

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

April 1, 2005

2:09 p.m.

MEMBERS PRESENT

Representative Lesil McGuire, Chair
Representative Tom Anderson
Representative John Coghill
Representative Nancy Dahlstrom
Representative Pete Kott
Representative Les Gara
Representative Max Gruenberg

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative Berta Gardner
Representative Ralph Samuels

COMMITTEE CALENDAR

HOUSE BILL NO. 54
"An Act relating to bail review."

- MOVED CSHB 54(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 184
"An Act relating to firearms."

- MOVED CSHB 184(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 12
"An Act relating to televisions and monitors in motor vehicles."

- HEARD AND HELD

PRESENTATION ON SEX TRAFFICKING BY LESLIE R. WOLFE, PH.D.,
PRESIDENT, CENTER FOR WOMEN POLICY STUDIES

- HEARD

HOUSE BILL NO. 148

"An Act relating to trafficking of persons."

- MOVED CSHB 148(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 101

"An Act relating to sex trafficking and tourism."

- MOVED CSHB 101(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 94

"An Act relating to qualifications of voters, requirements and procedures regarding independent candidates for President and Vice-President of the United States, voter registration and voter registration records, voter registration through a power of attorney, voter registration using scanned documents, voter residence, precinct boundary and polling place designation and modification, recognized political parties, voters unaffiliated with a political party, early voting, absentee voting, application for absentee ballots through a power of attorney, or by scanned documents, ballot design, ballot counting, voting by mail, voting machines, vote tally systems, initiative, referendum, recall, and definitions in the Alaska Election Code; relating to incorporation elections; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 54

SHORT TITLE: BAIL REVIEW

SPONSOR(S): REPRESENTATIVE(S) SAMUELS, STOLTZE

01/10/05	(H)	PREFILE RELEASED 1/7/05
01/10/05	(H)	READ THE FIRST TIME - REFERRALS
01/10/05	(H)	JUD, FIN
03/30/05	(H)	JUD AT 1:00 PM CAPITOL 120
03/30/05	(H)	Heard & Held
03/30/05	(H)	MINUTE(JUD)
04/01/05	(H)	JUD AT 1:00 PM CAPITOL 120

BILL: HB 184

SHORT TITLE: MUNICIPAL FIREARM ORDINANCES

SPONSOR(S): REPRESENTATIVE(S) CHENAULT

02/28/05	(H)	READ THE FIRST TIME - REFERRALS
02/28/05	(H)	CRA, JUD

03/22/05 (H) CRA AT 8:00 AM CAPITOL 124
03/22/05 (H) Moved Out of Committee
03/22/05 (H) MINUTE(CRA)
03/22/05 (H) CRA RPT 3DP 1DNP 3AM
03/22/05 (H) DP: SALMON, NEUMAN, OLSON;
03/22/05 (H) DNP: CISSNA;
03/22/05 (H) AM: LEDOUX, KOTT, THOMAS
04/01/05 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 12

SHORT TITLE: TVS AND MONITORS IN MOTOR VEHICLES

SPONSOR(S): REPRESENTATIVE(S) GRUENBERG, LYNN, GARDNER, MCGUIRE

01/10/05 (H) PREFILE RELEASED 12/30/04
01/10/05 (H) READ THE FIRST TIME - REFERRALS
01/10/05 (H) STA, JUD, FIN
03/01/05 (H) STA AT 8:00 AM CAPITOL 106
03/01/05 (H) Scheduled But Not Heard
03/05/05 (H) STA AT 9:30 AM CAPITOL 106
03/05/05 (H) Heard & Held
03/05/05 (H) MINUTE(STA)
03/17/05 (H) STA AT 8:00 AM CAPITOL 106
03/17/05 (H) Moved CSHB 12(STA) Out of Committee
03/17/05 (H) MINUTE(STA)
03/18/05 (H) STA RPT CS(STA) NT 6DP
03/18/05 (H) DP: GARDNER, LYNN, GATTO, GRUENBERG,
ELKINS, SEATON
04/01/05 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 148

SHORT TITLE: TRAFFICKING OF PERSONS

SPONSOR(S): REPRESENTATIVE(S) KERTTULA

02/14/05 (H) READ THE FIRST TIME - REFERRALS
02/14/05 (H) JUD, FIN
03/07/05 (H) JUD AT 1:00 PM CAPITOL 120
03/07/05 (H) Heard & Held
03/07/05 (H) MINUTE(JUD)
03/18/05 (H) JUD AT 1:00 PM CAPITOL 120
03/18/05 (H) Heard & Held
03/18/05 (H) MINUTE(JUD)
04/01/05 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 101

SHORT TITLE: SEX TRAFFICKING AND TOURISM

SPONSOR(S): REPRESENTATIVE(S) CROFT

01/21/05	(H)	READ THE FIRST TIME - REFERRALS
01/21/05	(H)	JUD, FIN
03/07/05	(H)	JUD AT 1:00 PM CAPITOL 120
03/07/05	(H)	Heard & Held
03/07/05	(H)	MINUTE(JUD)
03/18/05	(H)	JUD AT 1:00 PM CAPITOL 120
03/18/05	(H)	Heard & Held
03/18/05	(H)	MINUTE(JUD)
04/01/05	(H)	JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

SARA NIELSEN, Staff
to Representative Ralph Samuels
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 54, explained the proposed amendment on behalf of Representative Samuels, one of the bill's prime sponsors.

ERICH DeLAND, Staff
to Representative Mike Chenault
House Finance Committee
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 184 on behalf of the sponsor, Representative Chenault.

WALT MONEGAN, Chief
Anchorage Police Department (APD)
Municipality of Anchorage (MOA)
Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 184, expressed concerns with the bill and responded to questions.

BRIAN JUDY, Alaska State Liaison
Institute for Legislative Action
National Rifle Association of America (NRA)
Sacramento California

POSITION STATEMENT: During discussion of HB 184, provided comments and asked for the committee's support of the bill.

FRED PIKE, Interim Manager
Bristol Bay Borough
Naknek, Alaska

POSITION STATEMENT: Testified in opposition to HB 184.

JERRY CASTLEBERRY, Chief
Bristol Bay Borough Police Department
Bristol Bay Borough
Naknek, Alaska

POSITION STATEMENT: Testified in opposition to HB 184.

JENNIFER YUHAS, Executive Director
Alaska Outdoor Council (AOC)
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 184.

CARY R. GRAVES, City Attorney
City of Kenai
Kenai, Alaska

POSITION STATEMENT: During discussion of HB 184, expressed concern with language in the bill and suggested a change.

SCOTT HAMANN
Nikiski, Alaska

POSITION STATEMENT: Testified in support of HB 184.

KATHLEEN WASSERMAN
Alaska Municipal League (AML)
Juneau, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 184.

FREDERICK H. BONESS, Municipal Attorney
Department of Law
Municipality of Anchorage (MOA)
Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 184, expressed concerns with the bill and suggested a change.

DAVID WEIZER
(Address not provided)

POSITION STATEMENT: Testified in support of HB 12 and relayed his personal experience regarding family members who died in a vehicle accident caused by someone who was watching a DVD while driving.

