

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

February 17, 2006

1:11 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Peggy Wilson

COMMITTEE CALENDAR

HOUSE BILL NO. 400

"An Act relating to disasters and confiscation of firearms."

- MOVED CSHB 400(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 384

"An Act relating to fines and offenses; amending Rule 8(b), Alaska District Court Rules of Criminal Procedure; and providing for an effective date."

- MOVED CSHB 384(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 353

"An Act relating to sentences for sexual offenses."

- MOVED CSHB 353(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 400

SHORT TITLE: CONFISCATION OF FIREARMS

SPONSOR(S): REPRESENTATIVE(S) COGHILL

01/27/06	(H)	READ THE FIRST TIME - REFERRALS
01/27/06	(H)	JUD, FIN
02/13/06	(H)	JUD AT 1:00 PM CAPITOL 120
02/13/06	(H)	Heard & Held

02/13/06 (H) MINUTE(JUD)
02/17/06 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 384

SHORT TITLE: FINES AND OFFENSES

SPONSOR(S): REPRESENTATIVE(S) ANDERSON

01/20/06 (H) READ THE FIRST TIME - REFERRALS
01/20/06 (H) JUD, FIN
02/13/06 (H) JUD AT 1:00 PM CAPITOL 120
02/13/06 (H) Heard & Held
02/13/06 (H) MINUTE(JUD)
02/17/06 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 353

SHORT TITLE: SENTENCING FOR SEXUAL OFFENSES

SPONSOR(S): REPRESENTATIVE(S) NEUMAN, LYNN

01/09/06 (H) PREFILE RELEASED 1/6/06
01/09/06 (H) READ THE FIRST TIME - REFERRALS
01/09/06 (H) JUD, FIN
02/03/06 (H) JUD AT 1:00 PM CAPITOL 120
02/03/06 (H) <Bill Hearing Canceled>
02/08/06 (H) JUD AT 1:00 PM CAPITOL 120
02/08/06 (H) Heard & Held
02/08/06 (H) MINUTE(JUD)
02/13/06 (H) JUD AT 1:00 PM CAPITOL 120
02/13/06 (H) Heard & Held
02/13/06 (H) MINUTE(JUD)
02/15/06 (H) JUD AT 1:00 PM CAPITOL 120
02/15/06 (H) Heard & Held
02/15/06 (H) MINUTE(JUD)
02/17/06 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

KAREN LIDSTER, Staff
to Representative John Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 400, presented information on behalf of the sponsor, Representative Coghill.

DEAN J. GUANELI, Chief Assistant Attorney General
Legal Services Section-Juneau
Criminal Division
Department of Law (DOL)

Juneau, Alaska

POSITION STATEMENT: During discussion of HB 400, provided information and responded to questions; responded to a question during discussion of HB 384.

HEATH HILYARD, Staff
to Representative Tom Anderson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 384, provided comments and responded to questions on behalf of the sponsor, Representative Anderson.

SARAH A. GILBERTSON, Legislative Liaison
Office of the Commissioner
Alaska Department of Fish & Game (ADF&G)
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 384, provided comments regarding Sections 7, 9-11, and 13-19.

GERALD LUCKHAUPT, Attorney
Legislative Legal Counsel
Legislative Legal and Research Services
Legislative Affairs Agency (LAA)
Juneau, Alaska

POSITION STATEMENT: Spoke as the drafter of HB 384, responding to questions.

ALLEN STOREY, Captain
Division of Alaska State Troopers
Department of Public Safety (DPS)
Anchorage, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 384 and responded to questions.

JOSHUA FINK, Public Advocate
Anchorage Office
Office of Public Advocacy (OPA)
Department of Administration (DOA)
Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 353, Version F, and proposed amendments, provided comments and responded to a question.

QUINLAN G. STEINER, Director
Central Office
Public Defender Agency (PDA)

Department of Administration (DOA)
Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 353, Version F, and proposed amendments, responded to questions.

SUSAN A. PARKES, Deputy Attorney General
Criminal Division
Office of the Attorney General
Department of Law (DOL)
Anchorage, Alaska

POSITION STATEMENT: Provided comments and responded to questions during discussion of proposed amendments to HB 353, Version F.

SENATOR CON BUNDE
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As the sponsor of SB 218, provided comments and responded to questions during discussion of proposed amendments to HB 353, Version F.

SENATOR GRETCHEN GUESS
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As the sponsor of SB 223, provided comments and responded to questions during discussion of proposed amendments to HB 353, Version F.

ACTION NARRATIVE

CHAIR LESIL MCGUIRE called the House Judiciary Standing Committee meeting to order at [1:11:33 PM](#). Representatives McGuire, Gara, Kott, Gruenberg, and Coghill were present at the call to order. Representative Anderson arrived as the meeting was in progress.

HB 400 - CONFISCATION OF FIREARMS

[1:11:58 PM](#)

CHAIR MCGUIRE announced that the first order of business would be HOUSE BILL NO. 400, "An Act relating to disasters and confiscation of firearms." [Before the committee was the proposed committee substitute (CS) for HB 400, Version 24-LS1543\F, Luckhaupt, 2/9/06, which had been adopted as the work draft on 2/13/06.]

REPRESENTATIVE COGHILL, speaking as the sponsor of HB 400, relayed that he'd prefer to keep the bill simple, with its intention being to keep [law enforcement officials] from unlawfully confiscating lawfully owned firearms. The bill says that anyone who confiscates a firearm or orders the confiscation of a firearm from a law-abiding citizen [would be subject to the penalty therein]. He said it is clear to him that if somebody is not abiding by the law, police will have the discretion and authority to confiscate firearms. He mentioned that his staff would explain comments that have just recently been offered by the Department of Law (DOL), and indicated that he, too, is uncomfortable with making a violation of this proposed law a class A felony, and would therefore be amenable to a conceptual amendment that would change that provision even if such a change has to occur after the bill moves from committee. He noted that he would also be continuing conversations with Representative Gruenberg in order to address his concerns.

