

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

January 25, 2006
8:37 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

CS FOR HOUSE BILL NO. 101(JUD) am
"An Act relating to sex tourism."
HEARD AND HELD

CS FOR HOUSE BILL NO. 148(JUD)
"An Act relating to human trafficking; and providing for an
effective date."
HEARD AND HELD

HOUSE JOINT RESOLUTION NO. 9 am
Urging the United States Congress to honor the process and
judgment of the federal courts in the case of the Exxon Valdez
disaster and to refrain from enacting legislation that would
affect the outcome of the courts' resolution of the case.
BILL HEARING POSTPONED

SENATE BILL NO. 10
"An Act relating to liability for destruction of property by
unemancipated minors; and providing for an effective date."
HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 101
SHORT TITLE: SEX TOURISM
SPONSOR(S): REPRESENTATIVE(S) CROFT

01/21/05 (H) READ THE FIRST TIME - REFERRALS

01/21/05 (H) JUD, FIN
 03/07/05 (H) JUD AT 1:00 PM CAPITOL 120
 03/07/05 (H) Heard & Held
 03/07/05 (H) MINUTE(JUD)
 03/18/05 (H) JUD AT 1:00 PM CAPITOL 120
 03/18/05 (H) Heard & Held
 03/18/05 (H) MINUTE(JUD)
 04/01/05 (H) JUD AT 1:00 PM CAPITOL 120
 04/01/05 (H) Moved CSHB 101(JUD) Out of Committee
 04/01/05 (H) MINUTE(JUD)
 04/04/05 (H) JUD RPT CS(JUD) NT 5DP
 04/04/05 (H) DP: KOTT, GRUENBERG, DAHLSTROM, GARA,
 MCGUIRE
 04/21/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 04/21/05 (H) <Bill Hearing Postponed>
 04/22/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 04/22/05 (H) Moved CSHB 101(JUD) Out of Committee
 04/22/05 (H) MINUTE(FIN)
 04/25/05 (H) FIN RPT CS(JUD) NT 9DP
 04/25/05 (H) DP: HAWKER, HOLM, CROFT, JOULE,
 STOLTZE, MOSES, KELLY, MEYER, CHENAULT
 05/03/05 (H) TRANSMITTED TO (S)
 05/03/05 (H) VERSION: CSHB 101(JUD) AM
 05/04/05 (S) READ THE FIRST TIME - REFERRALS
 05/04/05 (S) JUD, FIN
 01/25/06 (S) JUD AT 8:30 AM BUTROVICH 205

BILL: HB 148

SHORT TITLE: TRAFFICKING OF PERSONS
 SPONSOR(s): REPRESENTATIVE(s) KERTTULA

02/14/05 (H) READ THE FIRST TIME - REFERRALS
 02/14/05 (H) JUD, FIN
 03/07/05 (H) JUD AT 1:00 PM CAPITOL 120
 03/07/05 (H) Heard & Held
 03/07/05 (H) MINUTE(JUD)
 03/18/05 (H) JUD AT 1:00 PM CAPITOL 120
 03/18/05 (H) Heard & Held
 03/18/05 (H) MINUTE(JUD)
 04/01/05 (H) JUD AT 1:00 PM CAPITOL 120
 04/01/05 (H) Moved CSHB 148(JUD) Out of Committee
 04/01/05 (H) MINUTE(JUD)
 04/06/05 (H) JUD RPT CS(JUD) NT 5DP
 04/06/05 (H) DP: KOTT, GRUENBERG, DAHLSTROM, GARA,
 MCGUIRE
 04/22/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 04/22/05 (H) <Bill Hearing Postponed>

04/29/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 04/29/05 (H) Moved CSHB 148(JUD) Out of Committee
 04/29/05 (H) MINUTE(FIN)
 04/30/05 (H) FIN RPT CS(JUD) NT 8DP 1NR
 04/30/05 (H) DP: HAWKER, CROFT, HOLM, WEYHRAUCH,
 JOULE, MOSES, FOSTER, MEYER;
 04/30/05 (H) NR: KELLY
 05/04/05 (H) TRANSMITTED TO (S)
 05/04/05 (H) VERSION: CSHB 148(JUD)
 05/05/05 (S) READ THE FIRST TIME - REFERRALS
 05/05/05 (S) JUD, FIN
 01/25/06 (S) JUD AT 8:30 AM BUTROVICH 205

