

**ALASKA STATE LEGISLATURE**  
**SENATE JUDICIARY STANDING COMMITTEE**

March 31, 2005

8:36 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**

HOUSE BILL NO. 124 am

"An Act relating to the collection of, and the use of reasonable force to collect, a deoxyribonucleic acid sample from persons convicted of or adjudicated delinquent for certain crimes."

MOVED SCS HB 124(JUD) OUT OF COMMITTEE

SENATE BILL NO. 20

"An Act relating to offenses against unborn children."

SCHEDULED BUT NOT HEARD

SENATE BILL NO. 54

"An Act relating to notification to victims of sexual assault; relating to protective orders; and relating to arrests for crimes involving sexual assault, violation of protective orders, or violation of conditions of release."

MOVED CSSB 54(JUD) OUT OF COMMITTEE

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."

HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 124

SHORT TITLE: COLLECTION OF DNA/USE OF FORCE

SPONSOR(s): REPRESENTATIVE(s) ANDERSON

02/02/05 (H) READ THE FIRST TIME - REFERRALS  
02/02/05 (H) JUD, FIN  
02/23/05 (H) JUD AT 1:00 PM CAPITOL 120  
02/23/05 (H) Moved Out of Committee  
02/23/05 (H) MINUTE(JUD)  
02/24/05 (H) JUD RPT 3DP 2NR  
02/24/05 (H) DP: GRUENBERG, ANDERSON, MCGUIRE;  
02/24/05 (H) NR: COGHILL, GARA  
02/25/05 (H) FIN REFERRAL WAIVED  
03/02/05 (H) RETURNED TO RLS COMMITTEE  
03/07/05 (H) TRANSMITTED TO (S)  
03/07/05 (H) VERSION: HB 124 AM  
03/08/05 (S) READ THE FIRST TIME - REFERRALS  
03/08/05 (S) JUD  
03/31/05 (S) JUD AT 8:30 AM BUTROVICH 205

BILL: SB 54

SHORT TITLE: PROTECTIVE ORDERS FOR SEXUAL ASSAULT

SPONSOR(s): SENATOR(s) DYSON

01/14/05 (S) READ THE FIRST TIME - REFERRALS  
01/14/05 (S) STA, JUD  
02/17/05 (S) STA AT 3:30 PM BELTZ 211  
02/17/05 (S) Heard & Held  
02/17/05 (S) MINUTE(STA)  
03/15/05 (S) STA AT 3:30 PM BELTZ 211  
03/15/05 (S) Moved CSSB 54(STA) Out of Committee  
03/15/05 (S) MINUTE(STA)  
03/16/05 (S) STA RPT CS 1NR 4AM NEW TITLE  
03/16/05 (S) NR: THERRIAULT  
03/16/05 (S) AM: DAVIS, ELTON, WAGONER, HUGGINS  
03/16/05 (S) FIN REFERRAL ADDED AFTER JUD  
03/31/05 (S) JUD AT 8:30 AM BUTROVICH 205

BILL: SB 117

SHORT TITLE: RECORDED STATEMENTS OF CHILD VICTIMS

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)

Scheduled But Not Heard

**WITNESS REGISTER**

Mr. Jason Hooley  
Staff to Senator Dyson  
Alaska State Capitol  
Juneau, AK 99801-1182

**POSITION STATEMENT:** Introduced SB 54

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

**POSITION STATEMENT:** Commented on SB 54

Ms. Carrie Robinson, Attorney  
Alaska Network on Domestic Violence and Sexual Assault  
PO Box 20891  
Juneau, AK 99802

**POSITION STATEMENT:** Testified in support of SB 54

Ms. Carin Robinson, Lobbyist  
Alaska Women's Lobby  
PO Box 33702  
Juneau, AK 99803

**POSITION STATEMENT:** Testified in support of SB 54

Representative Tom Anderson  
Alaska State Capitol  
Juneau, AK 99801-1182

**POSITION STATEMENT:** Introduced HB 124

Senator Hollis French  
Alaska State Capitol  
Juneau, AK 99801-1182

**POSITION STATEMENT:** Introduced SB 117

Sergeant Dave Parker  
Anchorage Police Department  
4501 S. Bragaw St.  
Anchorage, AK 99507

**POSITION STATEMENT:** Testified in support of SB 117

Detective Kevin Vandegriff  
Anchorage Police Department  
4501 S. Bragaw St.

Anchorage, AK 99507

**POSITION STATEMENT:** Testified in support of SB 117

Ms. Amy Kobalinski, Program Coordinator  
Alaska Care Advocacy Center  
Anchorage, AK

**POSITION STATEMENT:** Testified in support of SB 117

#### **ACTION NARRATIVE**

**CHAIR RALPH SEEKINS** called the Senate Judiciary Standing Committee meeting to order at [8:36:55 AM](#). Present were Senators Hollis French, Charlie Huggins, Gene Therriault, Gretchen Guess, and Chair Ralph Seekins.

