land and how SB 345 would affect a runway on state land.

MR. MICHEL replied:

Yes, Senator Ogan, that was one of the changes that provided for the new work draft. In Section B, the words that were taken out, that said, 'that is located on private land' - and the reason that was taken out was the Alaska Miners Association and other people expressed concerns about the mines up there on state lands that are on 40-year land leases and such things like that.

SENATOR OGAN questioned whether an airstrip on state-owned land could be closed by putting an X on it, even though it is public domain.

MR. MICHEL referred to Section B, and noted the addition of "in accordance with FAA guidelines" because an X can mean different things depending on the color, etcetera, so this bill will use the FAA definitions of a closed airfield.

SENATOR OGAN asked whether that will mean if an airstrip has an X on it that follows the FAA guidelines, no one else can use it.

MR. MICHEL replied, "...Not so much that they can't use it, but as a person who owns and operates that landing area, that's protecting them from civil liability. It's a notification to the pilot in the air that, you know, this runway is closed for some reason."

SENATOR OGAN commented:

...with an X and I was running out of fuel and I was lost and I'm really lost but I just didn't have a lot of fuel to - I needed to know the quickest route back and I land on these guys' strip - these miners' strip that had an X and they all came out with their AR-15s - [indisc.] not be happy about me being there. They invited me in for coffee and I never drank a cup of coffee in my life but when a guy with an AR-15 offered me coffee, by golly, I drank coffee. [Indisc.]. But that was on a mining claim and that was, you know, they own the rights to mine there but it was state land and there was an X on the strip and I've always understood that the Xs on the strips mean it's a private runway and I guess I don't see anything in the pack that talks about what the FAA guidelines are.

CHAIR SEEKINS said SB 345 will make it less necessary for someone to put an X on a runway to preclude liability.

MR. MICHEL furthered that a person with a 40-year lease does not own the airstrip and is not required to place an X on the runway.

CHAIR SEEKINS explained that someone might put an X on the airstrip because he or she knows there is a good reason to not land on it, such as a ditch running across it.

TAPE 04-27, SIDE B

CHAIR SEEKINS summarized that SB 345 extends protection from liability from a natural person to a LLC, a sub-S corporation, a C corporation, or any other entity.

SENATOR FRENCH asked if SB 345 would not apply to a group that charges the public or charges itself.

CHAIR SEEKINS clarified that it would not apply to a group that charges a landing fee.

SENATOR FRENCH expressed curiosity about Section B and questioned how large of an expansion of the doctrine this is since it used to be restricted to private land but it will no longer be, under SB 345. He asked if the Alyeska airstrips are on private land.

CHAIR SEEKINS answered some are on state-leased lands and some are on federal-leased lands. He added:

I mean what we're doing here, Senator French, is basically saying that you may not be the runway owner but you may have authority to have that runway in place and, as such, if you construct it and maintain it, etcetera, you have no civil liability if someone else lands there unless, through your gross negligence, you knew that there was a hazard and didn't mark it.

SENATOR FRENCH asked how many runways will be affected by this bill.

CHAIR SEEKINS estimated hundreds, and said they are very valuable to pilots. He noted he has used unmarked, owner unknown runways when he needed to put his plane down in bad weather. He does not believe the owner of that runway should be held liable for any damage done to his airplane because, "a bear dug a hole that he didn't know about in the middle of the runway." That is the case now if the runway is on private land and under private ownership.

SENATOR FRENCH asked whether any outrageous lawsuits have ever been filed against runway owners, as envisioned by the bill.

MR. MICHEL said to his knowledge, there have only been three issues in the state regarding some sort of lawsuit in regard to

runways. He pointed out that Representative Harris introduced the same legislation, HB 127, during the 22nd legislature.

CHAIR SEEKINS said SB 345 is not intended to reduce the number of lawsuits but was introduced to provide for a safer Alaska for pilots who may need to land and who would otherwise be restricted from doing so because of potential liability.

SENATOR FRENCH asked how an airstrip owner would keep a pilot from using that airstrip in an emergency situation.

CHAIR SEEKINS replied:

You can still do it but what it does is, there are times when private owners of airstrips, for an example, in order to keep from having any liability, will put barrels in the middle of their runways, put logs across the runways, mark them to keep people from being able to use them except when they want to use it and remove those obstacles because of potential liability. There's no reason for them to do that now.