BILL: SB 10

SHORT TITLE: PARENTAL LIABILITY FOR CHILD'S DAMAGE
 SPONSOR(S): SENATOR(S) GUESS, DYSON

01/11/05 (S) PREFILE RELEASED 12/30/04
 01/11/05 (S) READ THE FIRST TIME - REFERRALS
 01/11/05 (S) HES, JUD
 01/19/05 (H) HES AT 1:30 PM SENATE FINANCE 532
 01/19/05 (S) Heard & Held
 01/19/05 (S) MINUTE(HES)
 01/26/05 (S) HES AT 1:30 PM BUTROVICH 205
 01/26/05 (S) -- Meeting Canceled --
 04/04/05 (S) HES AT 1:30 PM BUTROVICH 205
 04/04/05 (S) Heard & Held
 04/04/05 (S) MINUTE(HES)
 04/06/05 (S) HES AT 1:30 PM BUTROVICH 205
 04/06/05 (S) Scheduled But Not Heard
 04/11/05 (S) HES AT 1:45 PM BUTROVICH 205
 04/11/05 (S) Moved CSSB 10(HES) Out of Committee
 04/11/05 (S) MINUTE(HES)
 04/12/05 (S) HES RPT CS FORTHCOMING 2DP 3NR
 04/12/05 (S) DP: DYSON, OLSON
 04/12/05 (S) NR: WILKEN, ELTON, GREEN
 04/13/05 (S) HES CS RECEIVED NEW TITLE
 01/19/06 (S) JUD AT 8:30 AM BUTROVICH 205
 01/19/06 (S) Scheduled But Not Heard
 01/24/06 (S) JUD AT 8:30 AM BUTROVICH 205
 01/24/06 (S) Scheduled But Not Heard

WITNESS REGISTER

Representative Eric Croft
 Alaska State Capitol
 Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of HB 101

Representative Beth Kerttula
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of HB 148

Senator Gretchen Guess
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of SB 10

Mr. Tony Newman, Program Officer
Division of Juvenile Justice
Department of Health & Social Services
PO Box 110601
Juneau, AK 99801-0601
POSITION STATEMENT: Commented on SB 10

Mr. Chip Wagoner, Executive Director
Alaska Conference of Catholic Bishops
Catholic Community Services
Juneau, Alaska 99801
POSITION STATEMENT: Testified in support of HB 101 and HB 148

Ms. Anne Carpeneti, Assistant Attorney General
Criminal Division
Department of Law
PO Box 110300
Juneau, AK 99811-0300
POSITION STATEMENT: Commented on HB 101 and HB 148

ACTION NARRATIVE

CHAIR RALPH SEEKINS called the Senate Judiciary Standing Committee meeting to order at [8:37:06 AM](#). Present were Senators Hollis French, Charlie Huggins, Gretchen Guess, and Chair Seekins.

SB 10-PARENTAL LIABILITY FOR CHILD'S DAMAGE

[8:37:18 AM](#)

CHAIR RALPH SEEKINS announced SB 10 to be up for consideration.

SENATOR GRETCHEN GUESS, bill sponsor, introduced SB 10 and explained that it was clearly complicated. She offered to give an overview of the sections and then open it up for questions.

Increasingly juveniles are vandalizing and community members are seeking ways to control and stop the vandalizing. Historically communities have dealt with the civil part of the issue and the amount that the parent is liable for. There are three different processes a juvenile can go through. There is an informal process with juvenile justice, a criminal process, and a civil process. They all deal with the child and the parent differently when it comes to restitution. SB 10 is an attempt to insert a consistent system into law and to start holding children accountable for their actions. SB 10 proposes to hold a juvenile liable for the first \$5,000 worth of damage. The parents would be responsible for the next \$15,000, and that comes out of current law. The idea behind the bill is for parents and children to create a payment plan and for the payment plan to go past the age of 18. If the victim were not interested in getting full restitution that would be their choice.