[1:15:25 PM](#)

KAREN LIDSTER, Staff to Representative John Coghill, Alaska State Legislature, sponsor, relayed that according to conversations she'd had with Dean Guaneli from the DOL, [members' concerns could be addressed via] a change in wording such that a person found guilty of a violation would forfeit his/her office or governmental position, would be subject to revocation of his/her certificate issued by the Alaska Police Standards Council (APSC) thus terminating his/her ability to serve as a police officer, and could be charged with a crime such as theft of a firearm - a class C felony. She posited that such a change would instill the idea that the legislature feels that this behavior is serious.

CHAIR McGUIRE, after ascertaining that no one else wished to testify, closed public testimony on HB 400.

[1:17:42 PM](#)

DEAN J. GUANELI, Chief Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law (DOL), relayed that Ms. Lidster's comments accurately reflect his thoughts regarding a possible amendment. He noted that in considering this issue, he'd given thought to various hypothetical situations that a police officer might face, the consequences of making the aforementioned behavior a crime - particularly a class A felony - and the potential impact that doing so will have on laws involving citizen's arrest and the

right to use force in self defense. He surmised that the sponsor's goal is to ensure that law enforcement officers don't act beyond the bounds of their lawful authority, and that when they do act beyond those bounds, they ought to face the same sanctions they face for any other wrongdoing.

MR. GUANELI, offering his understanding that Section 1 of the bill merely says that nothing within the Alaska Disaster Act allows the confiscation of firearms, characterized this provision as a message to policy makers and to agency heads that there can't be a blanket order to confiscate firearms in a certain area; instead, an order must be case specific based on the facts of the situation as discerned by the officer at the time. He offered his belief that law enforcement agencies face issues regarding training, supervision, and disciplinary actions all the time; to change the bill as he's suggested would simply place the aforementioned behavior in that same context wherein a violation could result in the loss of one's job, and would therefore provide the disincentive to act beyond one's authority.

CHAIR MCGUIRE suggested that such a change could be offered as a conceptual amendment and then they could get the DOL's assistance with crafting the appropriate language.

[1:20:32 PM](#)

MR. GUANELI suggested using the same type of language regarding excessive use of force and the like, with the idea that law enforcement officers have no reasonable right to [commit such an act] nor any reasonable grounds to believe that they have such a right. Such wording will tell law enforcement officers that they are not to go beyond the scope of their lawful authority.

REPRESENTATIVE GRUENBERG indicated that he will object to such a change unless he can see the language in writing and know where it will go in the bill. "If you're going to charge somebody with a class A felony, ... at least they have a right to a jury trial, proof beyond a reasonable doubt, and all the constitutional protections," he remarked, positing that under the aforementioned suggested change a person would not have any such protections and would be subject to a preponderance of the evidence standard.

REPRESENTATIVE COGHILL said he agrees that this is a serious issue, and opined that Version F "already covers that." He

mentioned that he may simply just ask for a vote on moving the bill from committee.

CHAIR McGUIRE suggested that Representatives Gruenberg and Coghill work on this issue further, and noted that committee packets contain an Amendment 1 to HB 400.

[1:22:22 PM](#)

REPRESENTATIVE GARA made a motion to adopt Amendment 1, which, along with an accompanying note, read [original punctuation provided]:

At Page 1, at the end of Line 10

Insert:

"It is not a crime under this section if the person is a law enforcement officer, and reasonably believes it is necessary to confiscate the firearm to prevent a crime involving the firearm."

Note: the language "reasonably believes is necessary" is from Sec. 11.81.330, Justification for Use of Force in Defense of Self or Others.

REPRESENTATIVE COGHILL objected.

REPRESENTATIVE GARA explained that Amendment 1 attempts to clarify that law enforcement officers cannot confiscate someone's firearm unless they have a suspicion that it will be used later in the commission of a crime. He acknowledged that [the DOL] might be able to offer more precise language.

REPRESENTATIVE COGHILL suggested that Amendment 1 could result in everyone being considered to be under reasonable suspicion, characterizing the determination that there is reasonable suspicion that a crime may occur later as a judgment call that he doesn't want in statute, though he agrees with the concept that they don't want to hamstring law enforcement. Using the standard of reasonable belief could be problematic in any ensuing court case.

REPRESENTATIVE GARA asked Mr. Guaneli whether, without Amendment 1, the bill would make a law enforcement officer guilty of a crime if he/she confiscates a firearm under the

belief that that firearm may later be used in the commission of a crime.

MR. GUANELI noted that there is a "general justification statute" - the justification of necessity - that says that if in order to prevent a greater harm from occurring one is required to commit an offense, that offense is justified. He offered his belief that that statute could be used to prevent a law enforcement officer from being prosecuted in the aforementioned circumstances, though he acknowledged that he would have to research this issue further to see whether existing law will address Representative Gara's concern.

REPRESENTATIVE GARA said he is somewhat comforted by that information, but again questioned whether the bill will have an impact on the decisions law enforcement officials have to make while they are legitimately trying to stop a crime from occurring later in the day.

MR. GUANELI remarked that the concept of, "later in the day" is nebulous; however, if a law enforcement officer believes that a crime is eminent or may happen soon, he/she will take whatever action is necessary to prevent that crime, protect themselves, and protect others. A law enforcement officer would be stretching the facts if he/she claims that he/she believes a firearm will be used in the commission of a crime later in the day; an officer must instead consider what the known facts are and what can be reasonably inferred from those facts with regard to what may happen "shortly."

[1:30:04 PM](#)

REPRESENTATIVE GARA indicated that he still has a minor concern regarding this issue.

REPRESENTATIVE COGHILL remarked, "We want a police officer to act expeditiously, we just don't want him to act wrongfully in violation of my individual rights, which I feel very strongly about." He said he wants to ensure that the policy is that a law enforcement officer will not confiscate somebody's lawfully owned firearm while he/she is acting lawfully. He mentioned that he is still willing to work on the issue of the proposed penalty. In response to comments, he acknowledged that in a disaster situation, law enforcement officials need to maintain control.

[1:33:09 PM](#)

A roll call vote was taken. Representatives Gruenberg and Gara voted in favor of Amendment 1. Representatives McGuire, Kott, Coghill, and Anderson voted against it. Therefore, Amendment 1 failed by a vote of 2-4.

REPRESENTATIVE GRUENBERG referred to what he termed the police standards sections of statute, and suggested they [instead] insert in those sections language indicating that in an appropriate case, the behavior currently outlined in HB 400 would be a violation of those sections.