DEBORAH CHORMANSKI HULL-JILLY, Acting Chief
Community Health & Emergency Medical Services
Division of Public Health
Department of Health and Social Services (DHSS)
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 12 and offered statistics.

REPRESENTATIVE BETH KERTTULA
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced Leslie R. Wolfe, Ph.D., President, Center For Women Policy Studies, who gave the presentation on sex trafficking, and responded to a question; spoke as the sponsor of HB 148.

LESLIE R. WOLFE, Ph.D., President
Center For Women Policy Studies
Washington D.C.

POSITION STATEMENT: Gave the presentation on sex trafficking and responded to questions.

ANNE CARPENETI, Assistant Attorney General
Legal Services Section-Juneau
Criminal Division
Department of Law (DOL)
Juneau, Alaska

POSITION STATEMENT: Responded to questions during discussion of HB 148.

MARK GNADT, Staff
to Representative Eric Croft
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 101, presented the proposed committee substitute (CS), Version G, on behalf of the sponsor, Representative Croft.

ACTION NARRATIVE

CHAIR LESIL McGUIRE called the House Judiciary Standing Committee meeting to order at [2:09:06 PM](#). Representatives McGuire, Anderson, Coghill, and Dahlstrom were present at the call to order. Representatives Kott, Gruenberg, and Gara arrived as the meeting was in progress.

HB 54 - BAIL REVIEW

CHAIR McGUIRE announced that the first order of business would be HOUSE BILL NO. 54, "An Act relating to bail review." [Before the committee was the proposed committee substitute (CS) for HB

54, Version 24-LS0271\Y, Luckhaupt, 3/21/05, which had been adopted as the work draft on 3/30/05.]

2:09:14 PM

CHAIR MCGUIRE, after ascertaining that no one wished to testify, closed public testimony on HB 54. She noted that member's packets included a proposed amendment labeled 24-LS0271\Y.2, Luckhaupt, 3/30/05, which read:

Page 2, following line 27:

Insert a new bill section to read:

*** Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT. AS 12.45.015, added by sec. 3 of this Act, takes effect only if sec. 5 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

*** Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT. AS 47.12.110(f), added by sec. 4 of this Act, takes effect only if sec. 6 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska."

Renumber the following bill section accordingly.

SARA NIELSEN, Staff to Representative Ralph Samuels, Alaska State Legislature, one of the prime sponsors of HB 54, said, on behalf of Representative Samuels, that the proposed amendment simply states that the court rule changes would require a two-thirds vote.

CHAIR MCGUIRE made a motion to adopt the foregoing proposed amendment as Amendment 1. There being no objection, Amendment 1 was adopted.

REPRESENTATIVE ANDERSON moved to report the proposed CS for HB 54, Version 24-LS0271\Y, Luckhaupt, 3/21/05, as amended, out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection, CSHB 54(JUD) was reported from the House Judiciary Standing Committee.

HB 184 - MUNICIPAL FIREARM ORDINANCES

2:10:07 PM

CHAIR MCGUIRE announced that the next order of business would be HOUSE BILL NO. 184, "An Act relating to firearms."

2:10:56 PM

ERICH DeLAND, Staff to Representative Mike Chenault, House Finance Committee, Alaska State Legislature, sponsor, said on behalf of Representative Chenault that HB 184 prohibits a municipality from overriding state law on the issue of firearms.

WALT MONEGAN, Chief, Anchorage Police Department (APD), Municipality of Anchorage (MOA), said he has two issues to raise regarding HB 184, one of them being that the bill could cloud existing law and policy as they pertain to weapons. For example, if a group of youths are driving down the road shooting firearms out of their vehicle, that behavior is currently covered by local municipal law - discharging a weapon within a municipality - but state law stipulates that the behavior would have to take place on a highway and that the behavior would have to endanger someone before it would be covered.

MR. MONEGAN said that similarly, there is a local Anchorage ordinance prohibiting firearms in municipal buildings, and that that ordinance might no longer be enforceable after the passage of HB 184, since no such prohibition exists in state law. A bigger issue, however, is that passage of HB 184 could affect a local government's ability to govern itself, which in turn could complicate the issue of rural law enforcement staffing. If local governments decide to do away with local laws and opt to follow only state laws, then the state will end up having to pay for expanded law enforcement into Bush areas, and there will be less money available for education and other items that promote peaceful communities. He asked the committee to consider the possible unintended consequences, the backlash, of mitigating local governments' rights.

2:14:49 PM

BRIAN JUDY, Alaska State Liaison, Institute for Legislative Action, National Rifle Association of America (NRA), urged the committee to support HB 184, adding that it will strengthen and broaden the existing "Alaska state firearm preemption statute." He offered his understanding that current [state] law only narrowly limits a local government's ability to impose two types of restrictions, one pertaining to the right to own or possess

firearms within a residence, and one pertaining to the transportation of unloaded firearms. Any other type of restriction may be imposed by local municipalities. Further, existing [state] law allows local governments to create restrictions in the aforementioned two categories if the restrictions are ratified by the voters. He said that the NRA doesn't think that this stipulation is right; the fundamental, constitutional rights of a minority should not be limited just because a majority of voters support the ratification of limitations.

MR. JUDY opined that HB 184 will provide for a standardization of all firearms laws throughout the state, based upon current and future statutes enacted by the legislature. The bill will make null and void any local ordinances that are more or less restrictive than current state law. He attempted to assure the committee that HB 184 would in no way lessen the current body of federal and state firearms laws., and mentioned that there are "at least seven and half pages of specific state laws" dealing with misconduct involving weapons. The problem with local firearm ordinances, he opined, is one of sheer variety; where no uniform state laws are in place, the result can be a complex patchwork of restrictions that change from one local jurisdiction to the next.

MR. JUDY offered his belief that it is unreasonable to expect people, whether they are residents or visitors from out of state, to know a myriad of varying laws. Where inconsistent laws are in place, law-abiding citizens with no criminal intent are placed in jeopardy of running afoul of restrictions they don't even know exist. Further, he remarked, antigun proposals and restrictive ordinances at the local level threaten honest firearm owners' rights and the fundamental American principle of equal protection under the law. Necessary criminal laws should be enacted at the state level, because a uniform application of law treats all citizens fairly and because all citizens in this state should benefit from and be protected equally by those laws which are determined to be needed.

MR. JUDY, in conclusion, said that HB 184 will allow law enforcement to concentrate on "the real criminal element," that enforcement of unwitting violations by otherwise law-abiding citizens diverts scarce law enforcement resources. To prevent the problems associated with restrictive local ordinances, 44 states have enacted "firearm preemption laws" similar to [HB 184], he remarked, adding that existing Alaska law is among the weakest. He urged the committee to support HB 184.

2:18:02 PM

FRED PIKE, Interim Manager, Bristol Bay Borough, said that notwithstanding the fact that he is a lifetime member of the NRA, he is opposed to HB 184. The Bristol Bay Borough, he explained, has successfully, for the past 20 years, kept an area near Naknek closed to the use of high-powered rifles in the hunting of big game, on the grounds that the use of such firearms near that village presents a safety hazard to both villagers and other hunters in the field.

