

HOUSE JOURNAL

ALASKA STATE LEGISLATURE

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

Juneau, Alaska

Tuesday

May 2, 2006

One Hundred Fourteenth Day

Pursuant to adjournment the House was called to order by Speaker Harris at 10:16 a.m.

Roll call showed 35 members present. Representatives Kelly, Stoltze, and Weyhrauch were absent and their presence was noted later.

Representative Coghill moved and asked unanimous consent that Representatives Foster and Samuels be excused from a call of the House to noon, today. There being no objection, it was so ordered.

The invocation was offered by the Chaplain, Representative Wilson. Representative Dahlstrom moved and asked unanimous consent that the invocation be spread on the journal. There being no objection, it was so ordered.

Dear Heavenly Father,

We thank You for Your steadfast love and care for us. Forgive us for the way we, at this time of year, act in our frustrations toward others. Help us these last few days of session and through the special session to show respect to each other through our actions and our words. Give us wisdom, knowledge, understanding, and discernment as we debate the PPT and decide how we will vote on other various issues. Be with our families who are anxious to have us home. Protect them and keep them safe while we are here in Juneau going about the state's business. Thank You, Father, for all the blessings You have bestowed upon each person in this body. All these things we pray in Jesus' name. Amen.

The Pledge of Allegiance was led by Representative Neuman.

CERTIFICATION OF THE JOURNAL

Representative Coghill moved and asked unanimous consent that the journal for the 113th legislative day be approved as certified by the Chief Clerk. There being no objection, it was so ordered.

MESSAGES FROM THE GOVERNOR

HB 269

A message dated April 26, 2006, was read stating the Governor has signed the following bill and is transmitting the engrossed and enrolled copies to the Lieutenant Governor's office for permanent filing:

SENATE CS FOR HOUSE BILL NO. 269(JUD)

"An Act relating to contribution actions relating to the release of a hazardous substance; and providing for an effective date."

Chapter No. 15, SLA 2006

Effective Date: April 27, 2006

HB 274

A message dated April 28, 2006, was read stating the Governor has signed the following bill and is transmitting the engrossed and enrolled copies to the Lieutenant Governor's office for permanent filing:

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 274(FIN)

"An Act relating to the practice of accounting; and providing for an effective date."

Chapter No. 16, SLA 2006

Effective Date: See Chapter

A letter dated May 1, 2006, was read stating that, in accordance with AS 39.05.080, the Governor submits the following names for legislative confirmation of appointment to the boards and commissions noted.

The Speaker referred the following to the Finance Committee:

State Assessment Review Board

Ms. Mary (Mickey) Keller - Anchorage
Appointed: 4/25/2006

The Speaker referred the following to the Health, Education & Social Services Committee:

Professional Teaching Practices Commission

Mr. Jeff Hebard - Fairbanks
Appointed: 5/1/2006 Term Expires: 3/1/2007

The Speaker referred the following to the Resources Committee:

Big Game Commercial Services Board

Mr. Ray Stoney - Kiana
Appointed: 5/1/2006 Term Expires: 3/1/2010

Board of Fisheries

Mr. Jeremiah Campbell - Seward
Reappointed: 7/1/2006 Term Expires: 6/30/2009

Resumes for the appointments are on file in the Chief Clerk's office.

**The presence of Representative Stoltze was noted.

MESSAGES FROM THE SENATE

HB 394

A message dated May 1, 2006, was read stating the Senate has passed:

CS FOR HOUSE BILL NO. 394(L&C) am

"An Act relating to allowing insurance policy forms to be filed and approved in languages other than English if an official English language version is also filed, and authorizing use of insurance policy forms and associated materials in languages other than English."

CSHB 394(L&C) am was referred to the Chief Clerk for enrollment.

SB 298

A message dated May 1, 2006, was read stating the Senate has concurred in the House amendment to CSSB 298(JUD), thus adopting:

HOUSE CS FOR CS FOR SENATE BILL NO. 298(JUD)

"An Act relating to loans from trust property; relating to a trustee's power to appoint the principal of a trust to another trust; relating to challenges to, claims against, and liabilities of trustees, beneficiaries, and creditors of trusts and of trusts and estates; relating to individual retirement accounts and plans; relating to certain trusts in divorce and dissolutions of marriage situations; and providing for an effective date."

A message dated May 1, 2006, was read stating the Senate has passed the following and they are transmitted for consideration:

**FIRST READING AND REFERENCE
OF SENATE BILLS****SB 169**

CS FOR SENATE BILL NO. 169(JUD) by the Senate Judiciary Committee, entitled:

"An Act relating to release of information in individual workers' compensation records; and providing for an effective date."

was read the first time and referred to the Finance Committee.

**The presence of Representative Samuels, who was excused (page 3481), was noted.

SB 271

SENATE BILL NO. 271 by the Senate Rules Committee by request of the Governor, entitled:

"An Act authorizing the commissioner of transportation and public facilities to participate in certain federal highway programs and relating to that authorization; relating to powers of the

attorney general to waive immunity from suit in federal court related to those programs; and providing for an effective date."

was read the first time and referred to the Finance Committee.

SB 274

CS FOR SENATE BILL NO. 274(STA) by the Senate State Affairs Committee, entitled:

"An Act relating to the disposition of forfeited, surplus, and unclaimed firearms by the state."

was read the first time and referred to the Finance Committee.