REPRESENTATIVE COGHILL remarked, "Yes, I think disciplinary action as appropriate," adding that he is prepared to make an amendment to line 10, to change "A" to "C".

REPRESENTATIVE GRUENBERG said he would not oppose such a change.

REPRESENTATIVE COGHILL indicated that he would also look for language that could be added directly after that which would reference the disciplinary actions undertaken by the APSC.

REPRESENTATIVE GRUENBERG suggested, as a way of addressing everyone's concerns, that they simply alter the disciplinary sections of statute rather making the behavior a felony.

REPRESENTATIVE COGHILL said he would prefer to see such language in writing first.

[1:35:35 PM](#)

REPRESENTATIVE COGHILL made a motion to adopt Amendment 2, to change "A" to "C" on line 10 after "class". There being no objection, Amendment 2 was adopted.

[1:36:13 PM](#)

REPRESENTATIVE ANDERSON moved to report the proposed CS for HB 400, Version 24-LS1543\F, Luckhaupt, 2/9/06, as amended, out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHB 400(JUD) was reported from the House Judiciary Standing Committee.

The committee took an at-ease from 1:37 p.m. to 1:39 p.m.

HB 384 - FINES AND OFFENSES

[1:40:23 PM](#)

CHAIR MCGUIRE announced that the next order of business would be HOUSE BILL NO. 384, "An Act relating to fines and offenses; amending Rule 8(b), Alaska District Court Rules of Criminal Procedure; and providing for an effective date." [Before the committee was the proposed committee substitute (CS) for HB 384, Version 24-LS0985\Y, Luckhaupt, 1/30/06, which had been adopted as the work draft on 2/13/06.]

[1:40:43 PM](#)

HEATH HILYARD, Staff to Representative Tom Anderson, Alaska State Legislature, sponsor, relayed on behalf of Representative Anderson that members' packets include a memorandum from the bill drafter, Gerald Luckhaupt, and two sectional analysis - one from the Department of Public Safety (DPS) and one from the Alaska Department of Fish & Game (ADF&G) - and that the bill drafter and a representative from the Department of Law (DOL) are available for questions. In response to comments, he noted that although the concept for the bill was originally very narrow in scope and only addressed concerns that the DPS had with certain portions of current statute, after discussions with the DOL and the drafter it was felt that it would be appropriate to also include proposed changes to certain other sections of statute, such as Title 16, which pertains to the ADF&G.

[1:42:57 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Conceptual Amendment 1, to narrow the title so that it is "as tight as possible."

REPRESENTATIVE ANDERSON objected, characterizing Conceptual Amendment 1 as ambiguous.

REPRESENTATIVE GRUENBERG indicated that he is not opposed to having a long title.

REPRESENTATIVE ANDERSON said he would maintain his objection at least until public testimony is heard.

REPRESENTATIVE ANDERSON made a motion to table Conceptual Amendment 1. There being no objection, it was so ordered.

[1:45:02 PM](#)

SARAH A. GILBERTSON, Legislative Liaison, Office of the Commissioner, Alaska Department of Fish & Game (ADF&G), relayed that she would be commenting on Sections 7, 9-11, and 13-19. She explained that many Title 16 statutes still read in part, "guilty of a misdemeanor, ... punishable by a fine of not more than \$5,000", even though two years ago the legislature changed the definition of misdemeanor and raised the maximum fine to \$10,000. Therefore, the ADF&G is asking that conforming changes be made to those statutes that were missed during the aforementioned revision; doing so would ensure that all of the ADF&G's statutes pertaining to misdemeanors would automatically conform with any future changes the legislature makes to the term, "misdemeanor".

MS. GILBERTSON, in response to a request for more information, also noted that members' packets contain a sectional analysis from the ADF&G, and relayed that Section 7 proposes to change AS 16.05.407, which requires non residents to have a guide; that Section 9 proposes to change AS 16.05.783, which addresses the issue of airborne shooting; that Section 10 proposes to change AS 16.05.831, which addresses the issue of intentionally wasting salmon; that Section 11 proposes to change AS 16.05.905, which deals with alien persons engaging in commercial fishing activities.

CHAIR McGUIRE observed that Ms. Gilbertson is simply summarizing the ADF&G's sectional analysis.

REPRESENTATIVE GRUENBERG asked whether the term, "alien person" - which is used in Section 11 - is redundant, given that all aliens are persons.

[1:50:05 PM](#)

GERALD LUCKHAUPT, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency (LAA), explained that Title 16 already uses the term, "alien person", adding that he is hesitant to alter that language via HB 384.

CHAIR McGUIRE asked members to first review the sectional analysis before asking any further questions.

[1:52:34 PM](#)

ALLEN STOREY, Captain, Division of Alaska State Troopers, Department of Public Safety (DPS), suggested that the language

in Section 4 could be abbreviated to simply say that a violation of [AS 04.21.065] is a violation as defined under AS 11.81.900 and is punishable under AS 12.55.035(e)(7), and leave it at that. In response to questions, he noted that typically the Alcoholic Beverage Control Board ("ABC Board") handles violations of AS 04.21.065, and that although he has no problem with the language as it is currently proposed, he thinks a formatting modification might be in order; in this manner, should the penalty for a violation increase, no further change would be necessary for that provision of statute.

CHAIR MCGUIRE relayed that she would be reluctant to change that proposed language without hearing directly from the ABC Board, particularly given that as currently written, the language specifies that each day the violation continues would constitute a separate violation. In response to a question, she clarified that she is not suggesting that they delete Section 4, merely that they keep the proposed language as it's currently written.

MR. STOREY, in response to a question regarding Section 5, offered his understanding that proposed AS 05.25.065(f) pertains to violations involving watercraft and diving.

MR. LUCKHAUPT concurred, adding that it provides penalties pertaining to the boating safety program, to prohibited operation of certain boats in certain manners, and to the registration and numbering system. In response to further questions, he explained that Section 5 proposes to change the current fine of \$500 for violating the aforementioned provisions to \$750.

REPRESENTATIVE GRUENBERG indicated that he supports such a change.

REPRESENTATIVE ANDERSON mentioned that he would be offering a couple of amendments.