JERRY CASTLEBERRY, Chief, Bristol Bay Borough Police Department, Bristol Bay Borough, said he opposes HB 184 for safety reasons. (indisc. - teleconference static).

CHAIR MCGUIRE asked Mr. Castleberry whether his testimony mirrors that of Mr. Pike's.

MR. CASTLEBERRY said it does.

REPRESENTATIVE GRUENBERG asked for a copy of the Bristol Bay Borough ordinance that HB 184 would invalidate.

MR. CASTLEBERRY agreed to provide the committee with a copy of that ordinance.

2:21:24 PM

JENNIFER YUHAS, Executive Director, Alaska Outdoor Council (AOC), testified in support of HB 184. She said:

On behalf of the board of directors of the Alaska Outdoor Council - representing over 54 member clubs and nearly 4,000 associate members, for a collective membership of nearly 12,000 individuals - which is also the recognized state association for the National Rifle Association, I would like to thank Representative Chenault for his sponsorship of HB 184, and offer our enthusiastic support of this legislation.

First of all, we support the testimony offered by Brian Judy of the NRA. House Bill 184 more fully recognizes the constitutionally guaranteed right of private individuals to lawfully exercise their right to keep and bear arms, and reduces current confusion

faced by law-abiding citizens as they attempt to do so. The proposed legislation before you only addresses municipal ordinances with [regard] to current Alaska firearm statutes.

While many decisions should be left to local control, it is unacceptable to allow a governing entity to unnecessarily restrict the constitutionally guaranteed right of our law-abiding citizens. In passing this legislation today, the committee will be validating the constitutionally guaranteed right to keep and bear arms of all law-abiding Alaskans, and [will be] supporting the fact that any right guaranteed by our founding document should not be infringed.

Three years ago this body passed legislation eliminating the requirement for Alaska's law-abiding citizens to obtain a special permit to exercise their right to carry concealed firearms as well as open ones. Currently, six municipalities throughout our state have not recognized this change [via] ... their own ordinances. These municipal ordinances are not well publicized, and this current discrepancy is confusing to well-intended, law-abiding Alaska citizens, and creates an unnecessary dictum for enforcement authorities.

By passing this legislation today, you will be recognizing the constitutionality of the Second Amendment [of the U.S. Constitution] and rewarding Alaska's law abiding citizens by eliminating confusion and removing an unnecessary burden from the already lengthy duties of our valuable enforcement staff. The Alaska Outdoor Council strongly advocates the passage of this legislation, and thanks you for your support.

MS. YUHAS concluded:

I'd also like to add, ... with regard to [Mr. Monegan's] comments, that state law already prohibits the discharge of a firearm or other weapon from or across a highway. And, as I've personally been involved in the debate surrounding firearm legislation over the last few years, we've consistently heard from our enforcement personnel on the front lines that while we may hear from certain chiefs in opposition to the ability of the private individual to exercise

[his/her] Second Amendment rights, ... those on the front line do not consider the removal of the imposition of a permit requirement to be burdensome on their ability to do their job.

[2:24:26 PM](#)

CARY R. GRAVES, City Attorney, City of Kenai, expressed the Kenai City Council's concern with the portion of HB 184 that would prohibit a municipality from enacting or enforcing an ordinance regulating the use of a firearm if it is inconsistent with state law. The City of Kenai feels that that portion of the bill would, in effect, repeal Kenai's local ordinance that outlines what parts of the city a person can or cannot discharge a firearm in. Currently the city code allows for the discharge of guns in the rural parts of the city, but prohibits it in the residential parts of the city. "It's a public safety issue to us," he remarked, adding that there has been an ordinance regulating the discharge of firearms on the books since 1963, and that it has been amended over the years.

MR. GRAVES said that two years ago, the city adjusted the shooting boundaries to reflect new residential areas within the city, and adopted a very clear, definitive, color-coded map outlining those boundaries. Those maps are available at City Hall and in the city code. He relayed that when he's shown those maps to citizen's asking about the shooting areas, the citizens have told him that they thought the boundary limits were very clear and very well defined. "I want to emphasize that the city is not anti gun or anti hunting - quite the contrary; however, the city council feels that the city should have the ability to regulate the discharge of firearms within its boundaries," he added.

MR. GRAVES said that the city does not currently, nor intends in the future to, regulate the sale, transfer, or transportation of firearms; nor does the city oppose the portions of the bill that speak to the sale, transfer, or transportation of firearms. In conclusion, he asked that the word "use" be removed from the bill so that a municipality can maintain its ability to control the discharge of firearms within its boundaries.

[2:26:28 PM](#)

REPRESENTATIVE GRUENBERG asked Mr. Graves to send the committee a copy of any ordinances that would be invalidated by HB 184.

MR. GRAVES agreed to do so.

[2:28:05 PM](#)

SCOTT HAMANN said he strongly supports HB 184, and relayed that he generally carries a firearm when traveling and doesn't want to have to worry about violating local ordinances and, thus, have his firearm confiscated or be hauled off to jail. He characterized the concept of making [firearm regulation] consistent throughout the state as a good idea.

REPRESENTATIVE GARA asked Mr. Hamann whether he's ever taken a firearm into a municipality and then found out that doing so was illegal.

MR. HAMANN said he had not, but is worried about possible future municipal laws.

[2:30:36 PM](#)

KATHLEEN WASSERMAN, Alaska Municipal League (AML), said that the AML believes that most local decisions should be left with local municipalities. She posited that whether one packs a firearm into a municipality is not as much of an issue as is the use to which one puts that firearm, and noted that many communities across the state have ordinances currently on the books that are intended to keep people from discharging guns within their city limits. She offered her belief that most municipalities have the right and duty to protect the people of their communities, and that ensuring that municipalities retain the right to establish ordinances for that purpose is the right thing to do.

MS. WASSERMAN indicated that to [establish a state law] because of the fear that a municipality might adopt an ordinance in the future is a dangerous route to take; rather, people should act at the local level if they feel that a local government is attempting to establish an ordinance with which they don't agree. She said that the AML thinks that local communities need to have a local say with regard to the use of firearms. Additionally, with regard to the fiscal note, she surmised that if municipalities no longer had the right to prosecute anyone for discharging a firearm, then the state would bear the burden of prosecuting people for that behavior.

[2:32:58 PM](#)

FREDERICK H. BONESS, Municipal Attorney, Department of Law, Municipality of Anchorage (MOA), relayed that the MOA has concerns with HB 184, and that he's provided the committee with copies of the municipal ordinances that he thinks would be impaired by the bill. He went on to say:

I think the law is quite clear that any municipal ordinance which is in conflict with state law is invalid and would not be affirmed by the courts. That's already the law - no particular legislative action is required to implement that - that is the law as a matter of ... supreme court decisions. This [bill] uses the language "inconsistent", which, in light of the existing law with respect to conflicts, will undoubtedly have to be read by the courts to mean something broader. And that has serious implications because the amount of state law which addresses municipal-specific problems or concerns from a safety point of view is really nonexistent.