SB 317

SENATE BILL NO. 317 by the Senate Rules Committee by request of the Governor, entitled:

"An Act relating to the purchase by the Alaska Housing Finance Corporation of a parking garage in Anchorage, Alaska and approving the issuance of bonds for the purchase of that parking garage; providing notice of, and authorizing the commissioner of the Department of Administration to enter into, a lease-purchase agreement with the Alaska Housing Finance Corporation for that parking garage; and providing for an effective date."

was read the first time and referred to the Finance Committee.

**The presence of Representative Kelly was noted.

REPORTS OF STANDING COMMITTEES

HB 381

The Finance Committee has considered:

HOUSE BILL NO. 381

"An Act relating to the financing of construction, major maintenance, and renovation of facilities for the University of Alaska; relating to the financing of construction of a correctional facility; authorizing the commissioner of revenue to sell the right

to receive a portion of the anticipated revenue from a tobacco litigation settlement to the Northern Tobacco Securitization Corporation, with the proceeds of that sale to finance construction, major maintenance, and renovation of facilities for the University of Alaska and to finance the construction of a correctional facility; providing for the establishment of funds for deposit of those proceeds; authorizing the issuance of bonds by the Northern Tobacco Securitization Corporation for the purpose of acquiring the right to receive a portion of anticipated revenue from a tobacco litigation settlement; and providing for an effective date."

and recommends it be replaced with:

CS FOR HOUSE BILL NO. 381(FIN)

"An Act relating to the financing of construction, major maintenance, and renovation of certain capital projects; authorizing the commissioner of revenue to sell the right to receive a portion of the anticipated revenue from a tobacco litigation settlement to the Northern Tobacco Securitization Corporation, and relating to that sale and the use of the revenue; authorizing the Northern Tobacco Securitization Corporation to issue bonds and use the proceeds to acquire the right to receive a portion of anticipated revenue from a tobacco litigation settlement and for other purposes, and relating to those bonds; and providing for an effective date."

The report was signed by Representatives Meyer and Chenault, Co-chairs, with the following individual recommendations:

Do pass (6): Weyhrauch, Holm, Stoltze, Kelly, Meyer, Chenault

No recommendation (3): Moses, Joule, Kerttula

The following fiscal note(s) apply to CSHB 381(FIN):

1. Zero, Dept. of Administration

HB 381 is on today's calendar.

**The presence of Representative Weyhrauch was noted.

SB 134

The State Affairs Committee has considered:

CS FOR SENATE BILL NO. 134(JUD)

"An Act relating to a pilot project to review and investigate certain complaints from victims of sexual assault in the first degree or sexual abuse of a minor in the first degree concerning actions of justice agencies."

The report was signed by Representative Seaton, Chair, with the following individual recommendations:

Do pass (5): Gatto, Elkins, Ramras, Gruenberg, Seaton

The following fiscal note(s) apply:

5. Zero, Dept. of Law
6. Zero, Dept. of Public Safety
7. Zero, Dept. of Administration

CSSB 134(JUD) was referred to the Judiciary Committee.

SB 315

The Finance Committee has considered:

CS FOR SENATE BILL NO. 315(L&C)

"An Act relating to the disposition of unredeemed property; and providing for an effective date."

The report was signed by Representative Chenault, Co-chair, with the following individual recommendations:

Do pass (2): Kelly, Chenault

No recommendation (5): Kerttula, Hawker, Holm, Weyhrauch, Moses

The following fiscal note(s) apply:

1. Zero, Dept. of Commerce, Community, & Economic Development

CSSB 315(L&C) was referred to the Rules Committee for placement on the calendar.

REPORTS OF SPECIAL COMMITTEES

SB 172

The Conference Committee considering:

HOUSE CS FOR SENATE BILL NO. 172(FIN) am H

"An Act relating to election pamphlets and to the presentation of initiatives and referenda on the ballot; relating to review of applications for certification of initiatives; relating to the circulation and subscription of recall petitions; and providing for an effective date."

(HCR 37 - title change resolution)

and

SENATE BILL NO. 172

"An Act relating to the presentation of initiatives and referenda on the ballot."

requests limited powers of free conference on the following specific point(s):

Section 3 of the House Version

AS 15.45.180(a), which was amended by both bodies, requires an additional definition of 'subsection' not contained in either version of the bill.

The request was signed by Representatives Seaton (Chair), Meyer, Gara; and Senators Therriault (Chair), Bunde, Elton.

The Speaker granted the limited powers of free conference as requested.

The Chief Clerk notified the Senate.

The Conference Committee with limited powers of free conference considering HCS SB 172(FIN) am H and SB 172 recommends the following be adopted:

CONFERENCE CS FOR SENATE BILL NO. 172

"An Act relating to election pamphlets and to the presentation of initiatives and referenda on the ballot; relating to review of applications for certification of initiatives; relating to the circulation and subscription of recall petitions; and providing for an effective date."

The report was signed by Representatives Seaton (Chair), Meyer, Gara; and Senators Therriault (Chair), Bunde, Elton.

The following fiscal note(s) apply to CCS SB 172:

3. Fiscal, Office of the Governor
4. Fiscal, House Finance Committee/Office of the Governor
5. Fiscal, Dept. of Law

Representative Coghill moved that the House adopt the Conference Committee with limited powers of free conference report, thus adopting CCS SB 172.

The question being: "Shall the House adopt the Conference Committee with limited powers of free conference report?" The roll was taken with the following result:

CCS SB 172

Adopt

YEAS: 34 NAYS: 0 EXCUSED: 1 ABSENT: 5

Yeas: Berkowitz, Chenault, Cissna, Coghill, Crawford, Dahlstrom, Elkins, Gara, Gardner, Gatto, Guttenberg, Harris, Hawker, Holm, Joule, Kapsner, Kelly, Kerttula, Kohring, LeDoux, Lynn, McGuire, Meyer, Moses, Neuman, Olson, Ramras, Rokeberg, Samuels, Seaton, Stoltze, Thomas, Weyhrauch, Wilson

Excused: Foster

Absent: Anderson, Croft, Gruenberg, Kott, Salmon

And so, the House adopted the Conference Committee with limited powers of free conference report, thus adopting CCS SB 172.