[8:41:28 AM](#)

SENATOR GUESS continued by saying she tried to create a balance of many issues, such as restitution versus accountability, affordability of the family, and the length of time it would take to make restitution.

[8:43:58 AM](#)

At the request of other members of the Legislature, Senator Guess offered that a portion of the permanent fund dividend (PFD) could be taken to help pay for restitution and/or the driver's license of the youth could be taken away or the issuance postponed.

[8:45:34 AM](#)

CHAIR SEEKINS asked Senator Guess whether SB 10 would make the State of Alaska responsible for restitution in the case where the child is a ward of the state.

SENATOR GUESS said no. That language is in current law and was Senator Fred Dyson's intent of four years ago.

CHAIR SEEKINS felt the state should assume liability if they assumed responsibility.

SENATOR GUESS advised she would double check and get back to the committee. "The difficulty is that if the child doesn't have parents or if they have parents that are exempt from liability, that \$15,000 can't be recovered any other way because of equal protection."

[8:48:46 AM](#)

Senator Gene Therriault joined the committee.

SENATOR HOLLIS FRENCH said the criminal justice system's power over a minor ends about a year after they turn 18. He asked how the bill would keep the power of the court on the minor after emancipation.

SENATOR GUESS offered to find out and get back to the committee.

[8:51:03 AM](#)

CHAIR SEEKINS said when a court orders restitution; it shows up on that person's credit report. He asked whether the same would occur.

SENATOR GUESS said it was the intent of bill that it would once the person turns 18. It would follow the same as any debt, and it would for the parent as well.

SENATOR CHARLIE HUGGINS referred to page 8 lines 7 and 8 and noted "The schedule must provide for payments adequate to fulfill the total restitution amount before the minor reaches 18 years if age." He wondered the outcome when this doesn't happen.

SENATOR GUESS clarified that was for the informal action. If it couldn't be satisfied by age 18 it would have to go to either a criminal or civil action.

[8:54:09 AM](#)

SENATOR FRENCH asked the reason for not commanding the court to order full restitution and to allow the court to apportion between the juvenile and the parents as the court sees fit according to the facts of the case.

SENATOR GUESS said the extremes are the easy cases. She made the policy call to putting a structure to the restitution instead of having the courts decide things such as negligence of a parent. She said most cases are not black and white. She said there could be inequities when depending on the courts to decide.

[8:57:20 AM](#)

CHAIR SEEKINS said the bill would strike a balance and should prod parents to control the activities of their children.

[8:59:19 AM](#)

SENATOR GUESS asserted many people have strong opinions about the bill.

CHAIR SEEKINS asked for public testimony on SB 10.

8:59:57 AM

MR. TONY NEWMAN, program officer, Division of Juvenile Justice (DJJ) expressed concern related to the sections devoted to the changes in the apportioning of restitution between parents and juveniles as well as the revocation of driver's licenses. He said placing restitution solely on youth might decrease the likelihood that restitution would get paid. SB 10 could saddle youth with a debt they could never repay. Another concern is that revoking a driver's license would be issuing a penalty that was not associated with the crime. There is no evidence that juveniles would be less likely to commit a crime knowing their driver's license would be revoked.

9:02:12 AM

The DJJ has invested heavily in looking at factors that are linked to delinquent behavior and have adopted a new assessment tool that will help target resources and responses to crime for youths with the highest likelihood of re-offense. SB 10 has an exemption for taking away the driver's license for those who need transportation to work. He suggested juveniles need their license to get to appointments with probation officers, and family counseling, among other things.

9:03:34 AM

SENATOR FRENCH asked the level of conviction required to pull a driver's license.

MR. NEWMAN said in SB 10 it must be pulled for a formal or informal case.