So, for example, there's nothing in state law that addresses the question of whether you can bring a gun into a municipal building, whereas there is, in state law, a specific prohibition against bringing a gun into a state courthouse. ... Were we to try [to] ... implement policies or ordinances which prohibit people from bringing guns into municipal buildings, the court is very likely to conclude that because the state has not prohibited bringing guns into municipal buildings ... and has addressed it with respect to state courthouses, our ordinance would be inconsistent. That is really an untenable result from the point of view of public safety and the safety of our employees, and for that reason we would very much be concerned and not in favor of language that simply says "inconsistent".

One solution from the point of view of a municipality like Anchorage, which has many urban-related gun issues that aren't true for other parts of the state, [would be] ... to limit the application of [the bill] ... to not make this law apply to home rule municipalities. That would deal with the larger urban areas and allow them to deal with urban-related matters. As [Mr. Monegan] said, this would ... inhibit our ability, significantly, to prevent discharge. One of the witnesses testified that it's

already against state law to shoot from a highway or across the highway, but a highway under state law has a specific definition, and many of the non-major roads in the municipality would not qualify as highways and [so] would not be governed by state law. And, again, because state law doesn't address the issue, the language of "inconsistency" would result in our inability to address the issue.

CHAIR MCGUIRE, characterizing Mr. Boness's points as valid, encouraged Mr. Boness to also consider possible changes to current state firearm laws that would further the municipality's goals with regard to public safety, and predicted that HB 184 will have the support it needs to pass the legislature. She said she is not sure how a judge would interpret the word "inconsistent".

[2:38:47 PM](#)

MR. BONESS reiterated, however, that changing the language to say, "in conflict with state law", would address many of the concerns raised. Because of the way courts interpret statute, he predicted, use of the term "inconsistent with" could result in the court saying that the legislature already knew that things that were in conflict couldn't be part of the municipal code and so the word "inconsistent" must mean something other than "in conflict with." He mentioned that by taking away local control, the legislature is basically suggesting that it should pass what amounts to ordinances, as a matter of state law, for each local jurisdiction.

CHAIR MCGUIRE surmised that the sponsor's belief is that the right to bear arms is a constitutional right and therefore it is the state's responsibility to generate policy with respect to any restrictions that would govern that right.

[2:41:00 PM](#)

REPRESENTATIVE GRUENBERG asked whether the term "inconsistent" would be susceptible to sufficient definition to avoid a constitutional challenge of void for vagueness.

MR. BONESS offered his belief that in order to maintain ordinances necessary for regulatory purposes, the court might find that "inconsistent" is an acceptable term.

REPRESENTATIVE GRUENBERG offered his recollection that Congress attempted to legislate "at this level" when it prohibited people from bringing guns on or near school yards, but it was held, in Lopez v. United States, that that violated state rights - local legislative authority. He asked whether the court might also find that [the bill] violates the constitutional right of a home rule municipality to enact its own legislation.

MR. BONESS acknowledged that that could be the case, but pointed out that the legislature has the authority to impose particular state laws on home rule municipalities. He offered his belief that home rule municipalities don't have the same constitutional rights that states do vis-a-vis the federal government.

REPRESENTATIVE GRUENBERG, predicting that the bill will initially be litigated in the context of somebody being charged with violating a local ordinance, asked whether the focus of the trial will become whether the defendant should be released on a technicality, that of whether the ordinance is "inconsistent" with state law, rather than whether the guilty should be punished.

MR. BONESS opined that that would be the case.

[2:43:23 PM](#)

REPRESENTATIVE GARA asked whether state law lists places to which firearms can be brought but to which local law prohibits the bringing of firearms.

MR. MONEGAN mentioned licensed premises, and relayed that his officers are trained to make the assumption that every person, every home, and every car has a gun, and that those guns are always loaded.

REPRESENTATIVE GARA asked whether the MOA currently has something different than state law with regard to bringing firearms into licensed premises, or whether the thought is that the MOA might in the future enact something to address such situations.

MR. MONEGAN indicated that a problem arises if someone starts drinking in a licensed premises while in possession of a firearm; such [compromises] the safety of everyone in the establishment, and likened that behavior to drinking and driving.

[2:47:48 PM](#)

CHAIR MCGUIRE, remarking on a shortness of time, closed public testimony on HB 184.

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 1, to delete "inconsistent" from page 1, line 5, and insert "in conflict".

REPRESENTATIVE ANDERSON objected for the purpose of discussion.

MR. DeLAND indicated that Amendment 1 would be acceptable to the sponsor.

REPRESENTATIVE GRUENBERG mentioned that adoption of Amendment 1 would eliminate the need for other amendments.

REPRESENTATIVE COGHILL spoke in favor of Amendment 1. He added, "I want our constitution to mean something when you're in a community, but I also want communities to be able to take care of whatever unique things that they really have been empowered to do under our [Alaska State] Constitution, so I think that would be consistent ..."

REPRESENTATIVE ANDERSON interjected to remove his objection and indicate that he supports Amendment 1.

CHAIR MCGUIRE characterized the adoption of Amendment 1 as a compromise position.

[2:50:27 PM](#)

CHAIR MCGUIRE asked whether there were any further objection to Amendment 1. There being none, Amendment 1 was adopted.

REPRESENTATIVE GRUENBERG, characterizing the title as awfully broad, asked that it be narrowed.

MR. DeLAND offered his understanding that the title has been written as it is for a reason.

CHAIR MCGUIRE relayed that the sponsor has asked her to oppose any amendments that would change the title.

The committee took an at-ease from 2:50 p.m. to 2:51 p.m.

[2:51:41 PM](#)

REPRESENTATIVE GRUENBERG indicated that he would not be offering an amendment to change the title.

REPRESENTATIVE ANDERSON moved to report HB 184, as amended, out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection, CSHB 184(JUD) was reported from the House Judiciary Standing Committee.

HB 12 - TVS AND MONITORS IN MOTOR VEHICLES

[2:52:15 PM](#)

CHAIR McGUIRE announced that the next order of business would be HOUSE BILL NO. 12, "An Act relating to televisions and monitors in motor vehicles." [Before the committee was CSHB 12(STA).]

[2:52:47 PM](#)

DAVID WEIZER said he supports HB 12 on behalf of [himself,] his brother Martin Weizer, sister-in-law Bethany Weizer, and his recently deceased parents, Bob and Donna Weizer. He relayed that on October 12, 2002, his parents were killed in a horrible vehicle accident when they were hit head on traveling southbound on the Seward highway, and that there was nothing left of their vehicle after the ensuing fire. Charges of second degree murder were brought against the driver of the other vehicle when the Alaska State Troopers determined that he had possibly been watching a DVD movie while driving. The driver, however, was acquitted of all charges, and the trial was of interest nationwide. He characterized the legislature as working on the vanguard of legislation pertaining to a nonpartisan issue - that of "our collective safety on the roads of this nation with drivers confronted by increasing and, in many ways, preposterous distractions."

