

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

March 10, 2005

8:40 a.m.

MEMBERS PRESENT

Senator Ralph Seekins, Chair
Senator Charlie Huggins, Vice Chair
Senator Hollis French
Senator Gretchen Guess

MEMBERS ABSENT

Senator Gene Therriault

COMMITTEE CALENDAR

SENATE BILL NO. 117

"An Act relating to the admissibility into evidence of the prior recorded statement of a crime victim less than 16 years of age; and adding Rule 413, Alaska Rules of Evidence, and amending Rules 402 and 403, Alaska Rules of Evidence."

SCHEDULED BUT NOT HEARD

SENATE BILL NO. 118

"An Act relating to online enticement of minors."

HEARD AND HELD

SENATE BILL NO. 119

"An Act relating to dissemination of indecent material to minors."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 118

SHORT TITLE: ONLINE ENTICEMENT OF MINOR

SPONSOR(S): SENATOR(S) FRENCH

02/28/05	(S)	READ THE FIRST TIME - REFERRALS
02/28/05	(S)	JUD, FIN
03/10/05	(S)	JUD AT 8:30 AM BUTROVICH 205

BILL: SB 119

SHORT TITLE: BAN ONLINE DIST. OF PORNOGRAPHY TO MINORS

SPONSOR(S): SENATOR(S) FRENCH

02/28/05 (S) READ THE FIRST TIME - REFERRALS
02/28/05 (S) JUD, FIN
03/10/05 (S) JUD AT 8:30 AM BUTROVICH 205

WITNESS REGISTER

Mr. Kevin Vandegriff, Detective
Anchorage Police Department
Anchorage, AK

POSITION STATEMENT: Testified in support of SB 118 and SB 119

Ms. Anne Carpeneti
Department of Law
PO Box 110300
Juneau, AK 99811-0300

POSITION STATEMENT: Commented on SB 118 and SB 119

Mr. Dave Parker, Detective Sergeant
Anchorage Police Department
Anchorage, AK

POSITION STATEMENT: Testified in support of SB 119

ACTION NARRATIVE

CHAIR RALPH SEEKINS called the Senate Judiciary Standing Committee meeting to order at [8:40:13 AM](#). Present were Senators Hollis French, Charlie Huggins, Gretchen Guess, and Chair Ralph Seekins.

SB 118-ONLINE ENTICEMENT OF MINOR

[8:41:05 AM](#)

SENATOR FRENCH introduced SB 118 advising it will make online enticement of minors a felony under Alaska law. Along with SB 119, the measure will help protect Alaska's children from sexual predators and provide a safety net for those who navigate the Internet. Online victimization is one of the worst byproducts of the age of the Internet. Research shows that one in five children have received solicitation over the Internet in the last year. While current statutes can be stretched to allow prosecution of online solicitation, the better approach is to recognize that this new form of criminality requires a new statute.

8:42:26 AM

SENATOR FRENCH added the basic outline of SB 118 is to make it a crime for anyone 18 years or older to knowingly use a computer to entice, solicit or encourage a child to engage in an act described in AS 11.41.455.

8:44:49 AM

MR. KEVIN VANDEGRIFF, detective, Anchorage Police Department (APD), testified he has worked for three years in the Crimes Against Children unit of the APD. Alaska does not have legislation to address Internet solicitation of children. Statistics show crimes against children are growing every year. Reports of child pornography have grown 40 percent between 2003 and 2004. SB 118 allows law enforcement to act proactively and seek out child predators.

Federal statistics show 55 percent of prosecutions from online victimization of children occur with reports coming from outside complainants. 45 percent of arrests are directly related to proactive law enforcement efforts. Efforts include law enforcement going online in an undercover capacity, entering chat rooms and meeting with predators. The Internet Crimes Against Children federal task forces train investigators across the country, including the FBI, Immigration and Customs, and state investigators.