[2:02:25 PM](#)

MR. HILYARD indicated that those amendments pertain to Sections 32 and 40, which pertain to violations of an order or decision of the labor relations agency [and the railroad labor relations agency respectively].

REPRESENTATIVE ANDERSON made a motion to adopt [Amendment 2], which read [original punctuation provided but formatting changed]:

Page 8, Lines 1-5, DELETE *Sec. 32

REPRESENTATIVE KOTT objected for the purpose of discussion.

MR. HILYARD indicated that the change proposed via Section 32 was not specifically requested by any agency.

REPRESENTATIVE KOTT removed his objection to [Amendment 2].

CHAIR MCGUIRE asked whether there were any further objections to Amendment 2. There being none, Amendment 2 was adopted.

[2:04:13 PM](#)

REPRESENTATIVE ANDERSON made a motion to adopt Amendment 3, which read [original punctuation provided but formatting changed]:

Page 9, Lines 16-20
DELETE *Sec. 40

CHAIR MCGUIRE objected for the purpose of discussion.

REPRESENTATIVE ANDERSON relayed that the [Alaska Railroad Corporation (ARRC)] requested this amendment.

MR. HILYARD indicated that both the labor relations agency and the railroad labor relations agency felt it would be best to delete Section 40.

CHAIR MCGUIRE removed her objection and asked whether there were any further objections to Amendment 3. There being none, Amendment 3 was adopted.

[2:04:59 PM](#)

REPRESENTATIVE GRUENBERG made a motion to take from the table Conceptual Amendment 1. There being no objection, it was so ordered.

REPRESENTATIVE GRUENBERG again made the motion to adopt Conceptual Amendment 1.

CHAIR MCGUIRE objected for the purpose of having Representative Gruenberg restate Conceptual Amendment 1.

REPRESENTATIVE GRUENBERG said, "Tighten the title."

REPRESENTATIVE ANDERSON asked Mr. Luckhaupt whether that would be possible.

MR. LUCKHAUPT indicated that he could do that, though he warned that the title could become rather voluminous.

CHAIR McGUIRE surmised that the goal of Conceptual Amendment 1 would be to prevent mischief with regard to fines and offenses.

CHAIR McGUIRE removed her objection and asked whether there were any further objections to Conceptual Amendment 1. There being none, Conceptual Amendment 1 was adopted.

MR. HILYARD, in response to a question, said he is not aware of any section of the bill that has not yet been discussed.

CHAIR McGUIRE asked whether the bill contains any substantive changes not yet discussed.

MR. LUCKHAUPT said he has attempted to make HB 384 similar to a revisor's bill but specifically focusing on the proportionality of fines pertaining to certain misdemeanors.

2:10:00 PM

DEAN J. GUANELI, Chief Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law (DOL), offered his understanding that any of the penalties set out in the bill, whether the crimes are deemed misdemeanors or violations or infractions, require proof beyond a reasonable doubt. A lesser burden of proof would only apply in situations involving civil penalties.

MR. LUCKHAUPT clarified that although the crimes addressed in the bill are non-criminal in nature they are still quasi-criminal offenses.

2:11:10 PM

REPRESENTATIVE COGHILL moved to report the proposed committee substitute (CS) for HB 384, Version 24-LS0985\Y, Luckhaupt, 1/30/06, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 384(JUD) was reported from the House Judiciary Standing Committee.

The committee took an at-ease from 2:11 p.m. to 2:12 p.m.

HB 353 - SENTENCING FOR SEXUAL OFFENSES

[2:13:21 PM](#)

CHAIR McGUIRE announced that the final order of business would be HOUSE BILL NO. 353, "An Act relating to sentences for sexual offenses." [Before the committee was the proposed committee substitute (CS) for HB 353, Version 24-LS1449\F, Luckhaupt, 2/10/06, which had been adopted as the work draft on 2/15/06.]

[2:13:58 PM](#)

JOSHUA FINK, Public Advocate, Anchorage Office, Office of Public Advocacy (OPA), Department of Administration (DOA), after noting that the OPA has as some of its clients both victims of sexual abuse and those accused of sexual abuse, said that the OPA doesn't have a position on either the bill or the sentencing ranges contained therein, but would like to turn the committee's attention to certain issues of concern to the OPA. The first issue is that although proposed AS 11.56.767(b) provides a defense for an attorney for failing to comply with the reporting requirements found elsewhere in Section 2, an attorney could still be charged with that proposed crime and have to defend himself/herself, thus creating a potential conflict of interest when faced with the prospect of having to advise a client accused of a sex offense.

MR. FINK suggested that this could raise a constitutional issue because defendants are entitled to counsel. He suggested that the bill be changed to exclude attorneys from the reporting requirement altogether, rather than merely providing a defense for failing to comply. He referred to the Alaska Rules of Evidence, noted that it grants certain groups of people the privilege of abstaining from testifying against a defendant, and suggested that Section 2 of Version F could subject these groups of people to criminal liability.

MR. FINK then referred to proposed AS 12.55.125(i)(3), and noted that in part it will increase the presumptive sentencing ranges for crimes that could consist of merely touching someone through clothing or consensual sex between persons when one of them is 16 years of age or older and the other is a minor more than three years younger; for a first offense for such crimes under Version F, the minimum sentence is five years, the same as for

the crime of attempted murder in the first degree. Raising the issue of proportionality, he asked the committee to consider whether touching someone through clothing or consensual sex between two teenagers should garner the same punishment as attempted murder in the first degree. He then spoke briefly about a proposed amendment he'd heard about but which had not been included in Version F of HB 353.

[2:23:44 PM](#)

REPRESENTATIVE GRUENBERG noted that he has been given two possible amendments regarding the issue of "privilege" - one by Quinlan Steiner from the Public Defender Agency, and one by Mr. Fink.

[Mr. Steiner's suggested amendment would: delete the period from proposed AS 11.56.767(a)(2) and add the words, "with the intent to aid the sex offender or child kidnapper in avoiding the requirements of AS 11.56.840; and"; add a new paragraph (3) to proposed AS 11.56.767(a) that says, "(3) there did not exist a bona fide attorney-client relationship between the person and the sex offender or child kidnapper at the time of the alleged offense."; and delete proposed AS 11.56.767(b) and reletter the remaining text of proposed AS 11.56.767 accordingly.]