CHAIR SEEKINS asked Senator Guess whether it would be a discretionary or mandatory action on the part of the courts.

SENATOR GUESS said as written now, it would be mandatory.

SENATOR FRENCH asked Mr. Newman to describe the steps required to go through both an informal and formal adjudication.

MR. NEWMAN explained when a youth breaks the law, the police forward a report to a juvenile justice intake officer who looks at the facts of the crime and makes a determination whether or not to forward the case to a court or to handle the case informally, which means calling the parent for a discussion. The latter is done generally when the damage is relatively low in

value. Many cases the family will pay to avoid an appearance in court. In fiscal year 2005 the DJJ gathered 97 percent of restitutions ordered informally before case closure. When the damage gets into the thousand-dollar range it is most likely to go to the formal level.

[9:06:18 AM](#)

SENATOR FRENCH asked the court procedures during a formal adjudication.

MR. NEWMAN explained the intake officer petitions the court and the court brings the juvenile in and the court orders restitution. The DJJ has an arrangement with the Department of Law (DOL), which has a collections unit that is responsible for seeing that all restitutions ordered through the formal court process are paid.

[9:07:27 AM](#)

SENATOR FRENCH noted a juvenile would be given an attorney prior to formal court adjudication and would have the opportunity to contest the charges.

MR. NEWMAN agreed. He said the process is different than adult court in that youth are not convicted of specific charges. They are either adjudicated delinquent or not, based on many factors over and above the specific crime.

SENATOR FRENCH asked the legal trigger for pulling the driver's license.

SENATOR GUESS corrected the record saying that is only in the formal adjudicated process in the bill.

[9:10:43 AM](#)

CHAIR SEEKINS held SB 10 in committee.

HB 101-SEX TOURISM
HB 148-TRAFFICKING OF PERSONS

[9:16:55 AM](#)

CHAIR SEEKINS asked Representative Croft to introduce HB 101. REPRESENTATIVE ERIC CROFT, bill sponsor, introduced the bill and began with a description of the problem currently facing Alaska. He cited part of a speech by President George W. Bush to the United Nations in September of 2003 regarding young people trapped in sex trafficking commerce. "Those people who create these victims and profit from their suffering must be severely punished. Those who patronize this industry debase themselves

and deepen the misery of others and governments that tolerate this trade are tolerating a form of slavery." The Protect Act, signed into law in 2003, makes it a crime for any person to enter the United States or for any citizen to travel abroad for the purpose of sex tourism involving children. The Department of Justice is actively investigating sex tour operators and patrons who can face up to 30 years in prison under the Trafficking Victims Protection Act.

[9:20:27 AM](#)

The first and most important step was the federal law that President Bush referred to that makes it a crime to travel for purposes of having sex with a child. Representative Croft said states must also act. Alaska has a special exposure to sex tourism due to its vicinity of the Pacific Rim. Hawaii passed a law similar to HB 101 making it illegal to advertise sex tourism. The Hawaii Legislature found that the sex industry has expanded in the past decade and involves the exploitation of persons, particularly women and children. Under their new law they were able to prosecute and withdraw the license from a Honolulu travel agency that had placed explicit advertisement on the web for the ultimate Asian sex tour of Thailand. He recognized broad support from the religious community.

[9:23:10 AM](#)

REPRESENTATIVE CROFT explained the original bill had both the advertising of tourism element and the human trafficking element. After Representative Kerttula introduced HB 148 he dropped the trafficking element from HB 101. Late last year the Department of Law (DOL) submitted a proposed substitute. Both establish a class C felony for the conduct. He stated the reason he did not adopt the DOL suggestion was because it was offered so late in the previous session. He also wanted to make sure that the bill was not too narrow.

[9:26:43 AM](#)

CHAIR SEEKINS asked whether the DOL's "draft A" was a substitute for the entire language of the bill.

REPRESENTATIVE CROFT said yes.

CHAIR SEEKINS asked Representative Croft whether he supported draft A or wanted to retain his original bill.

