

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

March 24, 2005

8:52 a.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE JOINT RESOLUTION NO. 12

Requesting the United States Senate to move quickly to confirm all nominations by President George W. Bush to the United States Supreme Court.

MOVED CSSJR 12(JUD) OUT OF COMMITTEE

SENATE BILL NO. 118

"An Act relating to online enticement of minors."

MOVED CSSB 118(JUD) OUT OF COMMITTEE

SENATE BILL NO. 119

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

MOVED CSSB 119(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SJR 12

SHORT TITLE: URGE CONFIRM US SUPREME COURT NOMINEES

SPONSOR(S): SENATOR(S) THERRIAULT

03/03/05	(S)	READ THE FIRST TIME - REFERRALS
03/03/05	(S)	JUD
03/24/05	(S)	JUD AT 8:30 AM BUTROVICH 205

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
03/10/05 (S) Heard & Held
03/10/05 (S) MINUTE (JUD)

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
03/10/05 (S) Heard & Held
03/10/05 (S) MINUTE (JUD)

WITNESS REGISTER

Mr. Merle Thompson
Susitna Valley, Alaska

POSITION STATEMENT: Testified in opposition to SJR 12

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

POSITION STATEMENT: Commented on SB 118 and SB 119

ACTION NARRATIVE

CHAIR RALPH SEEKINS called the Senate Judiciary Standing Committee meeting to order at [8:52:46 AM](#). Present were Senators Hollis French, Charlie Huggins, Gene Therriault, Gretchen Guess, and Chair Ralph Seekins.

SJR 12-URGE CONFIRM US SUPREME COURT NOMINEES

[8:52:46 AM](#)

SENATOR GENE THERRIAULT, sponsor of SJR 12, asserted SJR 12 is an expression on behalf of the Alaska Legislature to the U.S. Congress that supports expeditious nomination of U.S. Supreme Court Justices by President George W. Bush.

[8:54:59 AM](#)

CHAIR SEEKINS called for public testimony.

MR. MERLE THOMPSON testified in opposition to SJR 12. He stated the process for nominating justices has been the same for both republicans and democrats for eons and a filibuster is a part of the process. He argued SJR 12 did not represent all Alaskans and ended by saying SJR 12 borders on the ridiculous.

SENATOR HOLLIS FRENCH asked Senator Therriault if he would consider tempering the language to allow for a fair hearing and a vote.

[8:57:47 AM](#)

SENATOR THERRIAULT replied he had concerns with changing the language of SJR 12.

SENATOR FRENCH suggested he add, "Bring to a vote of the entire body" to the language. He asked Senator Therriault if his objection was to the filibuster process.

SENATOR THERRIAULT answered yes. He felt comfortable with the language in SJR 12, but asked committee members for suggestions.

[9:00:12 AM](#)

The committee considered changing the language structure of SJR 12.

SENATOR THERRIAULT suggested the committee set SJR 12 aside and move on the agenda.

[9:00:57 AM](#)

SENATOR FRENCH passed an article from the Atlantic Monthly to the committee and asked them to consider the will of the majority.

CHAIR SEEKINS commented the proper responsibility of the U.S. Supreme Court is to comment on the constitutionality of laws. He announced the committee would set aside SJR 12.

[9:03:35 AM](#)

^#SB118

SB 118-ONLINE ENTICEMENT OF MINOR

[9:03:51 AM](#)

CHAIR SEEKINS announced SB 118 to be up for consideration.

SENATOR FRENCH advised the committee the concern in their last meeting was that SB 118 could create an overlap with sex abuse of a minor in first degree and sex abuse of a minor in the second degree. He discussed the issue at length with the Department of Law. In case of an overlap, SB 118 would only carve out those individuals who are conducting online enticement of a minor.

[9:05:36 AM](#)

SENATOR FRENCH made a motion to adopt Amendment 1, labeled A.1, which was suggested by Dean Guaneli.

24-LS0577\A.1
Luckhaupt
11/3/05

A M E N D M E N T

OFFERED IN THE SENATE
TO: SB 118

BY SENATOR FRENCH

Page 1, following line 12:

Insert a new subsection to read:

"(c) In a prosecution under this section, it is not necessary for the prosecution to show that the act described in AS 11.41.255(a)(1) - (7) was actually committed."

Reletter the following subsections accordingly.

Page 1, line 13:

Delete "(d)"

Insert "(e)"

SENATOR THERRIAULT objected pointing out the statute cited in the amendment did not exist. He corrected the statute to read AS 11.41.455.

SENATOR FRENCH agreed.

CHAIR SEEKINS noted the technical correction and, hearing no objections, adopted Amendment 1.

[9:08:09 AM](#)

SENATOR FRENCH commented Dean Guaneli would provide a fiscal note in time for the next committee hearing of SB 118.

[9:09:10 AM](#)

SENATOR GRETCHEN GUESS moved SB 118 out of committee as amended with individual recommendations and attached zero fiscal notes. Hearing no objections, the motion carried.