[Mr. Fink's suggested amendment would: add a new paragraph (3) to proposed AS 11.56.767(a) that says, "(3) there did not exist a bona fide marital, spiritual adviser, attorney-client, or psychotherapist-patient relationship between the person and the sex offender or child kidnapper at the time of the alleged offense."; and delete proposed AS 11.56.767(b) and reletter the remaining text of proposed AS 11.56.767 accordingly.]

REPRESENTATIVE GRUENBERG, after determining that both Mr. Fink and Mr. Steiner had seen copies of each other's suggested amendments, asked whether Mr. Steiner's suggested amendment would be covered under Mr. Fink's suggested amendment.

QUINLAN G. STEINER, Director, Central Office, Public Defender Agency (PDA), Department of Administration (DOA), offered his belief that Mr. Fink's suggested amendment only incorporates one of his suggested changes.

MR. STEINER then referred to proposed AS 11.56.767(a)(2), and opined that as currently written, it will create an irreconcilable conflict of interest preventing attorneys from representing someone convicted of a sex offense, and posited

that his suggested amendment would resolve that issue. Raising the issue of unconstitutionality, he noted that an act of omission typically requires three elements - a legal duty, a defined penalty, and notice of that duty and penalty - and yet proposed AS 11.56.767(a) only contains the penalty element and not the legal duty or notice elements; therefore, no criminal culpability could "attach for this type of conduct." Altering proposed AS 11.56.767(a)(2) as he's suggested, he remarked, will make it a specific intent crime and thereby address both of the aforementioned problems.

[2:27:51 PM](#)

REPRESENTATIVE GARA, referring to the proposed increases in sentencing, surmised that these increases will place intense pressure on innocent people to plead guilty to lesser charges.

MR. STEINER concurred that such is an inherent part of the plea bargain process, and mentioned that a possible increase in workloads could result as well. In response to another question, he said it will be up to prosecutors to decide whether to prosecute certain cases or forgo doing so in favor of conserving resources. In response to a further question, he clarified that his suggested amendment has not yet been reviewed for consistency and is instead simply being offered as a possible solution.

CHAIR MCGUIRE, referring to Mr. Steiner's suggested amendment, pointed out that there is already precedent for establishing a state policy that creates a duty to report. That being the case, why would doing so again with regard to reporting sex offenders and child kidnappers be considered unconstitutional?

MR. STEINER, offering his understanding that a duty to report only applies to regulated industries, reiterated that two of the typical elements of an act of omission are missing from proposed AS 11.56.767(a), which currently only contains the penalty element. He relayed that there is a case that states that a person cannot be punished for a crime of omission if that person did not know, and the state had not taken reasonable steps to inform him/her, of his/her duty to act and of the criminal penalty for failing to do so. This is the counterpart to the concept that ignorance of the law is no excuse for not following the law, because there is an exception to that particular doctrine if the issue pertains to passive conduct - if the conduct is passive, and one is not notified of a duty to act,

then one will not be held criminally culpable if one is ignorant of that duty.

[2:36:39 PM](#)

SUSAN A. PARKES, Deputy Attorney General, Criminal Division, Office of the Attorney General, Department of Law (DOL), said she disagrees with Mr. Steiner on the issue of whether proposed AS 11.56.767(a) is unconstitutional. She directed members' attention to AS 11.56.765 - Failure to report a violent crime committed against a child - and noted that this statute doesn't apply only to regulated industries; rather, that statute reflects a policy call requiring people to report crimes against children that they are aware of, and proposed AS 11.56.767(a) reflects a similar policy call.

[2:37:54 PM](#)

REPRESENTATIVE GRUENBERG, referring to Mr. Steiner's suggested amendment, made a motion to adopt it as Conceptual Amendment 1 [text provided previously].

CHAIR MCGUIRE objected. Recalling past legislation that attempted to alter, with regard to members of the clergy, the statutes pertaining to the duty to report, she reiterated that it is not unprecedented for the legislature to create an affirmative duty to report.

MS. PARKES offered her understanding that AS 47.17.060 specifically states that neither the physician-patient privilege nor the husband-wife privilege is grounds for excluding evidence regarding a child's harm or its cause in a judicial proceeding. The legislature does have the ability to establish a policy that waives certain [privileges]. She also suggested that the "intent" language in Conceptual Amendment 1 would create [problems].

[2:39:52 PM](#)

SENATOR CON BUNDE, Alaska State Legislature, speaking as the sponsor of SB 218 and noting that the Alaska State Constitution sets out citizens' duties as well as rights, said he finds it a bit outrageous to think that a duty to report must also be outlined in statute, though he is willing to do so if the wording of the Alaska State Constitution does not prove to be sufficient in that regard. He said he doesn't see a constitutional problem with the language in [proposed AS

11.56.767(a)], and indicated that he opposes Conceptual Amendment 1.

SENATOR GRETCHEN GUESS, Alaska State Legislature, speaking as the sponsor of SB 223, indicated that she also opposes Conceptual Amendment 1.

REPRESENTATIVE GRUENBERG noted that he was merely offering Conceptual Amendment 1 by request.

[2:41:47 PM](#)

A roll call vote was taken. Representatives Anderson, Coghill, Gruenberg, Kott, Gara, and McGuire voted against Conceptual Amendment 1. Therefore, Conceptual Amendment 1 failed by a vote of 0-6.

CHAIR MCGUIRE acknowledged that Mr. Steiner was merely offering the language of Conceptual Amendment 1 as a suggestion.

[2:42:19 PM](#)

REPRESENTATIVE GRUENBERG, referring to Mr. Fink's suggested amendment, made a motion to adopt it as Conceptual Amendment 2 [text provided previously].

REPRESENTATIVE GRUENBERG then referred to the term, "spiritual adviser" in Conceptual Amendment 2, and made a motion to amend Conceptual Amendment 2 such that that term would be replaced with the phrase, "clergy as defined in Alaska Rule of Evidence 506".

REPRESENTATIVE ANDERSON objected for the purpose of discussion.

CHAIR MCGUIRE, after ascertaining that Representative Anderson's objection did not pertain to the amendment to Conceptual Amendment 2, and that there were no further objections, announced that the amendment to Conceptual Amendment 2 was adopted.