MR. WEIZER said the questions become: what societal benefit is provided by full-motion video in the front of a vehicle for entertainment purposes; what sane individual makes the argument that he/she should have the right to watch a video while driving; and what corporate interest would argue against severe penalties for violating the inherent safety features they themselves design into their own products. In answer to those questions, he said, "We would argue, 'None; we all have to drive the roads of our nation together.'" He noted that the driver of the other vehicle began his defense in the trial by admitting

that he installed a DVD player in the front of his truck in such a way that it would play while the truck was moving, but argued that there was nothing wrong or illegal with having done so, and that he did it because " it was just easier." Mr. Weizer noted that in addition to the movie "Road Trip" being found in the driver's DVD player, he also had "a gaming station fully wired into the floor" of his truck.

MR. WEIZER relayed that the jury found reasonable doubt that the driver was watching the DVD at the time of the accident and that such was the state's burden to prove in a murder trial. He opined that the legislators' burden is to reasonably believe that the driver was watching a DVD while driving and that others do as well every day. In reaching such a conclusion, he remarked, the legislature has the power to prevent the type of upheaval that his family suffered in the wake of the driver's acquittal of all charges. "You have the power to set an example for our nation," he said, adding, "My parents were on their way to celebrate their upcoming retirement, but they never made it; they were 26-year residents of Alaska, grandparents, law-abiding citizens, [and] over 450 people attended their funeral."

MR. WEIZER concluded by saying that it is common sense that one should not drive while watching a video, but added that when that which is common sense not to do becomes common place - marketed by manufacturers and idealized on certain TV programs - it falls to the nation's legislators to influence and, when necessary, severely punish people's actions, especially when it results in injury, serious injury, or death. He asked the committee to support HB 12, said that [passage] of the bill will lead the way for legislators across the nation to enact similar legislation, and predicted that members will find support among their constituents for the bill.

CHAIR McGUIRE, one of the prime sponsors of the bill, thanked Mr. Weizer for his testimony, relayed that she knew Mr. Weizer's family, and offered that many members of the legislature [did as well and] are sorry for his loss.

REPRESENTATIVE GRUENBERG, one of the prime sponsors of the bill, said he appreciated Mr. Weizer's testimony, and thanked the bill's other prime sponsors and co sponsors.

[2:59:51 PM](#)

DEBORAH CHORMANSKI HULL-JILLY, Acting Chief, Community Health & Emergency Medical Services, Division of Public Health,

Department of Health and Social Services (DHSS), first relayed that the DHSS supports HB 12. She characterized the intent of the bill as one of striving to prevent motor vehicle accidents and their related injuries and deaths of vehicle occupants and pedestrians by giving law enforcement agencies the authority to cite drivers who are viewing entertainment devices. She expressed appreciation of Mr. Weizer's testimony, and then offered statistics. For example, research has shown that 25 to 56 percent of all vehicle crashes in the United States involve factors wherein the driver was distracted or inattentive in some fashion.

MS. HULL-JILLY relayed that in 2002, a Gallup Poll survey regarding distracted and drowsy driving attitudes and behaviors found that 22 percent of the causes that led to a crash involved dealing with some form of technology within the vehicle, including cell phones, beepers, in-car navigation systems, Global Positioning Systems (GPSs), Internet and e-mail, radio, and other technology. Additionally, the National Center for Statistics and Analysis' (NCSA) Fatality Analysis Reporting System (FARS) listed driver inattention or inattentiveness as the primary factor in nearly 7 percent of fatal crashes in Alaska in 2003.

MS. HULL-JILLY noted that the development of electronic devices for use in motor vehicles is a rapidly growing field, and the majority of manufacturers of in-vehicle entertainment systems have reviewed issues pertaining to driver distractedness and have included features to minimize distractions, such as locating the screens out of the driver's view, providing headphone jacks for the [other] occupants, and developing driver interlock systems that prohibit viewing while the vehicle is in motion. The need for the development of technology minimizing driver distractions, specifically those caused by in-vehicle entertainment systems, has been acknowledged by auto manufacturers. Other technological steps taken with the goal of minimizing driver distractions include minimizing hands-on/eyes-off-the-road time for adjusting features, simplifying or reducing the number of steps required to adjust the technology, and developing a common interface system for multiple devices.

MS. HULL-JILLY remarked, however, that the research and development of such technology is lagging behind consumer demand. She noted that 38 states have some form of legislation banning front-seat entertainment systems, and that 12 states have similar laws pertaining to televisions and monitors in motor vehicles but exempt GPSs and driving-direction systems.

Consumers can now purchase and install in-vehicle entertainment systems in vehicles not already equipped with such, and in so installing can bypass the equipment's safety devices and manufacturer recommendations. Additionally, it is possible to modify moving map displays so that movies and DVDs can be viewed by the driver; directions for such modifications are available on the Internet, as is information regarding how to disengage/circumvent an in-vehicle entertainment system's built-in safety features. In conclusion she noted that contrary to manufacturers' recommendations to not engage in certain activity while driving, it is still possible to use a portable computer for various applications such as listening to music and viewing GPS, "map" software, or movies.

[HB 12 was held over.]

PRESENTATION ON SEX TRAFFICKING BY LESLIE R. WOLFE, PH.D.,
PRESIDENT, CENTER FOR WOMEN POLICY STUDIES

[3:05:42 PM](#)

CHAIR McGUIRE announced that the next order of business would be the presentation on sex trafficking by Leslie R. Wolfe, Ph.D., President, Center For Women Policy Studies.

[3:06:00 PM](#)

REPRESENTATIVE BETH KERTTULA, Alaska State Legislature, introduced Dr. Wolfe, said Dr. Wolfe is a leader in [the subject of] international human rights, specifically as they relate to the trafficking of women, and surmised that Dr. Wolfe would be able to address the issues and questions raised during committee discussion regarding legislation pertaining to the problem of human trafficking.

[3:07:20 PM](#)

LESLIE R. WOLFE, Ph.D., President, Center For Women Policy Studies, relayed that as a domestic policy issue, the Center For Women Policy Studies has been working with the national network of state legislators on the issue of trafficking women and girls into the U.S. since 1988/1989, when Senator Paul Wellstone first started crafting what became the Trafficking Victims Protection Act of 2000. She went on to say that the Center For Women Policy Studies is currently working state by state to promote the confrontation, by state leadership, of human trafficking, and offer its resources to states crafting legislation in

response to this international crisis. Unfortunately, most press coverage and policy discussion addresses human trafficking as a problem that occurs someplace else, in other countries, but the United States, as a big, rich country, is a major destination country for traffickers, and thus the U.S. is implicated in what the center defines as a major violation of women and girls' human rights.