MR. VANDEGRIFF advised the committee of his recent training, which certifies investigators to conduct standard investigations that will pass judicial scrutiny across jurisdictional boundaries.

8:48:45 AM

MR. VANDEGRIFF noted due to excellent training, online enticement prosecutions across the country have resulted in a 95 percent conviction rate. The reason for the success is the abundance of evidence due to the online trail that predators leave. Search warrants conducted in predators homes show over 60 percent of them have large collections of child pornography stored on their computers. Sexual predators use the Internet to target children. The most vulnerable are between 12 and 15 years of age.

MR. VANDEGRIFF described the Internet "chats" between sexual predators and children as chilling. Predators use psychological tactics to entice emotionally vulnerable children.

[8:51:47 AM](#)

CHAIR SEEKINS asked Mr. Vandegriff to give the committee comparative numbers between Alaska's high incidence of sexual child abuse compared to other states.

MR. VANDEGRIFF did not have statistics but would research for the committee.

CHAIR SEEKINS asked Mr. Vandegriff where the sexual abuse comes from in the cases he has worked on.

MR. VANDEGRIFF responded the majority are people known to the family members.

[8:52:56 AM](#)

CHAIR SEEKINS asked if Internet sexual abuse of minors' incidences is rising.

MR. VANDEGRIFF replied yes. Currently only federal statutes address those crimes. The federal government is limited in the number of cases they can prosecute due to the overwhelming number of them. It is a growing problem, but because children usually don't report the incidences to adults, the problem is larger than one can tell. Studies show only 10 percent of solicited children tell their parents.

[8:53:59 AM](#)

CHAIR SEEKINS asked Mr. Vandegriff to describe any anticipated increase in workload.

MR. VANDEGRIFF informed the committee the workload would increase. The Anchorage Police Department does not have the manpower to address the growing problem. Currently, educating parents to restrict their children's Internet use is a priority. MR. VANDEGRIFF spoke of training with the national Crimes Against Children task force. As part of the training, officers assume the identity of a 13-year-old female and enter online chat rooms. He spent time in an Alaskan chat room and within 10 minutes was solicited for sex.

[8:56:46 AM](#)

SENATOR HUGGINS asked Mr. Vandegriff if he was concerned about getting evidence into court.

MR. VANDEGRIFF answered no. Predators leave a compelling evidentiary trail. Investigators are well trained and follow strict protocol.

[8:58:03 AM](#)

SENATOR HUGGINS asked if pursuit of suspects is done under federal statutes.

MR. VANDEGRIFF answered that Alaska has state pornography laws but no way to prosecute offenders who send unsolicited sexual pictures to children.

CHAIR SEEKINS announced a brief recess at [8:59:29 AM](#).

CHAIR SEEKINS called the meeting back to order at [9:03:24 AM](#).

MS. ANNE CARPENETI, Department of Law (DOL), offered to answer questions.

CHAIR SEEKINS advised Ms. Carpeneti that testimony shows Alaska does not have enough manpower to investigate and prosecute the crimes that would fall under SB 118. The fiscal notes are all zero and indicate the DOL does not anticipate fiscal impact. Proper procedure.

MS. CARPENETI said the conduct prohibited in SB 118 is also prohibited in other portions of the criminal code, which is why the DOL does not anticipate additional cases. The DOL is concerned with the overlap of sexual abuse of a minor in the first degree (SAM), which prohibits enticing or encouraging sexual penetration with a minor. The main offense with SAM anticipates the actual penetration occurred and that is an unclassified felony. Solicitation for that behavior is a class A felony, It is the same conduct as defined in SB 118, which identifies it as a class C felony. That is problematic because the defendant can choose to be prosecuted under the lesser felony.

[9:06:38 AM](#)

CHAIR SEEKINS offered it was not intent of sponsor.

MS. CARPENETI said SB 118 covers conduct that is already against the law.

CHAIR SEEKINS asked Ms. Carpeneti how the DOL would amend SB 118.