CHAIR SEEKINS informed the committee SB 20 was delayed at the request of the sponsor.

#### **SB 54-PROTECTIVE ORDERS FOR SEXUAL ASSAULT**

[8:37:27 AM](#)

MR. JASON HOOLEY, staff to Senator Dyson, introduced SB 54. Sexual assault in Alaska is three times the national average. SB 54 creates the availability of protective orders for victims. SB 54 involves only sexual assault that falls outside of domestic violence. Version \P changes the location of the provisions to be inserted with the current stalking provisions. There will be a section for domestic violence protective order in AS 18.66 and a section in AS 18.65 for stranger assaults.

[8:39:25 AM](#)

SENATOR GENE THERRIAULT moved Version \P as the working document. Hearing no objections, the motion carried.

[8:39:49 AM](#)

SENATOR HOLLIS FRENCH clarified Version \P adds sexual assault to the stalking law and does not make any other substantive changes.

MR. HOOLEY agreed.

SENATOR FRENCH asked whether sexual abuse of a minor was included in SB 54.

MR. HOOLEY answered Section 10 gives the definition of sexual assault, which references another section that includes second, third, and fourth degree sexual assault and incest.

[8:41:29 AM](#)

MS. ANNE CARPENETI, Department of Law (DOL), testified in support of SB 54. She suggested one change in Section 9, line 28, which would require the petitioner to research priors. She suggested adding the words "must, if known," to include that information.

[8:43:46 AM](#)

SENATOR GRETCHEN GUESS asked Ms. Carpeneti whether Section 9 was needed.

MS. CARPENETI aired Section 9 was not needed as it requires a victim to volunteer personal information.

SENATOR FRENCH asked if there was a similar provision in the domestic violence statutes.

MS. CARPENETI responded yes, which makes sense because of the relationship. SB 54 relates to stranger stalking.

SENATOR FRENCH suggested striking the words, "or the respondent".

[8:45:18 AM](#)

CHAIR SEEKINS commented there might be a pending civil or criminal action between the respondent and the petitioner.

MS. CARPENETI suggested re-wording to say, "...pending action between the parties."

CHAIR SEEKINS said when a petitioner knows of other criminal action for a similar offense against someone else, the court should be alerted.

[8:46:50 AM](#)

SENATOR THERRIAULT asked Ms. Carpeneti whether the information would be entered into the court regardless.

MS. CARPENETI responded yes, as admissible evidence.

SENATOR THERRIAULT suggested Section 9 attempts to ensure full disclosure of any relationship between the two parties.

[8:48:38 AM](#)

MS. CARPENETI expressed concern about requiring the petitioner to research information regarding the defendant.

CHAIR SEEKINS agreed. He proposed on lines 28 and 31, add the word, "known" after "of."

SENATOR GUESS agreed. She asked Ms. Carpeneti whether the petitioner would have to disclose any civil or criminal action that has nothing to do with the order.

MS. CARPENETI advised the court would be interested in knowing.

[8:51:12 AM](#)

CHAIR SEEKINS asserted it is important for the court to know when there is a history between the parties.

SENATOR GUESS expressed concern that a person would have to disclose unnecessary personal information.

[8:53:46 AM](#)

SENATOR FRENCH suggested there could be times when the information is relevant. He said it does not seem like a huge burden to require a party to disclose pending cases.

[8:57:11 AM](#)

SENATOR FRENCH proposed Amendment 1. Section 9, line 29, after the word, "respondent" add the words, "if known." Hearing no objections, the motion carried.

[8:58:03 AM](#)

MS. CARRIE ROBINSON, attorney, Alaska Network on Domestic Violence and Sexual Assault, testified in support of SB 54.

MS. CARIN ROBINSON, Alaska Women's Lobby, testified in support of SB 54.

[8:59:57 AM](#)

CHAIR SEEKINS closed public testimony.

SENATOR CHARLIE HUGGINS moved CSSB 54(JUD) from committee with individual recommendations and accompanying fiscal notes. There being no objection, the motion carried.

CHAIR SEEKINS announced a brief recess at [9:00:31 AM](#).

**HB 124 AM -COLLECTION OF DNA/USE OF FORCE**

[9:09:53 AM](#)

CHAIR RALPH SEEKINS announced HB 124 to be up for consideration.