REPRESENTATIVE ANDERSON sought clarification regarding Conceptual Amendment 2, as amended.

MR. FINK, after relaying that he'd merely provided the language of Conceptual Amendment 2 for the committee's consideration, offered his understanding that according to the Alaska Rules of Evidence, if one is a spouse, an attorney, a member of the

clergy, or a psychotherapist of a defendant, one cannot be compelled to reveal confidential communications one has had with the defendant. He acknowledged, however, that a psychotherapist currently does have a duty to report instances of child abuse. He suggested that [society] has traditionally recognized that the relationships one has with the aforementioned people are fairly inviolate and so those people shouldn't be made to testify against a defendant, and, by extension, oughtn't be made to divulge information about a defendant either.

2:47:04 PM

MS. PARKES said that although its a policy call as to who the legislature wants to exempt from the provisions of the bill, her concern is that as currently written, Conceptual Amendment 2 [as amended] will require the DOL to prove, in every case, that a defendant accused of a failure to report is not an attorney, is not a member of the clergy, is not a marital counselor, and is not a psychotherapist to the sex offender or child kidnapper. In contrast, the bill stipulates that it is an affirmative defense that the defendant was an attorney to the sex offender or child kidnapper, thus requiring the defendant to prove that such a relationship existed. Furthermore, in instances of failure to report a violent crime committed against a child, there are some affirmative defense set out currently.

REPRESENTATIVE GRUENBERG made a motion to conceptually amend Conceptual Amendment 2, as amended, such that it becomes an affirmative defense that the defendant must raise the issue and, once the issue is raised with a quantum of evidence sufficient to allow such to be found by the trier of fact, then it will be up to the prosecutor to disprove that fact beyond a reasonable doubt.

MS. PARKES surmised that this would be similar to what occurs in self-defense cases - one must raise some reliable evidence and then the state has [the burden of disproving it].

CHAIR McGUIRE, recalling that Ms. Parkes had referenced other places [in statute] where the legislature established an affirmative duty to report certain things, asked whether there are also instances where privileged relationships are not allowed to serve as an affirmative defense for failure to report, and, if so, is the list proposed by Conceptual Amendment 2, as amended, more expansive than what the legislature has traditionally allowed.

MS. PARKES explained that the different statutes have different requirements and different exceptions. For example, for a failure to report a violent crime committed against a child, it is an affirmative defense that one was in fear of one's own life for reporting, but merely having a specific relationship with another person does not exempt one from the reporting requirement. Therefore, there is precedence for the legislature to require everyone to report regardless of any relationships, though there are also some statutes that do exempt certain people from reporting.

[2:51:07 PM](#)

SENATOR BUNDE said he appreciates removal of the term, "spiritual advisor", particularly in light of the fact that anyone can claim to be a spiritual advisor; for example, "Papa Pilgrim" was his daughter's spiritual advisor and he has been accused of abusing her. Senator Bunde questioned, however, what would constitute being considered a member of the clergy.

REPRESENTATIVE GRUENBERG noted that Rule 506 of the Alaska Rules of Evidence defines a member of the clergy as: "a minister, priest, rabbi, or other similar functionary of a religious organization, or an individual reasonably believed so to be by the person consulting the individual". Representative Gruenberg, acknowledging that such a definition could be misused, indicated that he didn't have a problem with further amending Conceptual Amendment 2, as amended, on the issue of clergy members.

MR. STEINER, in response to a question, said that the affirmative defense currently in the bill doesn't cure the ethical problem of a defense attorney having to advise a client accused of a sex offense, because the attorney could still be charged with a crime thereby creating an adverse interest with a client who's a convicted sex offender or child kidnapper and who tells the attorney that he/she has not registered. Normally, when there is no exposure to being charged with a crime, a defense attorney can simply tell the client that he/she needs to register; under the bill, even though there is an affirmative defense, the attorney still has an interest in avoiding prosecution, and that interest is directly adverse to a client's best interest.

MR. STEINER, in response to a further question, indicated that his solutions to the aforementioned problem were embodied in Conceptual Amendment 1.

MS. PARKES said her concern with making failure to report an intent crime is that one would only have to say one never meant to aid the sex offender or child kidnapper by failing to report that that person had not registered, and it will be very hard to prove the intention behind why a person fails to do a particular conduct.

[2:56:30 PM](#)

SENATOR GUESS said she intends to continue working on this issue further, regardless of whether any of the proposed amendments are adopted, so as to satisfy everyone's concerns.

CHAIR McGUIRE concurred that the issue needs more vetting, and said she would be opposing Conceptual Amendment 2, as amended, because she is not sure that every category of persons listed in it ought to be exempted from the reporting requirement, particularly given that some of the most heinous acts committed against children have actually been committed by members of the clergy. Furthermore, this provision of the bill is simply stipulating that the location of sex offenders and child kidnappers be reported to law enforcement, and the public's safety should override someone's reluctance to testify against their spouse or client.

SENATOR GUESS noted that a violation of proposed AS 11.56.767(a) is merely a class A misdemeanor.

REPRESENTATIVE GARA opined that they oughtn't to make failure to report the whereabouts of a sex offender or child kidnapper a crime for the aforementioned groups of people until after they have determined whether doing so would violate any confidentiality provisions of current law.

SENATOR BUNDE pointed out, however, that under current law, not only are sex offenders and child kidnappers required to register, but everyone is required to report a violent crime committed against a child. Proposed AS 11.56.767 merely requires people to report the whereabouts of someone who hasn't abided by current law.

CHAIR McGUIRE asked whether there were any objections to the second amendment to Conceptual Amendment 2, as amended. There being none, the second amendment to Conceptual Amendment 2, as amended, was adopted.

[3:02:25 PM](#)

A roll call vote was taken. Representative Gruenberg voted in favor of Conceptual Amendment 2, as amended [twice]. Representatives McGuire, Coghill, Gara, Kott, and Anderson voted against it. Therefore, Conceptual Amendment 2, as amended [twice], failed by a vote of 1-5.