SENATOR FRENCH asked if those owners can still close their runways.

CHAIR SEEKINS said they could.

SENATOR OGAN questioned language in Section 3 that reads, "if it is marked closed by placing a large X on the runway and, if listed or charted as designated as closed...."

CHAIR SEEKINS said the owner would notify the FAA that the runway is closed and then mark the runway.

SENATOR OGAN indicated that a pilot that lands on a closed runway is doing so at his or her own risk.

CHAIR SEEKINS said the pilot is also using a runway at his or her own risk if the runway is left open and maintained. He noted that is a redundancy but it will protect the owner after closing the runway. He then took public testimony.

MR. TOM GEORGE, representing the Aircraft Owners and Pilots Association (AOPA), said AOPA's interest is in preserving a healthy aviation industry in Alaska, which includes backcountry airstrips. AOPA supports SB 345, which broadens the current statute. The primary focus of the statute is to protect the

backcountry airstrips, which pilots rely on for access to remote locations in Alaska. The bill will protect companies, corporations, and organizations that devote their time and resources to maintain airstrips without compensation. The current statute only applies to an individual person. AOPA believes it is necessary to use the broader definition of person to include other entities. The other changes made in the work draft clarify what activities and cases this protection applies to. AOPA believes this is a good step toward protecting the airstrips that provide access primarily to public lands.

In response to questions from members, MR. GEORGE said the first portion of the bill will provide protection from liability for people or businesses that construct and maintain airstrips. The second portion of the statute says that protection will continue if an owner needs to close the airstrip and does so with specific markings and notification for the purpose of updating charts and records. That second section provides protection from limited liability only to private land. AOPA believes that to provide an incentive to keep airstrips open, that protection should extend to airstrips on public land. The landowner, often the state, and the operator should discuss the issue as to whether those airstrips on public land are open or closed. SB 345 does not take a stand on that, it only says if an owner properly notices the closure, protection would continue. He offered to answer questions and thanked Senator Seekins for sponsoring the bill.

MR. FELIX MCGUIRE, representing the Alaska Airmen's Association (AAA), told members the AAA supports SB 345, particularly because the AAA has been unable to improve backcountry airstrips because of the liability problem.

With no further participants, CHAIR SEEKINS closed public testimony.

SENATOR OGAN moved CSSB 345(JUD) from committee with individual recommendations and its zero fiscal note. Without objection, the motion carried. He then announced a three-minute recess.

SB 308-DOMESTIC VIOLENCE PROTECTIVE ORDERS

SENATOR HOLLIS FRENCH, sponsor of SB 308, explained that the measure does one thing: it doubles the length of time of a long-term protective order from six months to one year. He noted that short-term, ex parte orders allow a person to go to court and get an order without the other party appearing. Those are

referred to as 20-day orders or short-term orders; SB 308 will not affect them. SB 308 deals with long-term protective orders, the difference being that long-term protective orders require that the respondent be notified in person of the hearing and be allowed to respond at the hearing.

He believes it is a good idea to expand the length of time for two reasons. First, it will save money. The court system must frequently renew orders, which requires serving notice, a hearing before a judge and paperwork. The second reason is that it will avoid putting two parties who do not want to be together in contact. He said that Alaska continues to struggle with high rates of domestic violence. Extending the length of the six-month order will address that problem. Currently, only five states have shorter terms for domestic violence restraining orders; the vast majority of states give judges the authority to impose restraining orders of up to one-year length, which has been shown to have a positive effect on repeat offenses.

CHAIR SEEKINS asked what percentage of restraining orders are renewed under the current system.

SENATOR FRENCH said the numbers he got from the Court System indicate that as of June 30, 2003, the registry had 32,586 orders. About 1,000 of those were active, which has been the norm for several years. He provided a few examples from the Court System. One respondent had nine orders filed by the same petitioner with two ex parte so the petitioner had gone back to court for 3.5 years. Another respondent had 19 entries in the registry filed by two related individuals, presumably a mother and a daughter. He surmised that the current system works well for the majority of people but a narrow category involves bad actors. In those situations, the petitioner must continually go back to court because of lingering issues on the part of the respondent.