SJR 12-URGE CONFIRM US SUPREME COURT NOMINEES

[9:09:56 AM](#)

CHAIR SEEKINS announced SJR 12 to be up for consideration.

SENATOR THERRIAULT suggested an amendment on Page 2, line 4, after the word "quickly", insert the words, "to a majority floor vote of the Senate".

SENATOR FRENCH agreed.

Hearing no objections, Amendment 1 was adopted.

SENATOR THERRIAULT moved CSSJR 12(JUD) from committee with individual recommendations and accompanying fiscal notes. Hearing no objections, the motion carried.

Chair Seekins announced a short recess at [9:12:46 AM](#).

Chair Seekins reconvened the meeting at [9:16:22 AM](#).

SB 119-BAN ONLINE DIST. OF PORNOGRAPHY TO MINORS

[9:16:57 AM](#)

CHAIR SEEKINS announced SB 119 to be up for consideration.

SENATOR FRENCH moved to adopt Amendment 1.

24-LS0578\G.1
Luckhaupt
11/3/05

A M E N D M E N T

OFFERED IN THE SENATE
TO: SB 119

BY SENATOR FRENCH

Page 1, line 6, following "person":
Insert ", being 18 years of age or older,"

Page 1, line 7:
Delete "(1)"

CHAIR SEEKINS objected for the purpose of an explanation.

SENATOR FRENCH answered it was in response to a recommendation by the Department of Law, that being the crime should be focused on adults.

[9:18:39 AM](#)

MS. ANNE CARPENETI, criminal division Department of Law (DOL), affirmed she had no objections to Amendment 1.

SENATOR THERRIAULT pointed out SB 119 and SB 118 are similar in nature and asked if the committee should consider mirroring the language by adding the word "knowingly" on Page 1, line 6 after the word "person". The bills should use the same terminology.

SENATOR FRENCH agreed.

SENATOR GUESS asked Ms. Carpeneti if SB 119 addresses a 17 year old who is distributing electronic pornography.

MS. CARPENETI advised SB 119 does not address anyone under the age of 18.

[9:21:26 AM](#)

SENATOR THERRIAULT commented at a certain age one would expect the average person to be able to distinguish between right and wrong.

SENATOR FRENCH said the purpose of SB 118 is to keep middle aged predators away from impressionable young children.

[9:23:52 AM](#)

CHAIR SEEKINS removed his objections. Hearing no further objections, Amendment 1 was adopted.

[9:24:45 AM](#)

SENATOR FRENCH moved Amendment 2.

24-LS0578\G.2
Luckhaupt
11/3/05

A M E N D M E N T

OFFERED IN THE SENATE
TO: SB 119

BY SENATOR FRENCH

Page 1, lines 7 - 8:

Delete "or other device capable of electronic communication"

CHAIR SEEKINS objected for the purpose of discussion.

SENATOR FRENCH explained the amendment addressed the previous committee concerns regarding prosecuting mainline transmitters of pornography (HBO, MSN, Yahoo).

9:26:02 AM

CHAIR SEEKINS removed his objection and hearing no further objection, Amendment 2 was adopted.

SENATOR THERRIAULT moved Amendment 3.

Page 1, line 7; after the (1) insert the word "knowingly".

Hearing no objection, the committee adopted Amendment 3.

9:27:00 AM

SENATOR GUESS mentioned SB 118 might allow for someone to claim they didn't believe the recipient was less than 16 years of age.

CHAIR SEEKINS commented using the word "knowingly" would cover it.

SENATOR GUESS countered a person could dispute the charge because of unclear language. She proposed Amendment 4. Amend SB 119 to be in conjunction with SB 118.

CHAIR SEEKINS objected for the purpose of discussion.

SENATOR FRENCH admitted SB 118 was better drafted than SB 119.

9:29:48 AM

CHAIR SEEKINS clarified they could use the language from SB 118, Page 1, lines 7-10 and insert that same language into SB 119, Page 1, line 7.

SENATOR FRENCH agreed and read the proposed verbiage on Page 1, line 7:

knowingly distributes by computer any material that depicts an act described in AS 11.41.455 (a)(1)-(7) and

- (1) the other person is a child under 16 years of age; or
- (2) the person believes that the other person is a child under 16 years of age.

9:32:05 AM

CHAIR SEEKINS recognized no further discussion and Amendment 4 was adopted. He asked Ms. Carpeneti if SB 119 meets with DOL approval.

MS. CARPENETI responded the DOL supports SB 119.

[9:32:51 AM](#)

SENATOR GUESS moved CSSB 119(JUD) from committee with individual recommendations and attached fiscal notes. There being no objection, the motion carried.

Chair Seekins announced a short recess at [9:33:28 AM](#).

Chair Seekins reconvened the meeting at [9:37:27 AM](#).

CHAIR SEEKINS informed the committee members of the schedule for the following week.

There being no further business to come before the committee, Chair Seekins adjourned the meeting at [9:39:10 AM](#).