DR. WOLFE explained that the trafficking of women and girls around the world and into the U.S. is a huge criminal enterprise involving both large and small criminal groups; such criminal enterprise results in enormous profit for the traffickers and huge oppressions for the women and girls trafficked. She characterized the numbers given by the U.S. Department of State regarding human trafficking as totally inaccurate; nonetheless, even those numbers indicate that approximately 15,000 women and girls are trafficked into the U.S. every year, though the Center For Women Policy Studies believes that the number might be closer to 100,000. The women and girls who are being trafficked into the U.S. are from grievously impoverished communities all over the world, where they live in extreme poverty, poverty far surpassing that found anywhere in the U.S. And although there is a tendency to blame the parents and other family members of those that are trafficked for letting such a thing occur, one must realize that such women and girls and their families are not faced with easy choices and are encouraged by the lies told to them by those trafficking them to believe that their lives will improve in countries like the U.S.

DR. WOLFE raised the issue of trafficking mail order brides, who are not covered under the Trafficking Victims Protection Act of 2000, characterized it as "bride trafficking," and said it is not the romanticized version of acquiring a mail order bride that comes to mind for many people when they hear the term. Instead it is really a commercial enterprise, and many of these women end up as battered wives and murdered wives, or end up trapped in domestic servitude in severe isolation in rural communities. The Center For Women Policy Studies defines the trafficking of women and girls as the quintessential violation of women's autonomy and human rights, and also as the ultimate reflection of woman's status in many parts of the world as the property of men.

DR. WOLFE said it is distressing to hear the analogy that the trafficking of human beings is like the trafficking of illegal commodities such as guns or drugs. On the contrary, human beings are not a commodity, so to define them as such or to liken them

to such is false and potentially dangerous, allowing one to distance oneself from such women and girls and negating the efforts being made to understand the problem of human trafficking in a women's human rights context rather than from a law enforcement perspective.

DR. WOLFE noted that people also use the analogy of illegal immigration, and relayed, for example, that Arizona's recently passed legislation regarding trafficking contained very "anti-immigrant smuggling" provisions. However, human trafficking is not the same thing as immigration, she warned, because those who immigrate come by choice, and those who are trafficked are victims of force, coercion, and deception, all of which are hallmarks of a trafficked woman or girl's experience. Traffickers are not strangers to a community, and so the women and girls and their families are less likely to run away or refuse a trafficker's offer, she pointed out.

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DR. WOLFE added that traffickers often offer the women and girls fake employment contracts or fake visas, or will allegedly "marry" the victim. Traffickers will tell the women and girls that they will have a good job, that they will be a waitress or a nanny or a childcare or eldercare worker, or - as occurred in the case in Alaska - that they will be an ethnic dancer, or that they will get to go to school. All of these promises are lies, and so when they come into the country, they are forced into sexual exploitation and labor servitude. She relayed that most of the women trafficked into the U.S. are trapped in exploitive labor situations; such trafficking is very serious and very hidden, and she surmised that 94.8 percent of the women and girls trafficked into the U.S. for exploitative labor are also sexually abused, raped, sexually assaulted, and sexually exploited.

DR. WOLFE said that although such abusive situations can result for American women and girls who are trafficked between states or communities, when international trafficking of women and girls from non-English speaking countries occurs, it has far different qualities for them. They arrive feeling optimistic that they will get a good job in this new country and be able to support their families back home, but then find themselves imprisoned in a brothel or a sweatshop or a trailer in an agricultural field. These women and girls have no recourse; they are completely frightened, they don't even know where they are in this huge country, they don't speak or read the language,

they don't know how to contact anyone for help, they don't know that there are things like battered women shelters or rape crises centers or refugee and immigrant women shelters, and they fear the local police because back in their home countries, the police are in league with the traffickers. Such women and girls are deeply frightened, they have been threatened and brutalized and told that their families will be killed if they try to escape or tell anyone what has happened; additionally, their passports have probably been taken away and so they have the fear that they will be deported, since no one has told them that there is such a thing as the Trafficking Victims Protection Act of 2000, which allows victims who cooperate with law enforcement an opportunity to stay in the U.S.

DR. WOLFE relayed that because many times, the audiences she has spoken to say that they are horrified that such things occur but argue that such things can't actually happen "here," she is obliged to tell them about several federal cases that reflect the reality of trafficking women and girls into the U.S. from other countries. One such case she relays to such audiences involved teenage Mexican girls who were lured to the U.S. with promises of legitimate jobs, but who were then forced into a brothel in Plainfield, New Jersey. Another such case involved young women from Uzbekistan who were trafficked into the U.S. and forced into strip clubs in El Paso, Texas. Still another such case involved a young woman from Ghana who was smuggled into Maryland by a well-to-do and very well-connected married couple from Ghana and was forced to work for them in the U.S. for no or minimal pay as a domestic servant and nanny; her employers hid her passport and threatened her with deportation and imprisonment. The wife's mother is a member of parliament in Ghana and the United States is trying to extradite her.

DR. WOLFE said that the latter case is a very typical trafficking case, and offered her belief that such probably happens [frequently] in places where there are quite a few diplomats. She went on to relay that there are also women - for example, from Honduras, Guatemala, and El Salvador - who pay a substantial sum of money to be brought to the U.S., and had these women just paid their money and been brought into the U.S. and been allowed to go there own way, that would have been an issue of illegal immigration. Instead, however, these women were confined in so-called safe houses where they were forced to cook and do housework without pay and were repeatedly raped by the traffickers; in other words, they were held in bondage. She said she also tells audiences about the young Russian women who were brought to Alaska a few years ago under the pretense of

dancing in ethnic festivals but were then forced to work in strip clubs.

DR. WOLFE characterized these few cases as merely the tip of the iceberg, and indicated that the Center For Women Policy Studies believes that state law on this issue has an important role to play, that it is not enough to just have a federal law in place, and so has been working with elected state officials to get state law enacted. She added, "We take the same position we took in the era of civil rights laws, that you must pass a federal civil rights law - it's the first thing - but every state should pass it's own state law; some of them are better than the federal law, some of them aren't, but the states have the right and the responsibility to do that." She said that the Center For Women Policy Studies also believes that it is important to create federal-state partnerships in fighting trafficking, and noted that even the current assistant attorney general for civil rights in the U.S. Department of Justice (DOJ) has agreed that there must be federal-state partnerships; she posited that this means that the DOJ is supporting the notion of having state laws, as well, on this issue.

DR. WOLFE opined that states must make individual, domestic responses to this international crises, and reiterated that the Center For Women Policy Studies has undertaken the job of helping states develop legal and policy framework that will enable states to prosecute and punish traffickers while also meeting the needs for protection and services of the trafficked women/men and girls/boys. She characterized existing state laws as inadequate to the task, requiring that new provisions be added. In working with state legislatures around the country, the Center For Women Policy Studies has proposed three types of state legislative initiatives as well as very aggressive partnering with federal agencies. The first recommendation is for states to make trafficking of women and girls into the state from other countries a state felony offense with appropriately harsh punishments for traffickers. She characterized such as a standard criminalization statute with one exception, that being that it should also include protections for the women and girls who've been trafficked into the community.