Representative Coghill moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the effective date clause. There being no objection, it was so ordered.

The Chief Clerk notified the Senate.

INTRODUCTION OF CITATIONS

The following citations were introduced and referred to the Rules Committee for placement on the calendar:

Honoring - Marit Hartvigson, First Place Winner of the 2004 Annual Caring for the Kenai Program
By Representative Olson; Senator Wagoner

Honoring - James Southam
By Representative Gara; Senator Ellis

Honoring - Robert D. Miller, Eagle Scout Award
By Representative Elkins; Senator Stedman

Honoring - Dennis Olsen
By Representative Elkins; Senator Stedman

Honoring - Rachel Steer
By Representative McGuire

Honoring - Rupert Earle Andrews
By Representatives Kerttula, Weyhrauch; Senator Elton

Honoring - Theresa Reed, 2006 Woman of Distinction
By Representative Kelly

Honoring - Patty Kastelic, 2006 Woman of Distinction
By Representative Kelly

Honoring - Rosalind Kan, 2006 Woman of Distinction
By Representative Kelly

Honoring - Marilyn Romano, 2006 Woman of Distinction
By Representative Kelly

Honoring - Valdez Fisheries Development Association
By Representatives Weyhrauch, Kerttula; Senator Elton

Honoring - Juneau Jambaars Soccer Team, Alaska State Champions
By Representatives Kerttula, Weyhrauch; Senator Elton

Honoring - Ketchikan Fire Departments
By Representative Elkins; Senator Stedman

Honoring - Southeast Island School District's Teachers and Support
Staff
By Representative Elkins; Senator Stedman

Honoring - Legal Services, Alaska Legislative Legal Services
By Representatives Elkins, Anderson

Honoring - "The Vietnam Moving Wall" and the Fallen Sons of
Alaska
By Representatives Thomas, Stoltze, Dahlstrom; Senator Huggins

Honoring - 2006 Winter Games, Team Alaska
By Representative Kelly

Honoring - Alaska Crab Coalition
By Representatives Weyhrauch, Kerttula; Senator Elton

Honoring - Gene Horner
By Senators Huggins, Green; Representative Gatto

Honoring - Jamie Smith
By Senator Huggins; Representative Neuman

Honoring - Judge Larry Card
By Senator Davis

Honoring - Carolyn Jones, First Woman Appointed to the Rotary
International Board
By Senator Davis

Honoring - William R. Lyle
By Senator Huggins; Representative Stoltze

Honoring - Patricia B. "Pat" Wolf
By Senator Guess

Honoring - Houston High School Hockey Team
By Senator Huggins; Representative Neuman

Honoring - Ninilchik Lady Wolverines Basketball Team
By Senator Wagoner; Representative Chenault

In Memoriam - Annabelle Lee Mansfield
By Representatives Weyhrauch, Kerttula; Senator Elton

In Memoriam - Janel Thompson
By Representative Holm; Senator Wilken

In Memoriam - Mary Ellen Shea
By Representative Gara; Senators Bunde, French

In Memoriam - Donald Eugene Gilman
By Representative Olson; Senator Wagoner

In Memoriam - Kristine Lee Karlsson
By Representative Gatto

In Memoriam - Marion Esther Loomis
By Representative Gatto

In Memoriam - Andrew Carl Bouwens
By Representative Gatto

In Memoriam - Lucille "Lucy" Meveline McConnaughey
By Senator Dyson; Representative Stoltze

In Memoriam - Randy Lewis Holland
By Senator Davis

In Memoriam - Pauline Utter
By Senator Davis

In Memoriam - Maggie C. Veal
By Senator Davis

In Memoriam - Robert Benson
By Senator Davis

In Memoriam - Alicia Iden
By Senator Davis

In Memoriam - Sally Fred
By Senator Kookesh; Representative Thomas

In Memoriam - Daniel Jackson
By Senator Kookesh; Representative Thomas

In Memoriam - Cleo Bryan McMahan
By Senator Therriault

CONSIDERATION OF THE DAILY CALENDAR

SECOND READING OF HOUSE BILLS

HB 240

The following was read the second time:

HOUSE BILL NO. 240

"An Act relating to brewery and brew pub licensing."

HOUSE JOURNAL

3494

May 2, 2006

with the:

Journal Page

L&C RPT CS(L&C) 5DP 1AM	3178
FN1: ZERO(DPS)	3179
JUD RPT CS(JUD) NT 3DP 4NR	3246
FN1: ZERO(DPS)	3246
RLS RPT CS(RLS) NT 6NR	3458
FN1: ZERO(DPS)	3459

Representative Coghill moved and asked unanimous consent that the following committee substitute be adopted in lieu of the original bill:

CS FOR HOUSE BILL NO. 240(RLS)

"An Act relating to brewery and brewpub licensing and to free samples of beer and wine provided by beverage dispensary licensees, wholesale licensees, and wholesale malt beverage and wine licensees."

There being no objection, it was so ordered.

Representative Coghill moved and asked unanimous consent that CSHB 240(RLS) be considered engrossed, advanced to third reading, and placed on final passage.

There was objection.

CSHB 240(RLS) will advance to third reading on tomorrow's calendar.