[9:10:09 AM](#)

REPRESENTATIVE TOM ANDERSON, sponsor, explained that HB 124 relates to the law enforcement aspect of collecting DNA samples. Last year the statutes were expanded to ensure all felons or sexual misdemeanants would have to submit a DNA sample. Missing was the ability for probation or corrections officers to use reasonable force to get a convicted felon to submit to DNA sampling. HB 124 addresses that shortcoming and absolves the officers of any liability associated with using force.

HB 124 expands the types of convictions that require DNA registration by requiring that anyone in the state who is convicted of a crime similar to crimes against a person, or felonies under AS 11 or AS 28.35 would be subject to DNA collection. The bill would also include municipal misdemeanors including: assault, child abuse, indecent exposure on premises open to minors, assault on a police officer, and domestic assault and battery. This would address the municipal loophole that doesn't require collection of DNA samples for such violations.

[9:13:31 AM](#)

REPRESENTATIVE ANDERSON noted the committee heard similar legislation sponsored by Senator Bunde and he agreed with the changes the committee made to that bill. He said he would include those recommendations in his bill, which would make the legislation very effective for Alaska.

[9:14:25 AM](#)

CHAIR SEEKINS asked Representative Anderson if any of the Senate Standing Judiciary Committee changes made to SB 95 were objectionable.

REPRESENTATIVE ANDERSON replied he agrees with codifying immunity to corrections and parole officers so that they cannot be sued for collecting DNA samples. The other change to SB 95 is the applicability section, which requires people who are already in prison to submit to DNA sampling.

[9:15:50 AM](#)

CHAIR SEEKINS asked the sponsor if he would object to using the language currently in SB 95 as a Senate committee substitute for HB 124.

REPRESENTATIVE ANDERSON replied he would recommend it and he thought the Department of Law would support it as well.

SENATOR GENE THERRIAULT asked if anything in the title of the Senate bill caused concern.

REPRESENTATIVE ANDERSON said no.

SENATOR THERRIAULT moved the title and text of HB 124 AM be deleted and replaced with the title and text from CSSB 95(JUD) Version \Y. Hearing no objection, the motion carried.

[9:17:25 AM](#)

SENATOR THERRIAULT asked whether the chair had received any departmental expression of concern regarding the wording on CSSB 95(JUD).

CHAIR SEEKINS said all visual indications are that the bill is good to go and he was ready for a motion.

[9:17:51 AM](#)

SENATOR THERRIAULT moved SCS HB 124(JUD) and attached fiscal notes from committee with individual recommendations. There being no objection, it was so ordered.

CHAIR SEEKINS announced a brief recess at [9:18:28 AM](#).

CHAIR SEEKINS reconvened the meeting at [9:26:30 AM](#).

**SB 117-RECORDED STATEMENTS OF CHILD VICTIMS**

[9:26:30 AM](#)

CHAIR RALPH SEEKINS announced SB 117 to be up for consideration.

SENATOR HOLLIS FRENCH moved Version \F to be the working document for the committee. Hearing no objections, the motion carried.

[9:26:58 AM](#)

SENATOR FRENCH introduced SB 117. Young victims of crime do not get a fair shake in Alaska courtrooms. SB 117 would make recorded statements of victims under 16 admissible in Alaska courts if the statements were conducted under certain conditions and if the victim is present during the proceedings and available for testimony. Forensic interviews are conducted at safe, child friendly environments. Interviewers are specially trained to work with children. Professionals and advocates work together with the safety of the children as a top priority. Recorded statements are more useful than court testimony because children are intimidated by formal questioning in unfamiliar surroundings.

[9:28:54 AM](#)

Advocacy centers allow children to slowly tell their story without pressure in a nurturing and non-threatening setting.

[9:31:02 AM](#)

SENATOR FRENCH added SB 117 allows the jury to see the entire story while preserving the cross examining rights of the accused.

[9:32:24 AM](#)

SENATOR GENE THERRIAULT asked Senator French to affirm current law considers a taped statement to be hearsay.

SENATOR FRENCH confirmed. The law prefers to have live testimony on the stand.

[9:33:01 AM](#)

SENATOR THERRIAULT commented Child Advocacy Centers are not available across the state.

SENATOR FRENCH agreed.

[9:35:23 AM](#)

SENATOR GRETCHEN GUESS asked whether the child must be present during the entire court proceeding.

SENATOR FRENCH answered the crucial aspect is for cross-examination purposes.

MS. CARPENETI interjected a child would not have to be present for the entire trial.

[9:37:25 AM](#)

SENATOR THERRIAULT asked Ms. Carpeneti whether courts allow closed circuit television (CCTV) to be used.

MS. CARPENETI responded yes, it is live and the witness is present in the next room, so the testimony is allowed.

CHAIR SEEKINS commented "available to testify" is an all-inclusive term.

MS. CARPENETI agreed.

SENATOR THERRIAULT asked whether the child could be forced to endure a second interview.