CHAIR SEEKINS asked if the same incentive to reconcile the domestic unit based on a six-month restraining order would be there with a 12-month restraining order.

SENATOR FRENCH replied the cycle of domestic violence is fairly complicated but fairly predictable. Usually it involves a slow build-up of tension until an explosion occurs. Typically, after the violent episode, the couple reunites in a "honeymoon" phase but in general, the underlying issue has not been resolved so the cycle repeats itself with the blow-ups getting worse. SB 308 would interrupt the cycle for a greater length of time.

CHAIR SEEKINS asked Senator French to compare Alaska statute to other states' statutes.

SENATOR FRENCH explained that most other states have extended the length of time of orders to one-year or longer. Alaska is only one of five states with restraining orders of six months or less. He believes the longer time frame is due to a growing awareness on society's part about the long term negative effects of domestic violence and the length of time necessary to break the cycle.

CHAIR SEEKINS noted the many discussions in the Capitol Building over the past few weeks on the effects of alcohol and drug abuse in terms of the court system's caseload and the burden put on law enforcement agencies and court-appointed attorneys. He asked Senator French if he had any statistics on the relationship between alcohol and drug abuse and domestic violence.

SENATOR FRENCH said he did not have any hard statistics, but his personal observations as a district attorney lead him to believe that a solid 70 to 80 percent of all crime is driven by alcohol abuse, including domestic violence.

SENATOR OGAN recalled that he has heard that 80 percent of people serving jail sentences are in prison because of crimes committed while under the influence of alcohol.

CHAIR SEEKINS said he has been told by social workers and attorneys that a huge number of domestic violence proceedings can be traced to alcohol or drug abuse. There being no further questions of Senator French, Chair Seekins took public testimony.

MR. JAMES F. DIERINGER III, representing himself, told members he took personal leave from work to tell his story today. He continued:

I am that 10 to 15 percent of the men who have been abused by this system and my domestic violence has not been related to alcohol; it has been [indisc.] as a tool to gain custody, child support, possession of the home, those kinds of things.

I'm a financial consultant and I worked as a banker and I own a collection agency in Fairbanks and I repossess cars so automatically I'm probably

considered a crazy person. I wouldn't categorize myself as a violent person but as an aggressive person. I don't commit acts of domestic violence yet I've had five DVROs issued against me.

I'm kind of embarrassed to be here today. I'm very nervous to be here. I was here six years ago when I heard testimony in Senate Finance about strengthening the law, making it more liberal to get these orders without going back on probable cause. I didn't really listen at the time because it didn't affect me and I heard guys come in and tell me hey, I've been caught in this web. It's been used against me as an evil tool. It's been abused against me and I was hoping the committee would consider that six months is more than sufficient and it does drive a wedge in the family life, the children, trying to get back together. You're not allowed to talk at all for six months and you have to talk through your attorney at 200 bucks an hour. In the first 30 days it cost me \$16,000 to try to communicate.

I don't think a DVRO is going to stop a predator. Like you said before, it's a piece of paper and it doesn't stop the real violent folks that are going to go out and commit acts of domestic violence.

Mine started in 1998. My ex-wife and I have been together since we were 15 years old and we got divorced after 22 years. It started our divorce. I had no idea what it was. It was served on me and she got temporary possession of the children, temporary possession of the house, temporary child support. It kept me away from school and set a nasty precedent to when I finally got to my divorce trial, there had already been a six, seven-month precedent set. And it was assumed that maybe that was a good set-up. It was not a good set-up. It automatically gets converted to a six-month - yes, you do get notice and you get to have your day in court and the judge tells you that I shall issue this order because that's what the legislation - the current law says - I shall issue an order. And I've had all of them issued against me and I've had every one of them dismissed. They've never gone the full length of duration because my ex-wife's either realized it wasn't fair [or] she got what she

wanted and then she dismissed it because she wants help raising the children.

Twelve months is too long. You're always on the defensive. I heard Senator French refer today - he speaks of females and her life and then he talks about he and him as the person that's getting served. It probably is 80 percent, that's probably the case. There are some of us guys out there that aren't violent. We get abused in this system. And this is an evil tool used by divorce attorneys to start the divorce and to get the upper hand. And I've seen it first hand where I've even told some of my friends you need to go get your restraining order first before you file your divorce, get the upper hand, and I've seen first-hand those two gentlemen doing very well in their divorce.