REPRESENTATIVE CROFT said he would prefer to put it before the Senate Standing Judiciary Committee to adopt the preferred version.

CHAIR SEEKINS noted Ms. Anne Carpeneti's flight was late arriving and he could not verify whether she would make it in to comment on behalf of the DOL.

SENATOR HUGGINS asked Representative Croft to explain the magnitude of difficulties with the issue in Spenard.

REPRESENTATIVE CROFT said it was significant during the pipeline days and is better now, but the bill deals with a global problem. HB 101 deals with people who advertise the conduct that allows people to fly overseas for commercial sex. HB 148 would deal with people who traffic persons into the state.

[9:31:05 AM](#)

SENATOR HUGGINS commented on the maturation of the sex industry in Thailand.

SENATOR GUESS asked Representative Croft to explain the difference in dealing with Alaska companies who advertise in Alaska and companies from other states that advertise in Alaska.

REPRESENTATIVE CROFT said Alaska law could establish how Alaska businesses operate but it is difficult to try and regulate what is on the Internet.

SENATOR GUESS asked whether a Nebraska business could advertise in Alaska and whether an Alaska business could advertise outside of the state.

REPRESENTATIVE CROFT did not know.

[9:35:42 AM](#)

SENATOR GUESS noted a business could get around the law by relocating.

SENATOR FRENCH guessed it would be up to the process of the law. An Alaska judge could issue a warrant for the crime of selling or advertising in the state. If the person lives in Alaska and commits the crime somewhere else then it would be a different story.

SENATOR HUGGINS asked Representative Croft whether the bill addresses floating vessels.

REPRESENTATIVE CROFT said the Legislature had clarified jurisdiction in territorial waters for crimes committed there. A

brochure on a cruise ship inside of three miles would fall within Alaska jurisdiction.

9:39:03 AM

CHAIR SEEKINS asked for a current example of an act that would break the proposed law.

REPRESENTATIVE CROFT did not have one. He said there are a significant amount of Alaska citizens who travel out of country to engage in the business. Identifying exactly who or how it is advertised is difficult because it is an underground deal. Looking at the supply side gives a person an idea of how many people support the industry.

CHAIR SEEKINS noted that Mr. Chip Wagoner signed up to testify on both HB 101 and HB 148. He asked Mr. Wagoner to hold his testimony until HB 148 was introduced.

CHAIR SEEKINS asked Representative Kerttula to introduce HB 148.

9:41:06 AM

REPRESENTATIVE BETH KERTTULA, bill sponsor, introduced HB 148. She reiterated earlier comments from Representative Eric Croft saying that human trafficking is a horrendous crime and a modern form of slavery and also a global problem as well as an Alaska problem. President George W. Bush and the federal government have encouraged the states to enact legislation to address the crime. The bill was crafted with the Department of Law (DOL). It addresses the specific crime of bringing women and children into the state and forcing them into forced labor or sexual activity.

9:44:15 AM

MR. CHIP WAGONER, Executive Director, Alaska Conference of Catholic Bishops, testified on both HB 101 and HB 148. He said both bills are very short in length but contain a huge principal of Catholic social doctrine. The principal is that each and every person has human dignity deserving of recognition and reverence. Sadly this is not the case. Half of the world's population lives on less than \$2 a day. One billion people live in urban slums and 30 million people die yearly due to hunger. People in desperate states are vulnerable and subject to prey. The most recent report from the Vatican noted more than 800 million children around the world are victims of malnutrition, disease, trafficking, and other forms of exploitation. More than 50 million children are born every year who are not even registered, leaving them open to a lifetime of exploitation as their existence is unknown even by their own governments. Human

trafficking involves more than a million children each year in what has become a \$1.2 billion dollar business. Human trafficking has been noted as the second largest criminal activity in the world today and the fastest growing.