HB 306

The following was read the second time:

HOUSE BILL NO. 306

"An Act making certain land available for selection by the Matanuska-Susitna Borough."

with the:

Journal Page

RES RPT CS(RES) 2DP 3NR	3249
FN1: ZERO(DNR)	3249

HOUSE JOURNAL

May 2, 2006

3495

FIN RPT CS(FIN) 1DP 1DNP 6NR
FN1: ZERO(DNR)

3402
3402

Representative Coghill moved and asked unanimous consent that the following committee substitute be adopted in lieu of the original bill:

CS FOR HOUSE BILL NO. 306(FIN)
(same title)

There being no objection, it was so ordered.

Representative Coghill moved and asked unanimous consent that CSHB 306(FIN) be considered engrossed, advanced to third reading, and placed on final passage.

There was objection.

CSHB 306(FIN) will advance to third reading on tomorrow's calendar.

HB 381

The following was read the second time:

HOUSE BILL NO. 381

"An Act relating to the financing of construction, major maintenance, and renovation of facilities for the University of Alaska; relating to the financing of construction of a correctional facility; authorizing the commissioner of revenue to sell the right to receive a portion of the anticipated revenue from a tobacco litigation settlement to the Northern Tobacco Securitization Corporation, with the proceeds of that sale to finance construction, major maintenance, and renovation of facilities for the University of Alaska and to finance the construction of a correctional facility; providing for the establishment of funds for deposit of those proceeds; authorizing the issuance of bonds by the Northern Tobacco Securitization Corporation for the purpose of acquiring the right to receive a portion of anticipated revenue from a tobacco litigation settlement; and providing for an effective date."

HOUSE JOURNAL

3496

May 2, 2006

with the:

Journal Page

FIN RPT CS(FIN) NT 6DP 3NR
FN1: ZERO(ADM)

3485

3486

Representative Coghill moved and asked unanimous consent that the following committee substitute be adopted in lieu of the original bill:

CS FOR HOUSE BILL NO. 381(FIN)

"An Act relating to the financing of construction, major maintenance, and renovation of certain capital projects; authorizing the commissioner of revenue to sell the right to receive a portion of the anticipated revenue from a tobacco litigation settlement to the Northern Tobacco Securitization Corporation, and relating to that sale and the use of the revenue; authorizing the Northern Tobacco Securitization Corporation to issue bonds and use the proceeds to acquire the right to receive a portion of anticipated revenue from a tobacco litigation settlement and for other purposes, and relating to those bonds; and providing for an effective date."

There being no objection, it was so ordered.

Representative Coghill moved and asked unanimous consent that CSHB 381(FIN) be considered engrossed, advanced to third reading, and placed on final passage.

There was objection.

CSHB 381(FIN) will advance to third reading on tomorrow's calendar.

SECOND READING OF SENATE BILLS

SB 261

The following was read the second time:

CS FOR SENATE BILL NO. 261(FIN)

"An Act relating to the designation of traffic safety corridors; relating to the bail or fine for an offense committed in a traffic

safety corridor and to separately accounting for such fines; and providing for an effective date."

with the:	Journal Page
JUD RPT HCS(JUD) NT 5DP 2NR	3180
FN1: (DOT)	3181
FN2: ZERO(DPS)	3181
FN3: ZERO(CRT)	3181
LETTER OF INTENT FOR JUD REPORT RECEIVED	3256
FIN RPT HCS(JUD) NT 6DP 2NR 1AM	3347
FN1: (DOT)	3348
FN2: ZERO(DPS)	3348
FN3: ZERO(CRT)	3348
FN4: INDETERMINATE(H.FIN/ALL DEPTS)	3348

Representative Coghill moved and asked unanimous consent that the following committee substitute be adopted in lieu of the original bill:

HOUSE CS FOR CS FOR SENATE BILL NO. 261(JUD)
 "An Act relating to the designation of traffic safety corridors; relating to the bail or fine for an offense committed in a traffic safety corridor and to separately accounting for such fines; relating to the license point penalty; relating to damage claims regarding a highway work zone; and providing for an effective date."

(HCR 44 - title change resolution)

There being no objection, it was so ordered.

Representative Coghill moved and asked unanimous consent that HCS CSSB 261(JUD) be considered engrossed, advanced to third reading, and placed on final passage. There being no objection, it was so ordered.

HCS CSSB 261(JUD) was read the third time.

The question being: "Shall HCS CSSB 261(JUD) pass the House?"
The roll was taken with the following result:

HCS CSSB 261(JUD)
Third Reading
Final Passage

YEAS: 38 NAYS: 0 EXCUSED: 1 ABSENT: 1

Yeas: Anderson, Berkowitz, Chenault, Cissna, Coghill, Crawford, Croft, Dahlstrom, Elkins, Gara, Gardner, Gatto, Gruenberg, Guttenberg, Harris, Hawker, Holm, Joule, Kapsner, Kelly, Kerttula, Kohring, Kott, LeDoux, Lynn, McGuire, Meyer, Neuman, Olson, Ramras, Rokeberg, Salmon, Samuels, Seaton, Stoltze, Thomas, Weyhrauch, Wilson

Excused: Foster

Absent: Moses

And so, HCS CSSB 261(JUD) passed the House.

Representative Coghill moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the effective date clause. There being no objection, it was so ordered.

Representative Coghill moved and asked unanimous consent that the House adopt the House Judiciary Committee letter of intent (page 3256). There being no objection, it was so ordered.

HCS CSSB 261(JUD) was referred to the Chief Clerk for engrossment.