I did very poorly in my trial. I've been on the defense for four years. I've had restraining orders filed on me everyday on Wednesday before the basketball tournament starts in Fairbanks and then the shootout the next week. My ex-wife does it on purpose and then she shows up at the basketball games when I'm there with my family and friends and calls 911 and says he's stalking me and I have to leave if the police feel like asking me to leave. They can always come and arrest me and throw me in jail for 20 days. I'm extremely concerned about that happening to me. I respect the orders when they're served on me yet I feel there's a tremendous amount of abuse on these things. She goes in and she checks no guns, no contact at school, no alcohol, no controlled substance. I mean I have a business that requires bonding and insurance. I have a background check and a criminal check in order to be a collector and if I were to get convicted or break the restraining order I would lose my business or I could lose my bonding.

There needs to be some sort of penalties for women that do abuse this and there are some now - probably, and I really don't know the statistics, probably 85 percent of these are good and they're needed but there are some folks out there that are getting caught in the web. She does the same thing at the movie theater, the grocery store. I'll be in shopping and she'll call

911 and the police will come and ask me to leave the grocery store. She does it on purpose.

I have no criminal history. I have no record, no convictions, yet I've been on the defense for four years. And this year was so bad that she did it again on me on Wednesday. She was supposed to show up for a six-month hearing. It was on a Monday morning at 8 and she was sleepy and she forgot to show up. I mean if somebody interfered with their life, they would be at that six-month hearing. It was dismissed. Three days later she filed another DVRO because she forgot to go to her long-term hearing and they gave her another one simultaneously with the other one still having two days to go in it. When it expired on Friday, I then had 18 more days to go to another long-term hearing. I missed coming down to Juneau because I had to stay for the long-term hearing and get it dismissed.

Judge Closuit is the lady who gives them against me every time and this last time I finally asked her what does a guy like me do to protect himself. I go to apply for employment. People look it up, see there's four or five DVROs. I might not get a good job that I deserve. She told me that the law says 'shall issue anytime' and she said, 'Mr. Dieringer, if you're going to come into my courtroom, I'm going to issue one against you no matter what. There is probable cause. There's been issues before and you are going to get a DVRO issued against you so, unless you go down and talk to your legislator or you change the law, that's the way it is.' So, I can't change the law. All I can do is tell you my side of the story and hope that you consider it and that's just what I have to say.

9:30 a.m.

SENATOR OGAN admired Mr. Dieringer's courage for appearing before the committee. He said he has heard of other similar cases in which one parent uses such tactics to build a case in custody disputes. He said one of the nastiest things he gets involved in [as a legislator] are custody disputes and he has heard that a number of male groups have organized around these same concerns. He noted if the committee leaves the six-month order in place, Mr. Dieringer's problem will not be resolved.

MR. DIERINGER suggested the committee look at probable cause and require the judge to look at recent probable cause, not the initial complaint that started a restraining order cycle years before. He added that a judge can look back 20 years for probable cause. He felt the petitioner should have to prove that a recent act of domestic violence occurred. He then added that harassment should be looked at because he has had a restraining order issued for harassment because he called his [ex-wife] asking for tax records. He felt a good starting point would be to make it more difficult to get the first 20-day order.

SENATOR OGAN said he can see some value in allowing the ex parte order, so that one person can get one to remain safe. He then asked if a restraining order affects one's right to own a gun.

MR. DIERINGER said it does if the judge issues it, and that his wife checks it every time. If he violates that order, he would get 20 days in jail and loss of gun privileges for 5 years.

SENATOR OGAN noted that women have been killed because the response was insufficient and a piece of paper may discourage a rational person from doing something bad but domestic violence situations are usually not rational. He suggested raising the standard of evidence for the longer term restraining orders.

CHAIR SEEKINS said he has heard that divorce attorneys advise clients to be the first one to file for a restraining order to get the upper hand in the divorce. He said he does not know how to correct that abuse without affecting the innocent parties that need protection. He said he understands Mr. Dieringer's concerns but asked what adverse conditions would be created by the longer timeframe in SB 308.