MS. CARPENETI said she had no solution yet.

SENATOR FRENCH offered to work with the DOL to amend SB 118 to fit within the statutes. He asked Ms. Carpeneti if the DOL has prosecuted online probation under the attempt portion of SAM 1.

MS. CARPENETI answered she believed so.

CHAIR SEEKINS clarified SAM stands for sex abuse of minor and there are several degrees in Alaska statutes.

[9:08:25 AM](#)

CHAIR SEEKINS asked Ms. Carpeneti the difference between sexual assault and sexual abuse of a minor.

MS. CARPENETI replied that sexual assault covers non-consensual sex. Sexual abuse of a minor is perceived as consensual because the victim is too young to be expected to make the decision.

CHAIR SEEKINS asked Ms. Carpeneti to work with the sponsor to strengthen SB 118.

CHAIR SEEKINS announced a short recess at [9:09:34 AM](#).

CHAIR SEEKINS called the meeting back to order at [9:14:39 AM](#).

SB 119-BAN ONLINE DIST. OF PORNOGRAPHY TO MINORS

[9:14:39 AM](#)

SENATOR FRENCH introduced SB 119. SB 119 would make electronic distribution of indecent materials to minors a felony under Alaska law. SB 119 will provide a safety net to help protect Alaska's children from sexual predators.

[9:15:47 AM](#)

CHAIR SEEKINS authorized Senator French to call the witnesses.

MR. DAVE PARKER, supervising sergeant, crimes against children unit, Anchorage Police Department, testified in support of SB 119. The Internet has become a candy store for perpetrators. Online victimization is efficient for perpetrators using chat rooms and sending pornography. Alaska law does not currently address a way to prosecute distribution of pornography to minors.

[9:18:53 AM](#)

MR. VANDEGRIFF agreed with Mr. Parker's comments and referred to his online experience portraying the role of a 13-year-old girl. He added it was amazing how quickly predators sent him digital pornographic pictures.

[9:20:50 AM](#)

MS. ANNE CARPENETI said the DOL supports SB 119 but is concerned that it only prohibits providing pornographic materials to young people on the Internet. It is currently not illegal to provide pornographic material in any form in the state of Alaska. She asked Senator French his rationale for distinguishing one type of distribution.

SENATOR FRENCH explained that a home computer is highly private and pornographic materials are delivered to the child in their home. Online pornography differs from other forms of pornography because it is aimed specifically at children in their homes.

[9:22:42 AM](#)

SENATOR GUESS asked Ms. Carpeneti about material given specifically to a child.

MS. CARPENETI advised it is not currently against the law to give pornographic material to a child.

SENATOR FRENCH stated that SB 119 does aim at something police officers are currently seeing.

[9:23:57 AM](#)

MS. CARPENETI commented the courts have interpreted pornographic material as something that is not protected by the privacy provision.

[9:25:47 AM](#)

CHAIR SEEKINS asked Ms. Carpeneti if a minor has the right to privacy to obtain objectionable material.

MS. CARPENETI remarked society adopts law limiting children's rights in terms of sexual behavior in many ways.

CHAIR SEEKINS pondered at what age a person obtains the right to privacy concerning objectionable material.

SENATOR FRENCH commented the age of consent in Alaska is 16.

[9:28:44 AM](#)

CHAIR SEEKINS asked if pay per view X-rated television would violate SB 119.

SENATOR FRENCH admitted he contemplated an amendment that would add the word "knowingly." To violate SB 119 someone would have to knowingly distribute pornographic material to children.

[9:31:43 AM](#)

MS. CARPENETI advised Senator French SB 119 would need to be added to sex offender statutes.

CHAIR SEEKINS agreed.

CHAIR SEEKINS asked Senator French to collaborate with the DOL to make SB 119 conform to current statutes. SB 119 will be held until the next committee meeting.

There being no further business to come before the committee, Chair Seekins adjourned the meeting at [9:32:43 AM](#).