9:48:02 AM

While human trafficking is a worldwide issue, it is a problem in this country as well. The United States Department of State estimates that 18-20,000 victims are trafficked across US borders each year. The Center for Women Policy Studies believes the number is closer to 100,000. The Alaska Catholic Conference supports both HB 101 and HB 148. More can be done though. For example California recently passed a comprehensive 28-page bill that enables a victim of human trafficking to bring a civil action for actual damages. Connecticut recently adopted a statute that created an interagency task force on the trafficking of persons. He said victims should be encouraged victims to come forward without fear of deportation. There is a vast difference between illegal immigration and people who are brought to the US against their will or on the basis of false promises.

9:50:08 AM

CHAIR SEEKINS asked for discussion among members.

SENATOR GUESS asked Representative Kerttula to give an example of human trafficking in the second degree.

REPRESENTATIVE KERTTULA explained there are different states of mind in criminal law. There are intentional, negligent, reckless, and knowingly. HB 148 seeks to separate the punishment accordingly. A strip club owner who saw what was going on and chose to ignore it would be second level or reckless. It is a lesser crime with lesser punishment but the behavior should still be criminalized.

SENATOR GUESS asked whether something could be done about deportation at the state level.

REPRESENTATIVE KERTTULA said the federal government is addressing that. The next stage in development in anti-trafficking on the federal level has included special visas that women who are victims of trafficking can apply for. The first step is to criminalize trafficking on a state level and the next step would be to develop a task force or do something with social services. Anchorage has a federal grant to be able to do work on the issue.

9:55:03 AM

SENATOR GUESS advised the members that the effective date would need to be changed on page 2. She asked members to consider an immediate effective date.

CHAIR SEEKINS announced a brief recess at 9:55:51 AM.

10:02:51 AM

MS. ANNE CARPENETI, Assistant Attorney General, criminal division, Department of Law (DOL) introduced herself.

CHAIR SEEKINS advised Ms. Carpeneti that the committee was looking at both HB 101 and HB 148 at the moment. He asked her to look at HB 101 and advise the committee of the rationale behind DOL's Draft A.

MS. CARPENETI advised it is tighter and narrower. The DOL is concerned that promoting travel for the purpose of another person engaging in acts of prostitution might cover activity the DOL would not be looking to cover, such as the cab driver who takes a person to a place where the driver knows commercial sex might be available.

10:06:10 AM

REPRESENTATIVE CROFT said on reflection, he would prefer the Draft A version submitted by the DOL. It is not the intent of the bill to include an airline or a taxicab company.

CHAIR SEEKINS asked the penalty for promoting prostitution in the second degree as compared to promoting sex tourism.

10:09:04 AM

MS. CARPENETI advised both penalties are a class C felony.

CHAIR SEEKINS asked whether there is a reason to separate the crimes versus utilizing the existing statute.

REPRESENTATIVE CROFT said the enticement language in Draft A is cleaner and, all things being equal it makes more sense to put it within the existing statute rather than create new law.

CHAIR SEEKINS said it was the habit of the Senate Judiciary Committee to try to utilize existing statute as much as possible rather than to create new crimes.

SENATOR FRENCH agreed.

[10:12:28 AM](#)

CHAIR SEEKINS asked for further testimony. Seeing none, he asked for discussion among committee members.

Senator French moved Amendment 1 to HB 101. Strike the language in version F.A completely and replace it with Draft A from the DOL. Hearing no objections, the amendment was adopted.

[10:14:05 AM](#)

SENATOR GUESS moved Amendment 2 to HB 101. Add an immediate effective date to the bill. Hearing no objections, the amendment was adopted.

[10:14:05 AM](#)

CHAIR SEEKINS asked Ms. Anne Carpeneti to comment on HB 148.

MS. ANNE CARPENETI, Assistant Attorney General, Department of Law (DOL), testified the DOL has worked with Representative Kerttula on the bill and the DOL fully supports it in its current form.

[10:15:41 AM](#)

SENATOR GUESS moved Amendment 1 to HB 148 to make the effective date immediate. Hearing no objections, the amendment was adopted.

CHAIR SEEKINS held HB 101 and HB 148 in committee.

There being no further business to come before the committee, Chair Seekins adjourned the meeting at [10:16:39 AM](#).