MR. DIERINGER said it would affect his relationship with his children. He noted he usually does not want to talk to his ex-wife but has to for the purpose of getting tax returns to modify child support or to get educational information about his children. During the six-month period, he is not allowed to talk to his ex-wife about his children's discipline or school progress. He cannot go to parent-teacher conferences with his ex-wife. He believes a whole year would drive a wedge in his relationship with his children.

CHAIR SEEKINS asked Mr. Dieringer if he has been successful in getting the restraining orders dismissed and to describe the procedure.

MR. DIERINGER said he has. Either his wife agrees to drop the order after 20 days or his wife realizes she needs to talk to him about something so she dismisses the order. He admitted that he has abused the system by simultaneously filing an order against her as he believes it is the only thing he can do to get on an even playing field. If his wife violates the order by contacting him, the police tell him to grow up. If she calls, the police come to arrest him.

CHAIR SEEKINS thanked Mr. Dieringer and called Ms. Brink.

MS. BARBARA BRINK, Director of the Alaska Public Defender Agency, said she shares some of Mr. Dieringer's concerns about SB 308. The bill, somewhat paternalistically, requires the court to order the restraining order for one year, however, a lot can happen in one year. Often families are able to conquer domestic violence with the use of counseling and treatment and are successfully reunited. She pointed out that last year in Anchorage, the court issued about 1,758 ex parte orders - the 20-day orders. Of those, only 44 percent of the people requested a six-month order. No one knows why. She told members she is a member of a Supreme Court committee that is studying domestic violence and court processes. One of the group's recommendations to the Supreme Court will be that the court follow-up and find out why so few people who got 20-day orders got six month orders. She said the Public Defender Agency certainly has concern for people who must go back to court repeatedly to get restraining orders but the current system works pretty well for the bulk of the people.

MS. BRINK noted that circumstances are constantly changing even under the 20-day restraining order. Out of the 1,758 ex parte orders issued in Anchorage last year, there were 520 modifications within that 20-day period. She surmised that cooling off periods range greatly and she fears SB 308 will not save money but will force a petitioner to have more hearings. She then noted when a petitioner gets a restraining order, the petitioner is free to contact the respondent. If the respondent does not immediately extricate him or herself from the situation, the respondent can immediately be charged.

MS. BRINK told members that about 80 percent of the violations of orders happen within the 20-day order, while only about 20 percent happen in the six-month order. She cautioned that statistic encompasses Anchorage only. In many of the smaller communities, it is very, very difficult for someone to comply with a no contact order. The state does not have information

about where in the life of the six-month order violations take place. She suggested drafting a more particularized amendment giving the judge discretion to extend the order in appropriate cases but she does not believe it is a good idea to extend the orders in every single case.

SENATOR THERRIAULT asked Ms. Brink to elaborate on the Supreme Court group that she is working with.

MS. BRINK said she is a member of the Supreme Court domestic violence committee, which has been meeting for approximately two years. The standing masters who are usually in charge of issuing restraining orders run the committee. Other members include a Superior Court judge, a Department of Law representative, an Anchorage Police Department representative, a representative from the Office of Children's Services, and victims advocates from AWAKE, STAR, the Women's Resource Center, as well as representatives from Alaska Legal Services, the Alaska Native Justice Center, and the Council on Domestic Violence. She noted the committee is close to finalizing its report to the court and estimated its completion in three months. The court system members are Jennifer Wells and Suzanne Cole.

SENATOR THERRIAULT asked if the committee has actively discussed the issue of orders.

MS. BRINK said it has.

SENATOR FRENCH asked Ms. Brink if her objections to SB 308 would change if it was changed to say the provisions of this section are effective for a minimum of six months and up to one year, unless earlier dissolved by court order.

MS. BRINK thought that would be a large improvement because it gives the judge discretion and does not make the extension automatic.

SENATOR THERRIAULT asked how that would be applied and whether the judges would be likely to default to the maximum.

MS. BRINK said she does not know and, as a public defender, the only contact she has with a domestic violence restraining order occurs when someone is accused of violating the order. She added that as Mr. Dieringer pointed out, the default position is often to continue the temporary restraining order.

There being no further questions for Ms. Brink, CHAIR SEEKINS asked Ms. Hugonin to testify.