[3:02:51 PM](#)

REPRESENTATIVE GARA made a motion to adopt Amendment 3, which read [original punctuation provided]:

Page 5, line 4

Delete "99"

Insert "40"

Page 5, line 7

Delete "five to 15"

Insert "2 to 6"

Page 5, line 10

Delete "10 to 25"

Insert "5 to 12"

Page 5, line 16

Delete "20 to 35"

Insert "10 to 30"

Page 5, line 19

Delete "99"

Insert "25 to 40"

Page 5, line 24

Delete "99"

Insert "20"

Page 5, line 27

Delete "one to 12"

Insert "one to 4"

Page 5, line 30

Delete "eight to 15"

Insert "2 to 7"

Page 6, line 2

Delete "12 to 20"

Insert "5 to 12"

Page 6, line 5

Delete "15 to 25"

Insert "3 to 12"

Page 6, line 8

Delete "99"

Insert "9 to 20"

CHAIR MCGUIRE objected for the purpose of discussion.

REPRESENTATIVE GARA explained that Amendment 3 would reduce the proposed sentencing ranges - while still raising the current sentencing ranges - for crimes such as sexual assault in the second degree and third degree and sexual abuse of a minor in the second degree; such crimes don't necessarily involve forcible rape and could consist of merely touching someone through clothing or consensual sex between persons when one of them is 16 years of age or older and the other is a minor more than three years younger. He opined that although such crimes should still be felonies, a 5-year minimum sentence - as is being proposed via Version F - is not justified for first-time offenses not involving violence.

REPRESENTATIVE GARA pointed out that neither the current sentencing ranges nor the proposed sentencing ranges reflect what a sentence could end up being once any aggravating factors are taken into account; in other words, the sentencing ranges listed in AS 12.55.125(i) are just a starting point. He offered his understanding that aggravating factors include causing physical injury, using deliberate cruelty, throwing someone against the wall, and wrestling someone to the ground. Some of the crimes that could fall under the categories of sexual assault in the second degree and third degree and sexual abuse of a minor in the second degree deserve higher sentences and some don't.

[3:09:26 PM](#)

REPRESENTATIVE GARA, referring to the crime of sexual assault in the third degree, recapped the sentencing range under current law and noted that under Version F, the maximum sentence without aggravators is 12 years - 12 years for a crime that could simply involve touching someone through clothing. He then compared both the current sentencing ranges and the maximum sentences with aggravators applied with those proposed via Version F and

those proposed via Amendment 3. He mentioned that Amendment 3 won't alter the sentencing ranges proposed via Version F for a second felony conviction of second degree sexual assault, second degree sexual abuse of a minor, unlawful exploitation of a minor, or distribution of child pornography when the first felony conviction was also for a sex offense.

REPRESENTATIVE GARA opined that a 5-year minimum sentence for merely touching someone through clothing is not appropriate in some circumstances - for example, when a person who's been drinking in a bar starts brushing up against another patron - and Amendment 3 will give the judge the discretion to increase the sentence when it is appropriate but won't mandate a 5-year sentence in less serious cases.

SENATOR BUNDE offered his view that prison sentences have several roles: punishment, deterrence, and setting policy standards. In terms of sexual assault crimes, prison sentences also serves the purpose of keeping perpetrators off the street so they can't create new victims. He suggested that the increased sentencing ranges proposed via Version F may convince some people to be more responsible and less likely to find an excuse to commit a sex offense. Aggravators are part of the system, he remarked, and offered his belief that even a single mitigator can be used to cut a sentence in half.

SENATOR BUNDE pointed out that in Alaska, 16 is the age of consent, and thus there is no such thing as "consensual sex" when one of the parties is younger than 16. And although there have been and may continue to be instances of entrapment or vindictive parents pressing charges, prosecutorial discretion and mitigating factors can play a role in ensuring that people aren't serving inappropriate jail terms.

[3:16:00 PM](#)

MS. PARKES noted that the bill does not propose to change the sentencing scheme for sexual abuse of a minor in the third degree. With regard to situations involving touching someone through clothing, she said that in all her years as a prosecutor, she has never seen single-incident-type cases come across her desk, surmising that such situations typically don't get reported; instead, she has only seen cases involving repeated groping and fondling.

SENATOR GUESS said she opposes Amendment 3. She noted that child molestation cases that don't involve penetration can only

be charged at the most as sexual abuse of a minor in the second degree, and so under Amendment 3, many of the cases that have involved members of the clergy as perpetrators, for example, would have only resulted in a sentence of 6 years. Such a short sentence is inappropriate, she opined, given the long-lasting consequences for the victims in such cases. She offered her belief that the hypothetical example involving the bar scene would be difficult to prove, and so it is more likely that this proposed sentencing increase will apply mostly to molestation cases. She then offered her understanding of what behaviors would fall into the category of sexual assault of a minor in the second degree and sexual assault of a minor in the third degree.

SENATOR GUESS remarked that some of the crimes for which Version F proposes to increase the presumptive sentencing ranges are very serious crimes, and pointed out that under the U.S. Supreme Court ruling in Blakely v. Washington, 124 S. Ct. 2531 (U.S., 2004), all sentencing regarding aggravating factors must go to court. She also said that after reviewing all the current aggravators, it was hard for her to see where any of them would even apply in child molestation cases. In conclusion, she asked the committee to not support Amendment 3.

REPRESENTATIVE GARA pointed out that Amendment 3 does address mere sexual contact crimes between adults, that mitigators don't automatically reduce a sentence by half and neither do aggravators increase a sentence by half, and that there is an aggravator that can be applied when the victim is considered vulnerable because of his/her extreme youth. He then said:

Shame on us for passing a law that lets you prosecute somebody for the crotch-grab circumstance and get them 5 years. Shame on us if our plan is to come back and say, "Yeah, ... we made that a crime, we made that a 5-year sentence, but we didn't think anybody would ever take us up on it and prosecute it."

[3:22:07 PM](#)

A roll call vote was taken. Representatives Kott, Gara, and Gruenberg voted in favor of Amendment 3. Representatives Anderson, Coghill, and McGuire voted against it. Therefore, Amendment 3 failed by a vote of 3-3.