[9:39:01 AM](#)

MS. CARPENETI said the intent of SB 117 is simply to have the child available to testify.

CHAIR SEEKINS believed the recording would be the direct testimony of the child. The child's presence would be necessary in order to expand on the taped testimony.

SENATOR THERRIAULT expressed the need for the committee to clarify that intent.

MS. CARPENETI asserted SB 117 was written clearly as is.

[9:41:51 AM](#)

SENATOR THERRIAULT said he was concerned that a defense attorney could force a child on the stand to restate the statement.

MS. CARPENETI countered you have to allow that to happen.

SENATOR THERRIAULT agreed but asked whether the allegation has to be made on the stand.

SENATOR FRENCH iterated that is not the intent of SB 117.

CHAIR SEEKINS said the testimony would be in the recorded statement. He didn't believe the child would be forced to restate the allegation but would be forced to answer questions.

SENATOR FRENCH said the cross examination would lead the child back through every relevant sentence of the recorded statement.

[9:43:04 AM](#)

CHAIR SEEKINS agreed with Senator Therriault the state wouldn't want to force a child to have to reiterate the allegations already on the tape.

SENATOR THERRIAULT said the defense attorney would be looking for inconsistency.

[9:44:26 AM](#)

SENATOR THERRIAULT proposed Amendment 1: Page 1, line 12 be reworded to say, "the victim is present at the proceeding and available for cross examination." Hearing no objection, the motion carried.

[9:46:07 AM](#)

SENATOR GUESS proposed Amendment 2: Page 1, line 12 strike the words "present at the proceeding." Hearing no objection, the motion carried.

[9:55:06 AM](#)

SENATOR FRENCH proposed Amendment 3: Page 2, line 9 after the word "has" add the words "had an opportunity to..." Hearing no objection, the motion carried.

[9:56:54 AM](#)

SERGEANT DAVE PARKER, Anchorage Police Department, testified in support of SB 117. Children face long delays getting to court and their memories fade. It is frustrating for a detective to see a children's testimony nullified or disrupted. SB 117 would allow the videotaped interview to speak for the child.

[9:59:57 AM](#)

SENATOR FRENCH asked Sgt. Parker to describe his training.

SERGEANT PARKER said he is a certified trainer for child forensic interviewing. It is a three-day course designed to train investigators to keep from leading or introducing ideas to the child, which might taint testimony. The training interviews are watched simultaneously by a psychologist or social worker who then gives feedback.

[10:01:46 AM](#)

Training also deals with vocabulary and how to approach children.

[10:02:12 AM](#)

SENATOR FRENCH asked Sgt. Parker to describe the use of dolls during the interview.

SERGEANT PARKER explained there are a variety of options available to use during the interviews. A child's vocabulary is sometimes very limited. Interviewers are trained to study body language and other means expression. A lot of the child's communication ability is non-verbal. Video captures this body language, as a written transcript would not. Anatomically correct dolls are used when children lack the vocabulary.

[10:04:08 AM](#)

A jury cannot get a clear picture of what happened unless they are allowed to see how the child responds to the forensic interview. SB 117 gives the weakest members of society their opportunity to explain what happened.

[10:05:33 AM](#)

SENATOR FRENCH asked Sgt. Parker the number of child advocacy centers in Alaska.

SERGEANT PARKER responded they operate in Anchorage, Mat-Su, and Fairbanks.

[10:07:33 AM](#)

CHAIR SEEKINS asked whether it is normal for a male officer to question a female child.

SERGEANT PARKER advised yes. They have found that children tend to open up to adults both male and female. Generally they determine ahead of time who is best suited to perform the interview.

[10:11:32 AM](#)

DETECTIVE KEVIN VANDEGRIFF, Anchorage Police Department, testified in support of SB 117. Ninety percent of investigations involve sexual abuse of a minor. One critical aspect is the forensic interview. They are trained to ask open-ended question designed to gather information from child. Training is done so interviews stand judicial scrutiny. Children do not verbalize like adults and are often unable to describe what has occurred verbally but they share by demonstration what has occurred.

[10:14:16 AM](#)

DETECTIVE VANDEGRIFF explained often a jury does not get to see or hear what has happened to the child. They see the child on the stand unable to verbalize what happened.

[10:15:49 AM](#)

Forty other states have legislation authorizing forensic interviewing to be permissible in court proceedings.

[10:17:10 AM](#)

AMY KOBALINSKI, family care coordinator, Alaska Care, testified in support of SB 117. Children are prone to use body language to demonstrate what happened to them rather than verbalize.

[10:19:20 AM](#)

CHAIR SEEKINS held SB 117 in committee.

There being no further business to come before the committee, Chair Seekins adjourned the meeting at [10:19:47 AM](#).