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DR. WOLFE said that such a state statute should also include provisions that allow victims to sue for damages and the cost of bringing the suit. The Center For Women Policy Studies also prefers that such state statutes provide for mandatory

restitution to the victims, particularly absent the right to sue. She noted that many are under the impression that anti-prostitution laws are sufficient; however, such laws provide for the arrest of the victims, not the perpetrators. In contrast, the focus of the type of legislation being promoted by the Center For Women Policy Studies is one of arresting only perpetrators - the traffickers - though such individuals will lie and assert that the women consented to their treatment. Such an assertion, she warned, must never be allowed to be used as a defense, since legally binding consent of this kind can't exist in the context of the deception and fraud that are the hallmark of traffickers' promises and, thus, of the consent.

DR. WOLFE said that the Center For Women Policy Studies also recommends that state legislatures create task forces or study commissions with mandated memberships of all appropriate officials, non-profit organizations, and service providers, to really study the nature and extent of trafficking within the state. She mentioned that the best bill in this regard that she has seen is a 2004 Connecticut statute that created an interagency task force on trafficking in persons, and characterized this legislation as the ideal model. California went a step further and created a select committee on human trafficking. Such task forces can answer the question, "Is international trafficking a problem in my state." She opined that any state with an airport or an interstate highway can be a target state for traffickers, adding that Missouri understood this fact and passed a trafficking criminalization statute just last year.

DR. WOLFE went on to say that the Center For Women Policy Studies also recommends creating legislation that would begin regulating international matchmaking organizations, as well as legislation addressing the issue of sex tourism. She noted that Hawaii has gotten started on the latter issue by passing a bill that simply regulates travel agencies, and opined that any travel agency that engages in planning and organizing sex tours in other countries needs to be put out of business or at least punished. She said that another thing that can be done is to encourage Alaska's congressional delegation to support funding of local battered women shelters, local rape crises centers, and other such local organizations via appropriations made under the Trafficking Victims Protection Act of 2000 and the Violence Against Women Act; such funding will enable local organizations to serve the needs of trafficking victims.

[3:36:24 PM](#)

REPRESENTATIVE GARA thanked Dr. Wolfe for her work on Representative Kerttula's bill.

DR. WOLFE relayed that rather than bringing around model legislation, the Center For Women Policy Studies prefers to let individual state legislatures create their own state laws.

REPRESENTATIVE GARA asked which strip club the aforementioned women who were trafficked into Alaska ended up being forced to work at.

REPRESENTATIVE KERTTULA relayed that it was at the Crazy Horse [Saloon].

DR. WOLFE noted that this issue has recently been raised in Denver because of a case involving massage parlors.

CHAIR McGUIRE mentioned that she and Representative Gara had sponsored legislation last year that would have regulated strip clubs.

DR. WOLFE opined that the owners of such clubs probably know that their workers are not there of their own free will and are just not being honest about that knowledge.

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DR. WOLFE, in response to a question, indicated that to her knowledge only Hawaii and Washington have dealt legislatively with the issue of regulating international matchmaking organizations. Under such legislation, which she characterized as mild, an organization must inform a "recruit" that she can request a background check on any man, and the organization is restricted from allowing the participants to have any contact with each other until the woman receives that information. The entire burden is on the women, however, and Dr. Wolf said that this makes no sense to her, that although several groups are simply interested in regulating such organizations, she herself would prefer to see them stopped altogether.

DR. WOLFE offered an example of a young eastern European woman who came to the U.S. as a mail order bride but who was murdered by her husband, and this was discovered when the man applied for a second eastern European bride. Dr. Wolfe relayed that she met the parents of the murdered woman in Seattle at a 2001 conference involving legislators and the Center For Women Policy

Studies; the parents had come to Seattle just to be near where their child was buried. She said that although the Washington legislation is a good first step, it does not do nearly enough with regard to international matchmaking organizations. Such organizations now have a [powerful] industry lobby, and the Washington state legislators who sponsored the legislation shared with Dr. Wolfe the very nasty, scary e-mails they received from supporters of the international matchmaking organizations.

[3:43:38 PM](#)

REPRESENTATIVE GRUENBERG said he is not very satisfied with what he is hearing about [international matchmaking organizations], and asked Dr. Wolfe to discuss the issue further with him at a later time.

The committee took an at-ease from 3:44 p.m. to 3:55.

HB 148 - TRAFFICKING OF PERSONS

[3:45:55 PM](#)

CHAIR MCGUIRE announced that the next order of business would be HOUSE BILL NO. 148, "An Act relating to trafficking of persons."

REPRESENTATIVE BETH KERTTULA, Alaska State Legislature, sponsor of HB 148, said that members now have in their packets a new suggested draft from the Department of Law (DOL) which adds that the conduct would be a crime if it involves deception, which is defined in statute. The suggested draft keeps the language regarding bringing a person into the state, since such is quantifiably different than transporting a person within the state. She offered her belief that most people who are being brought into the state are from foreign countries. The DOL's suggested draft reads:

"An Act relating to human trafficking; and providing for an effective date."

*** 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.** This Act takes effect July 1, 2005.

CHAIR MCGUIRE said that although the suggested draft is cleaner, she liked the original bill's narrow definition of labor and the fact that it included involuntary servitude.

REPRESENTATIVE KERTTULA offered her belief that the current definition of labor already includes involuntary servitude, and therefore she didn't feel it was necessary to specify it.

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ANNE CARPENETI, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law (DOL), concurred.

CHAIR MCGUIRE asked about the language that is currently in proposed AS 11.41.350(b)(1)(A) of HB 148 that reads:

any scheme, plan, or pattern of behavior intended to cause a person to believe that, if the person does not enter into or continue the servitude, such person or another person will suffer serious physical injury or physical restraint;

REPRESENTATIVE KERTTULA posited that the concept embodied in that language is covered under the definition of "deception".

REPRESENTATIVE GARA referred to proposed AS 11.41.315 - regarding the crime of human trafficking in the second degree - in the DOL's suggested draft, and asked whether it should be altered such that it would be a crime only if one knew he/she were engaging in human trafficking; in other words, the language currently has a standard of reckless disregard, but should it instead have a standard of knowing disregard.

REPRESENTATIVE KERTTULA acknowledged that point.

MS. CARPENETI explained that when the legislature requires a culpable mental state of reckless disregard, "knowing" and "intentional" are also included. Thus it is not a defense for one to say he/she did something intentionally rather than recklessly.

REPRESENTATIVE GARA said he is concerned that someone could be charged with this crime even if he/she did not know he/she was obtaining a benefit from human trafficking.

MS. CARPENETI mentioned that there are different levels of culpable mental states.

CHAIR MCGUIRE said her concern is that it would be difficult to have to prove that people were intentionally obtaining a benefit, and referred to strip club owners as an example of those who could claim that they didn't know the women were not there of their own accord.

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REPRESENTATIVE GARA opined that his suggestion is worth some thought, however.

REPRESENTATIVE KERTTULA concurred with Chair McGuire, adding that in order to be prosecuted, one must have known the risk and consciously disregarded it. She opined that someone who has hired a woman from another country has a duty to ask the woman what her situation is.

CHAIR MCGUIRE concurred, reiterating her belief that it would be too hard to prove a crime has been committed if the standard is raised above reckless disregard.