[3:22:28 PM](#)

REPRESENTATIVE GARA made a motion to adopt Amendment 4, which read [original punctuation provided]:

Page 3, line 21
Delete "25 to 30"
Insert "12 to 20"

Page 3, line 21
Delete "20 to 30"
Insert "10 to 18"

Page 3, line 26
Delete "25 to 35"
Insert "14 to 24"

Page 3, line 28
Delete "30 to 40"
Insert "15 to 30"

Page 4, line 4
Delete "40 to 60"
Insert "25 to 50"

Page 4, line 7
Delete "99"
Insert "40 to 80"

Page 4, line 10
Delete "99"
Insert "60"

Page 4, line 15
Delete "20 to 25"
Insert "7 to 15"

Page 4, line 16
Delete "15 to 25"
Insert "5 to 12"

Page 4, line 20
Delete "25 to 35"
Insert "12 to 21"

Page 4, line 22
Delete "25 to 35"
Insert "12 to 24"

Page 4, line 29
Delete "35 to 50"
Insert "15 to 38"

Page 5, line 1
Delete "99"
Insert "30 to 60"

REPRESENTATIVE ANDERSON objected [for the purpose of discussion].

CHAIR McGUIRE turned gavel over to Representative Anderson.

REPRESENTATIVE GARA explained that Amendment 4 would reduce the proposed sentencing ranges - while still raising the current sentencing ranges - for crimes such as sexual assault in the first degree; sexual abuse of a minor in the first degree; and attempt, conspiracy, or solicitation to commit first degree sexual assault or first degree sexual abuse of a minor - all of which are either unclassified felonies and class A felonies. He then recapped both the current sentencing ranges and the maximum sentences with aggravators applied for those crimes with those proposed via Amendment 4, indicating that it will [for the most part] increase both the bottom end of the ranges and the top end of the ranges by 50 percent, though for crimes wherein the perpetrator has a prior sexual felony, the sentences proposed via Version F are unchanged.

REPRESENTATIVE GARA said that he doesn't object to the sentences proposed via Version F for the worst forms of the aforementioned crimes, and while the lesser forms of those crimes should still be crimes, they should not, he opined, result in the same sentences as the worst forms, and offered examples of the types of behavior that fall under the categories of sexual assault in the first degree; sexual abuse of a minor in the first degree; and attempt, conspiracy, or solicitation to commit first degree sexual assault or first degree sexual abuse of a minor.

REPRESENTATIVE GARA said he has no sympathy whatsoever with those who commit the crimes being discussed, and he is merely offering that those who are charged with one of these crimes but didn't actually commit it shouldn't be sentenced as Version F proposes.

[Representative Anderson returned the gavel to Chair McGuire.]

[3:29:09 PM](#)

CHAIR MCGUIRE called the question.

A roll call vote was taken. Representative Gara voted in favor of Amendment 4. Representatives Kott, Gruenberg, Anderson, Coghill, and McGuire voted against it. Therefore, Amendment 4 failed by a vote of 1-5.

[3:29:39 PM](#)

REPRESENTATIVE GARA made a motion to adopt Conceptual Amendment 5, which read [original punctuation provided but formatting changed]:

Sec. 11.41.436 Sexual abuse of a minor in the second degree.

(a) An offender commits the crime of sexual abuse of a minor in the second degree if

(1) being 16 years of age or older, the offender engages in sexual penetration with a person who is 13, 14, or 15 years of age and at least [three] **four** years younger than the offender, or aids, induces, causes or encourages a person who is 13, 14, or 15 years of age and at least [three] **four** years younger than the offender to engage in sexual penetration with another person;

(2) being 16 years of age or older, the offender engages in sexual contact with a person who is under 13 years of age or aids, induces, causes, or encourages a person under 13 years of age to engage in sexual contact with another person;

(3) being 18 years of age or older, the offender engages in sexual contact with a person who is under 18 years of age, and the offender is the victim's natural parent, stepparent, adopted parent, or legal guardian;

(4) being 16 years of age or older, the offender aids, induces, causes, or encourages a person who is under 16 years of age to engage in conduct described in AS 11.41.455(a)(2)-(6); or

(5) being 18 years of age or older, the offender engages in sexual contact with a person who is under 16 years of age, and

(A) the victim at the time of the offense is residing in the same household as the offender and the offender has authority over the victim; or

(B) the offender occupies a position of authority in relation to the victim.

(b) Sexual abuse of a minor in the second degree is a class B felony.

Sec. 11.41.438 Sexual abuse of a minor in the third degree.

(a) An offender commits the crime of sexual abuse of a minor in the third degree if

(1) being 16 years of age or older, the offender engages in sexual contact with a person who is 13, 14, or 15 years of age and at least [three] four years younger than the offender;

(2) being 18 years of age or older, the offender engages in sexual penetration with a person who is 16 or 17 years of age and at least [three] four years younger than the offender, and the offender occupies a position of authority in relation to the victim; or

(3) being under 16 years of age, the offender engages in sexual penetration with a person who is under 13 years of age and at least three years younger than the offender.

(b) Sexual abuse of a minor in the third degree is a class C felony.

REPRESENTATIVE ANDERSON objected for purpose of discussion.

REPRESENTATIVE GARA offered his understanding that Mr. Fink has suggested that for the crimes listed in AS 11.41.436(a)(1) and AS 11.41.438(a)(1)-(2), there should be an age difference of four years between parties having consensual sex before there is an automatic minimum sentence of 5 years.

[3:31:57 PM](#)

A roll call vote was taken. Representatives Kott and Gara voted in favor of Conceptual Amendment 5. Representatives Coghill, Gruenberg, Anderson, and McGuire voted against it. Therefore, Conceptual Amendment 5 failed by a vote of 2-4.

[3:32:23 PM](#)

REPRESENTATIVE GRUENBERG moved to report the proposed committee substitute (CS) for HB 353, Version 24-LS1449\F, Luckhaupt, 2/10/06, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE GARA objected.

[3:32:44 PM](#)

A roll call vote was taken. Representatives Gruenberg, Kott, McGuire, Anderson, and Coghill voted in favor of reporting the proposed CS for HB 353, Version 24-LS1449\F, Luckhaupt, 2/10/06, out of committee. Representative Gara voted against it. Therefore, CSHB 353(JUD) was reported from the House Judiciary Standing Committee by a vote of 5-1.

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:33 p.m.