THIRD READING OF SENATE BILLS

SB 12

The following, which was held from the May 1, 2006, calendar (page 3472), was read the third time:

HOUSE CS FOR CS FOR SENATE BILL NO. 12(STA)

"An Act relating to procurement from a person conducting business in or having headquarters in countries that support or ignore slavery and trafficking in persons."

Representative Ramras moved and asked unanimous consent that HCS CSSB 12(STA) be returned to second reading for the specific purpose of considering Amendment No. 1. There being no objection, it was so ordered.

Amendment No. 1 was offered by Representatives Ramras, Croft, Kerttula, Gara, and Gruenberg:

Page 1, line 1, following "Act" (title amendment):

Insert "**relating to human trafficking; relating to sex tourism;**"

Page 1, line 2, following "persons" (title amendment):

Insert "**; and providing for an effective date**"

Page 1, following line 3:

Insert new bill sections to read:

*** Section 1.** AS 11.41 is amended by adding new sections to read:

Sec. 11.41.310. Human trafficking in the first degree. (a) A person commits the crime of human trafficking in the first degree if the person compels or induces another person to come to this state to engage in sexual conduct, adult entertainment, or labor in the state by force or threat of force against any person, or by deception.

(b) In this section,

(1) "adult entertainment" means the conduct described in AS 23.10.350(f)(1) - (3);

(2) "deception" has the meaning given in AS 11.46.180;

(3) "sexual conduct" has the meaning given in AS 11.66.150.

(c) Human trafficking in the first degree is a class A felony.

Sec. 11.41.315. Human trafficking in the second degree. (a) A person commits the crime of human trafficking in the second degree if the person obtains a benefit from the commission of human trafficking under AS 11.41.310, with reckless disregard that the benefit is a result of the trafficking.

(b) Human trafficking in the second degree is a class B felony.

*** Sec. 2.** AS 11.66.120(a) is amended to read:

(a) A person commits the crime of promoting prostitution in the second degree if the person

(1) manages, supervises, controls, or owns, either alone

or in association with others, a prostitution enterprise other than a place of prostitution; [OR]

(2) procures or solicits a patron for a prostitute; or

(3) offers, sells, advertises, promotes, or facilitates travel that includes commercial sexual conduct as enticement for the travel; in this paragraph, "commercial sexual conduct" means sexual conduct for which anything of value is given or received by any person."

Page 1, line 4:

Delete "**Section 1**"

Insert "**Sec. 3**"

ReNUMBER the following bill sections accordingly.

Page 2, following line 3:

Insert a new bill section to read:

"* **Sec. 6.** This Act takes effect July 1, 2006."

Representative Ramras moved and asked unanimous consent that Amendment No. 1 be adopted.

There was objection.

The Speaker stated that, without objection, HCS CSSB 12(STA) with Amendment No. 1 moved and pending would be moved to the bottom of the calendar.

SB 20

The following, which was advanced to third reading from the May 1, 2006, calendar (page 3464), was read the third time:

HOUSE CS FOR CS FOR SENATE BILL NO. 20(FIN)

"An Act relating to offenses against unborn children."

Representative Kerttula moved and asked unanimous consent that HCS CSSB 20(FIN) be returned to second reading for the specific purpose of considering Amendment No. 1. There being no objection, it was so ordered.

Amendment No. 1 was offered by Representative Kerttula:

Page 1, line 1:

Delete all material and insert (title amendment):

""An Act relating to sentencing factors and penalties for crimes against pregnant women.""

Page 1, line 3, through Page 7, line 19:

Delete all material and insert:

""* Section 1. AS 11 is amended by adding a new chapter to read:

Chapter 32. Enhanced Penalties.

Sec. 11.32.100. Penalties for crimes committed against pregnant women. (a) Notwithstanding another provision of this title or AS 12, if a person commits a crime defined in this title against a pregnant woman who the person knew or should have known to be pregnant that results in a miscarriage or stillbirth, the crime shall be punished in the following manner:

(1) a crime defined as murder in the first degree under AS 11.41.100 shall be punished by a sentence of 40 - 99 years;

(2) a crime defined as murder in the second degree under AS 11.41.110 shall be punished by a sentence of 30 - 99 years;

(3) a crime defined in this title as a class A felony shall be punished as an unclassified felony in the manner provided for unclassified felonies in AS 12.55.125;

(4) a crime defined in this title as a class B felony shall be punished as a class A felony in the manner provided for class A felonies in AS 12.55.125;

(5) a crime defined in this title as a class C felony shall be punished as a class B felony in the manner provided for class B felonies in AS 12.55.125;

(6) a crime defined in this title as a class A misdemeanor shall be punished as a class C felony in the manner provided for class C felonies in AS 12.55.125;

(7) a crime defined in this title as a class B misdemeanor shall be punished as a class A misdemeanor in the manner provided for class A misdemeanors in AS 12.55.135.

(b) The penalties in (a) of this section do not apply to acts committed

(1) during a legal abortion to which the pregnant woman, or a person authorized by law to act on the pregnant woman's

behalf, consented or for which the consent is implied by law;

(2) during any medical treatment of the pregnant woman or the fetus; or

(3) by a pregnant woman against herself.

(c) In this section,

(1) "miscarriage" means the interruption of the normal development of the fetus, other than by a live birth or by an induced abortion, resulting in the complete expulsion or extraction of the fetus from a pregnant woman;

(2) "stillbirth" means the death of a fetus before the complete expulsion or extraction from a woman, other than by an induced abortion, irrespective of the duration of the pregnancy.