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CHAIR MCGUIRE made a motion to adopt Conceptual Amendment 1, to replace the text in HB 148 with the language in the DOL's suggested draft [text provided previously]. There being no objection, Conceptual Amendment 1 was adopted.

[3:55:59 PM](#)

REPRESENTATIVE DAHLSTROM moved to report HB 148, as amended, out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection, CSHB 148(JUD) was reported from the House Judiciary Standing Committee.

HB 101 - SEX TRAFFICKING AND TOURISM

[3:56:20 PM](#)

CHAIR MCGUIRE announced that the final order of business would be HOUSE BILL NO. 101, "An Act relating to sex trafficking and tourism."

REPRESENTATIVE DAHLSTROM moved to adopt the proposed committee substitute (CS) for HB 101, Version 24-LS0412\G, Luckhaupt, 3/23/05, as the work draft. There being no objection, Version G was before the committee.

MARK GNADT, Staff to Representative Eric Croft, Alaska State Legislature, sponsor, noted on behalf of Representative Croft that at the bill's last hearing, it became obvious that HB 101 has two distinct parts, one of which is somewhat duplicated in other legislation and has therefore been removed from Version G. Version G now contains only the other part of the original bill and is modeled on Hawaii statute. He provided members with both a copy of that statute and an article mentioning a case wherein a man who was engaged in offering tours for the purpose of having sex in Thailand turned in his travel agency license. The Hawaii legislature enacted its statute after the situation about the aforementioned man was brought to its attention. He added, "So there is some precedent for the need of it in Hawaii; there also [is], with the federal prosecution in 2001, ... some idea that there might be some need for it here as well."

MR. GNADT offered that Version G now targets the demand for sex trafficking, which is present in other countries as well as in the United States. Version G will help Alaska do its part in fighting this international problem: if a company promotes prostitution - or a commercial sex act - or promotes,

advertises, or facilitates travel for either of those purposes, the company can be prosecuted. Additionally, he remarked, the inclusion in Version G of a definition for "commercial sex act" is intended to encompass more than those acts that are normally thought of as prostitution but which are equally horrible.

CHAIR McGUIRE noted that Chip Wagoner was in the audience, and offered her belief that he was "giving his support to HB 101."

CHAIR McGUIRE after ascertaining that no one else wished to testify, closed public testimony on HB 101.

[3:59:42 PM](#)

REPRESENTATIVE GRUENBERG asked why Version G proposes to make promoting sex tourism a class A felony; in comparison, the Hawaii statute makes that activity a class B felony.

MR. GNADT said that the original bill made the crime a class A felony and so Version G merely maintains that level of penalty.

REPRESENTATIVE GRUENBERG said he has a problem with making the crime a class A felony. In response to a question, he indicated that he would be willing to offer an amendment that would make the crime a class C felony.

REPRESENTATIVE GARA referred to the language on page 2, lines 4-5, which says that a person commits the crime of promoting sex tourism if he/she provides or advertises access to or facilitates the availability of commercial sexual acts. He pondered whether it should only be a crime if one intentionally facilitates the availability of commercial sexual acts, not when one unknowingly does it.

MR. GNADT said that is a good point, and surmised that the sponsor would be amenable to language that would "tighten" that provision.

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 1, to page 2, line 8, to replace "class A felony" with "class C felony".

REPRESENTATIVE DAHLSTROM objected for the purpose of discussion. She said she isn't opposed to having the crime be a class A felony.

REPRESENTATIVE GRUENBERG indicated that although he feels it would be appropriate to make the crime outlined in the bill a felony, he questions whether it should be a class A felony, because the penalties are so severe.

[Following was some discussion regarding what the penalties currently are for different classes of felonies.]

REPRESENTATIVE GARA relayed that Representative Kerttula has recommended making the crime a class A felony if the victim is under the age of 18, and a class C felony if the victim is [18 years of age or older].

REPRESENTATIVE GRUENBERG said he would accept that as a friendly amendment to Amendment 1.

REPRESENTATIVE DAHLSTROM said she could accept such a change.

[4:04:37 PM](#)

REPRESENTATIVE GRUENBERG, upon further reflection, however, pointed out that one wouldn't necessarily be able to tell how old an intended victim is at the time a person is being prosecuted for the crime of promoting sex tourism. He asked whether it will be a separate count for each person [in the tour] or for each tour. In other words, would a tour for which ten people have signed up result in ten crimes or one crime? He also asked whether the sentences would be consecutive or concurrent.

REPRESENTATIVE GARA offered his belief that it would be a separate crime for each victim.

REPRESENTATIVE GRUENBERG again pointed out, however, that the crime involves the organization of a tour and so there may not actually be any victims if a tour operator is charged with the crime before the tour departs.

REPRESENTATIVE GARA surmised, then, that it would be a separate crime for each client.

REPRESENTATIVE GRUENBERG noted that if that is the case, then charging a person with a class A felony for each client booking the tour could result in that person being in prison [for a very long time] particularly if he/she is also subject to consecutive sentencing.

CHAIR McGUIRE offered her understanding of what portions of the new sentencing structure entail.

REPRESENTATIVE GRUENBERG, in response to a question, said that he hopes that Representative Dahlstrom would remove her [suggested amendment and] objection to Amendment 1.

REPRESENTATIVE GARA said Representative Gruenberg makes an interesting point, particularly given the state's new sentencing scheme.

[4:08:10 PM](#)

REPRESENTATIVE GRUENBERG concurred.

CHAIR McGUIRE read portions of the new sentencing scheme.

[4:09:36 PM](#)

REPRESENTATIVE GRUENBERG again asked whether it would be a separate crime for each client booking the tour or whether the tour itself constitutes a crime. He indicated a preference for having it be the latter but then applying an aggravating sentencing factor for each client that books the tour.

REPRESENTATIVE DAHLSTROM removed her objection to Amendment 1.

CHAIR McGUIRE asked whether there were any further objections to Amendment 1. There being none, Amendment 1 was adopted.

MR. GNADT, in response to Representative Gruenberg's most recent question and comment, indicated that the acts of selling and facilitating could warrant sentencing aggravators for each client, but that the act of advertising would just be considered one crime.

REPRESENTATIVE GRUENBERG asked whether the latter would be true if one advertises in more than one medium for each tour.

MR. GNADT indicated that the intent was to consider the act of advertising a tour as one crime.

CHAIR McGUIRE suggested to Representative Gruenberg that he discuss that issue further with the sponsor before the bill is heard on the House floor.

[4:13:03 PM](#)

REPRESENTATIVE GARA made a motion to adopt Amendment 2, to page 2, line 4, to add "intentionally" before the word "facilitates". There being no objection, Amendment 2 was adopted.

REPRESENTATIVE DAHLSTROM moved to report the proposed CS for HB 101, Version 24-LS0412\G, Luckhaupt, 3/23/05, as amended, out of committee with individual recommendations and the accompanying [zero] fiscal notes. There being no objection, CSHB 101(JUD) was reported from the House Judiciary Standing Committee.

ADJOURNMENT

[4:13:46 PM](#)

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 4:13 p.m.