MS. LAURI HUGONIN, Alaska Network on Domestic Violence and Sexual Assault, stated support for SB 308 because the extension will provide an opportunity to decrease access to victims. She felt people can hear the extreme cases on both sides of this issue and don't want either to be used to determine most people's experience with protective orders. She distributed copies of the petitions and noted they are very detailed. She stated:

To have that order crafted well and then to have both parties abide by that order, a year in length wouldn't necessarily mean that if there were changes during that length of time, then either party couldn't come back and ask for a modification. They could. In one of Ms. Brink's references, that maybe such a long period of time, things will have changed, ...[END OF TAPE]

TAPE 04-28, SIDE A

MS. HUGONIN continued:

...back to the judge and asked for that. But, having a year, I think, gives people time to sort out what's going to be going on. It gives victims a better sense of security if the perpetrator is going to take that order seriously. I think you find out sooner rather than later. I understand we don't have hard statistics that say at what point during the protective order it might be violated. I would tend to think it would be more toward the beginning of the order when the perpetrator is still trying to maintain that power and control instead after months of it going by and they found a way to maintain that separate situation.

I guess I would like to reiterate what Senator French said, in that 41 states have a year or longer in protective orders. Eighteen of them are one year, four have no time limit, and the rest are anywhere in between 18 and 5 years. Alaska, at six months, is really on the more narrow, conservative short end of this kind of protection for victims.

There [were] about 6,000 filings last year. About 3,000 of them were in Anchorage. A little over 600 of

them were in Fairbanks. A little over 500 of them were in Palmer. It certainly affects folks all across the state. I did want to just briefly mention the gun issue. Protective orders don't just take away guns if you're in possession of them. You have to be in possession of them while you were committing the domestic violence. Both the sixth [indisc.] provision, it says, prohibit the respondent for using or possessing a deadly weapon if the court finds the respondent was in the actual possession of, or used a weapon, during the commission of domestic violence.

And number seven, direct the respondent to surrender any firearm owned or possessed by the respondent if the court finds that the respondent was in the actual possession of or used a firearm during the commission of domestic violence. It's not just that you have access to guns or that you have guns, it's that you actually had them with you when you were committing the domestic violence.

We also hear stories that are egregious about misuse of protective orders. We don't condone that. We think it's unfortunate that people choose to take something that's supposed to be a lifesaving measure to increase safety of victims of these crimes and use it for some other purpose. We think that's wrong and unfortunate that that happens. And it would be nice if there was some way to hold attorneys accountable if, indeed, they are just trying to have this race to the courthouse to have their person be one step up in a divorce. That is not what these orders are for. I don't think that's what they're used for primarily or most often and, you know, if there was a way to penalize people for doing that we'd certainly support looking into what that could be.

CHAIR SEEKINS indicated that he knows Judge Closuit and will ask her opinion on this issue. He felt it is important to get a recommendation from someone who deals with this on a daily basis and whether she would like to have some leeway in the process.

SENATOR FRENCH thought that Judge Closuit may be constrained from giving an opinion on pending legislation.

CHAIR SEEKINS said that may be the case but if not, he trusts her to give a straightforward opinion.

SENATOR OGAN said he has concerns about the effect on children when they are cut off from a parent because of custody disputes. He said he worries about cutting a parent off from his or her children for one year or having to involve a third party to make visitation arrangements.

CHAIR SEEKINS said he would carry the bill over to another date to provide time for further discussion.

HB 230-POLITICAL SIGNS ON PRIVATE PROPERTY

MR. TODD LARKIN, staff to Representative Holm, sponsor of HB 230, told members that in the state's zeal to hold onto federal funds, it has set restrictions on free speech, specifically political free speech in the form of signage. After conferring with the Federal Highways Administration, Representative Holm believes the state has gone farther than necessary. The current restriction in Alaska took the form of the federal highway beautification act, which requires an advertising free zone between a roadway right-of-way and 660 feet. He suggested the state could make some exceptions, especially on private property, without endangering federal highway funds. HB 230 would allow the Department of Transportation and Public Facilities (DOTPF) to allow landowners to advocate for or against political candidates or issues but not to advertise commercially.

CHAIR SEEKINS announced he would carry HB 230 forward and schedule it expeditiously. He then adjourned the meeting at 9:56 a.m.