* **Sec. 2.** AS 12.55.125(a) is amended to read:

(a) A defendant convicted of murder in the first degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years. **A defendant convicted of murder in the first degree enhanced under AS 11.32.100(a)(1) shall be sentenced to a definite term of imprisonment of at least 40 years but not more than 99 years.** A defendant convicted of murder in the first degree shall be sentenced to a mandatory term of imprisonment of 99 years when

(1) the defendant is convicted of the murder of a uniformed or otherwise clearly identified peace officer, fire fighter, or correctional employee who was engaged in the performance of official duties at the time of the murder;

(2) the defendant has been previously convicted of

(A) murder in the first degree under AS 11.41.100 or former AS 11.15.010 or 11.15.020;

(B) murder in the second degree under AS 11.41.110 or former AS 11.15.030; or

(C) homicide under the laws of another jurisdiction when the offense of which the defendant was convicted contains elements similar to first degree murder under AS 11.41.100 or second degree murder under AS 11.41.110;

(3) the court finds by clear and convincing evidence that the defendant subjected the murder victim to substantial physical torture; or

(4) the defendant is convicted of the murder of and personally caused the death of a person, other than a participant, during a robbery.

* **Sec. 3.** AS 12.55.125(b) is amended to read:

(b) A defendant convicted of attempted murder in the first degree, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years. A defendant convicted of murder in the second degree **or a class A felony enhanced under AS 11.32.100(a)(3)** shall be sentenced to a definite term of imprisonment of at least 10 years but not more than 99 years. A defendant convicted of murder in the second degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years when the defendant is convicted of the murder of a child under 16 years of age and the court finds by clear and convincing evidence that the defendant (1) was a natural parent, a stepparent, an adopted parent, a legal guardian, or a person occupying a position of authority in relation to the child; or (2) caused the death of the child by committing a crime against a person under AS 11.41.200 - 11.41.530. **A defendant convicted of murder in the second degree enhanced under AS 11.32.100(a)(2) shall be sentenced to a definite term of imprisonment of at least 30 years but not more than 99 years.** In this subsection, "legal guardian" and "position of authority" have the meanings given in AS 11.41.470.

* **Sec. 4.** AS 12.55.155(c) is amended to read:

(c) The following factors shall be considered by the sentencing court if proven in accordance with this section, and may allow imposition of a sentence above the presumptive range set out in AS 12.55.125:

- (1) a person, other than an accomplice, sustained physical injury as a direct result of the defendant's conduct;
- (2) the defendant's conduct during the commission of the offense manifested deliberate cruelty to another person;
- (3) the defendant was the leader of a group of three or more persons who participated in the offense;
- (4) the defendant employed a dangerous instrument in furtherance of the offense;
- (5) the defendant knew or reasonably should have known that the victim of the offense was particularly vulnerable or incapable of resistance due to advanced age, disability, ill health,

or extreme youth or was for any other reason substantially incapable of exercising normal physical or mental powers of resistance;

(6) the defendant's conduct created a risk of imminent physical injury to three or more persons, other than accomplices;

(7) a prior felony conviction considered for the purpose of invoking a presumptive range under this chapter was of a more serious class of offense than the present offense;

(8) the defendant's prior criminal history includes conduct involving aggravated or repeated instances of assault behavior;

(9) the defendant knew that the offense involved more than one victim;

(10) the conduct constituting the offense was among the most serious conduct included in the definition of the offense;

(11) the defendant committed the offense under an agreement that the defendant either pay or be paid for the commission of the offense, and the pecuniary incentive was beyond that inherent in the offense itself;

(12) the defendant was on release under AS 12.30.020 or 12.30.040 for another felony charge or conviction or for a misdemeanor charge or conviction having assault as a necessary element;

(13) the defendant knowingly directed the conduct constituting the offense at an active officer of the court or at an active or former judicial officer, prosecuting attorney, law enforcement officer, correctional employee, fire fighter, emergency medical technician, paramedic, ambulance attendant, or other emergency responder during or because of the exercise of official duties;

(14) the defendant was a member of an organized group of five or more persons, and the offense was committed to further the criminal objectives of the group;

(15) the defendant has three or more prior felony convictions;

(16) the defendant's criminal conduct was designed to obtain substantial pecuniary gain and the risk of prosecution and punishment for the conduct is slight;

(17) the offense was one of a continuing series of criminal offenses committed in furtherance of illegal business

activities from which the defendant derives a major portion of the defendant's income;

(18) the offense was a felony

(A) specified in AS 11.41 and was committed against a spouse, a former spouse, or a member of the social unit made up of those living together in the same dwelling as the defendant;

(B) specified in AS 11.41.410 - 11.41.458 and the defendant has engaged in the same or other conduct prohibited by a provision of AS 11.41.410 - 11.41.460 involving the same or another victim; or

(C) specified in AS 11.41 that is a crime involving domestic violence and was committed in the physical presence or hearing of a child under 16 years of age who was, at the time of the offense, living within the residence of the victim, the residence of the perpetrator, or the residence where the crime involving domestic violence occurred;

(19) the defendant's prior criminal history includes an adjudication as a delinquent for conduct that would have been a felony if committed by an adult;

(20) the defendant was on furlough under AS 33.30 or on parole or probation for another felony charge or conviction that would be considered a prior felony conviction under AS 12.55.145(a)(1)(B);

(21) the defendant has a criminal history of repeated instances of conduct violative of criminal laws, whether punishable as felonies or misdemeanors, similar in nature to the offense for which the defendant is being sentenced under this section;

(22) the defendant knowingly directed the conduct constituting the offense at a victim because of that person's race, sex, color, creed, physical or mental disability, ancestry, or national origin;

(23) the defendant is convicted of an offense specified in AS 11.71 and

(A) the offense involved the delivery of a controlled substance under circumstances manifesting an intent to distribute the substance as part of a commercial enterprise; or

(B) at the time of the conduct resulting in the conviction, the defendant was caring for or assisting in the

care of a child under 10 years of age;

(24) the defendant is convicted of an offense specified in AS 11.71 and the offense involved the transportation of controlled substances into the state;

(25) the defendant is convicted of an offense specified in AS 11.71 and the offense involved large quantities of a controlled substance;

(26) the defendant is convicted of an offense specified in AS 11.71 and the offense involved the distribution of a controlled substance that had been adulterated with a toxic substance;

(27) the defendant, being 18 years of age or older,

(A) is legally accountable under AS 11.16.110(2) for the conduct of a person who, at the time the offense was committed, was under 18 years of age and at least three years younger than the defendant; or

(B) is aided or abetted in planning or committing the offense by a person who, at the time the offense was committed, was under 18 years of age and at least three years younger than the defendant;

(28) the victim of the offense is a person who provided testimony or evidence related to a prior offense committed by the defendant;

(29) the defendant committed the offense for the benefit of, at the direction of, or in association with a criminal street gang;

(30) the defendant is convicted of an offense specified in AS 11.41.410 - 11.41.455, and the defendant knowingly supplied alcohol or a controlled substance to the victim in furtherance of the offense with the intent to make the victim incapacitated; in this paragraph, "incapacitated" has the meaning given in AS 11.41.470;

(31) the defendant's prior criminal history includes convictions for five or more crimes in this or another jurisdiction that are class A misdemeanors under the law of this state, or having elements similar to a class A misdemeanor; two or more convictions arising out of a single continuous episode are considered a single conviction; however, an offense is not a part of a continuous episode if committed while attempting to escape or resist arrest or if it is an assault upon a uniformed or otherwise clearly identified peace officer; notice and denial of convictions are governed by AS 12.55.145(b), (c), and (d);

(32) the offense is a violation of AS 11.41 or AS 11.46.400 and the offense occurred on school grounds, on a school bus, at a school-sponsored event, or in the administrative offices of a school district if students are educated at that office; in this paragraph,

(A) "school bus" has the meaning given in AS 11.71.900;

(B) "school district" has the meaning given in AS 47.07.063;

(C) "school grounds" has the meaning given in AS 11.71.900;

(33) the defendant is convicted of an offense specified in AS 11.41 and the offense involved physical injury to a pregnant woman.

* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. AS 11.32.100, enacted by sec. 1 of this Act, and AS 12.55.125(a) - (c), as amended by secs. 2 - 4 of this Act, apply to crimes committed on or after the effective date of this Act."

Representative Kerttula moved and asked unanimous consent that Amendment No. 1 be adopted.

There was objection.

Representative Kerttula moved and asked unanimous consent to withdraw Amendment No. 1. There being no objection, it was so ordered.

The Speaker stated that, without objection, HCS CSSB 20(FIN) will be held in third reading to tomorrow's calendar.

SB 132

The following, which was advanced to third reading from the May 1, 2006, calendar (page 3471), was read the third time:

HCS FOR SENATE BILL NO. 132(FIN) am H

"An Act relating to complaints filed with, investigations, hearings, and orders of, and the interest rate on awards of the State

Commission for Human Rights; and making conforming amendments."

The question being: "Shall HCS SB 132(FIN) am H pass the House?"
The roll was taken with the following result:

HCS SB 132(FIN) am H
Third Reading
Final Passage

YEAS: 24 NAYS: 14 EXCUSED: 1 ABSENT: 1

Yeas: Anderson, Chenault, Coghill, Dahlstrom, Elkins, Gatto, Harris, Hawker, Holm, Kelly, Kohring, Kott, Lynn, McGuire, Meyer, Neuman, Olson, Ramras, Rokeberg, Samuels, Stoltze, Thomas, Weyhrauch, Wilson

Nays: Berkowitz, Cissna, Crawford, Croft, Gara, Gardner, Gruenberg, Guttenberg, Joule, Kapsner, Kerttula, LeDoux, Moses, Salmon

Excused: Foster

Absent: Seaton

And so, HCS SB 132(FIN) am H passed the House.

Representative Berkowitz gave notice of reconsideration of the vote on HCS SB 132(FIN) am H.

SECOND READING OF HOUSE RESOLUTIONS

HCR 43

The Speaker stated that, without objection, the following, which was held from the May 1, 2006, calendar (page 3474), will be held to tomorrow's calendar:

HOUSE CONCURRENT RESOLUTION NO. 43

Suspending Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State Legislature, concerning Senate Bill No. 12, relating to the prohibition or elimination of financial relationships with persons that conduct business in countries that support or ignore slavery and trafficking in persons.

HCR 44

The following was read the second time:

HOUSE CONCURRENT RESOLUTION NO. 44

Suspending Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State Legislature, concerning Senate Bill No. 261, relating to traffic safety corridors.

The question being: "Shall HCR 44 pass the House?" The roll was taken with the following result:

HCR 44

Second Reading

Final Passage

YEAS: 38 NAYS: 0 EXCUSED: 1 ABSENT: 1

Yeas: Anderson, Berkowitz, Chenault, Cissna, Coghill, Crawford, Croft, Dahlstrom, Elkins, Gardner, Gatto, Gruenberg, Guttenberg, Harris, Hawker, Holm, Joule, Kapsner, Kelly, Kerttula, Kohring, Kott, LeDoux, Lynn, McGuire, Meyer, Moses, Neuman, Olson, Ramras, Rokeberg, Salmon, Samuels, Seaton, Stoltze, Thomas, Weyhrauch, Wilson

Excused: Foster

Absent: Gara

And so, HCR 44 passed the House and was referred to the Chief Clerk for engrossment.

THIRD READING OF SENATE BILLS

(continued)

SB 12

The Speaker stated that, without objection, the following, which had been moved to the bottom of the calendar with Amendment No. 1 pending (page 3500), will be held in second reading to tomorrow's calendar:

HOUSE CS FOR CS FOR SENATE BILL NO. 12(STA)

"An Act relating to procurement from a person conducting business in or having headquarters in countries that support or ignore slavery and trafficking in persons."

LEGISLATIVE CITATIONS

Representative Coghill moved and asked unanimous consent that the House approve the citations on the calendar. There being no objection, the following citations were approved and sent to enrolling:

Honoring - Dick and Kenny Anderson

By Senator Dyson; Representatives Stoltze, Harris, Anderson, Berkowitz, Chenault, Cissna, Coghill, Crawford, Croft, Dahlstrom, Elkins, Gara, Gardner, Gatto, Gruenberg, Guttenberg, Hawker, Holm, Joule, Kapsner, Kelly, Kerttula, Kohring, Kott, LeDoux, Lynn, McGuire, Meyer, Neuman, Olson, Ramras, Rokeberg, Salmon, Samuels, Seaton, Thomas, Weyhrauch, Wilson

Honoring - Southwest Alaska Pilots Association

By Senator Gary Stevens; Representatives Seaton, Harris, Anderson, Berkowitz, Chenault, Cissna, Coghill, Crawford, Croft, Dahlstrom, Elkins, Gara, Gardner, Gatto, Gruenberg, Guttenberg, Hawker, Holm, Joule, Kapsner, Kelly, Kerttula, Kohring, Kott, LeDoux, Lynn, McGuire, Meyer, Neuman, Olson, Ramras, Rokeberg, Salmon, Samuels, Stoltze, Thomas, Weyhrauch, Wilson

Honoring - The Kodiak Storm, 2006 State Women's Invitational Hockey Champions

By Senator Gary Stevens; Representatives LeDoux, Harris, Anderson, Berkowitz, Chenault, Cissna, Coghill, Crawford, Croft, Dahlstrom, Elkins, Gara, Gardner, Gatto, Gruenberg, Guttenberg, Hawker, Holm, Joule, Kapsner, Kelly, Kerttula, Kohring, Kott, Lynn, McGuire, Meyer, Neuman, Olson, Ramras, Rokeberg, Salmon, Samuels, Seaton, Stoltze, Thomas, Weyhrauch, Wilson

RECONSIDERATION**HB 485**

The Speaker stated that, without objection, reconsideration of the following, which had been held to today (page 3476), be held one legislative day:

HOUSE BILL NO. 485(fld H)

"An Act amending the State Personnel Act to place in the exempt service pharmacists and physicians employed in the Department

of Health and Social Services or in the Department of Corrections and corporate income tax forensic auditors employed by the division of the Department of Revenue principally responsible for the collection and enforcement of state taxes who specialize in apportionment analysis and tax shelters of multistate corporate taxpayers; and providing for an effective date."

UNFINISHED BUSINESS

SB 171

Representative Olson added his name as cross sponsor to:

CS FOR SENATE BILL NO. 171(FIN)(efd fld)

"An Act amending the National Petroleum Reserve - Alaska special revenue fund; and establishing the Special Legislative Oil and Gas NPR-A Development Impact Review Committee and defining its powers and duties."

SB 177

Reconsideration of the following was not taken up on this legislative day. It was signed by the Speaker and Chief Clerk and returned to the Senate:

CS FOR SENATE BILL NO. 177(HES)

"An Act eliminating the prohibition on the use by certain licensed professionals of titles or descriptions of services that incorporate the terms 'psychoanalysis,' 'psychoanalyst,' 'psychotherapy,' 'psychotherapeutic,' or 'psychotherapist.'"

SB 273

Reconsideration of the following was not taken up on this legislative day. It was signed by the Speaker and Chief Clerk and returned to the Senate:

SENATE BILL NO. 273

"An Act relating to a motor vehicle dealer's selling or offering to sell motor vehicles as new or current models or as new or current model motor vehicles having manufacturer's warranties."

ENGROSSMENT**HCR 44**

HCR 44 was engrossed, signed by the Speaker and Chief Clerk and transmitted to the Senate for consideration.

SB 200

Reconsideration of the following was not taken up on this legislative day. It was engrossed, signed by the Speaker and Chief Clerk and transmitted to the Senate for consideration:

HOUSE CS FOR CS FOR SENATE BILL NO. 200(FIN)

"An Act relating to defense of self, other persons, property, or services."

SB 261

HCS CSSB 261(JUD) was engrossed, signed by the Speaker and Chief Clerk and transmitted with a House letter of intent to the Senate for consideration.

ANNOUNCEMENTS

With appointment of the Conference Committee on the operating budget, Rule 23(d) of the Uniform Rules is in effect as of April 24, 2006.

House committee schedules are published daily under separate cover.

The following meeting today has been changed as indicated:

House Special Committee on Education
CHANGED TO:

Call of the Chair

ADJOURNMENT

Representative Coghill moved and asked unanimous consent that the House adjourn until 10:00 a.m., May 3, 2006. There being no objection, the House adjourned at 11:35 a.m.

Suzi Lowell
Chief Clerk