

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

February 1, 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**

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

CS FOR HOUSE BILL NO. 101(JUD) am

"An Act relating to sex tourism."

MOVED SCS CSHB 101(JUD) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 148(JUD)

"An Act relating to human trafficking; and providing for an effective date."

MOVED SCS CSHB 148(JUD) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

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  
 01/25/06 (S) JUD AT 8:30 AM BUTROVICH 205  
 01/25/06 (S) Heard & Held  
 01/25/06 (S) MINUTE(JUD)  
 02/01/06 (S) JUD AT 8:30 AM BUTROVICH 205

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  
01/25/06 (S) Heard & Held  
01/25/06 (S) MINUTE(JUD)  
02/01/06 (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  
01/25/06 (S) Heard & Held  
01/25/06 (S) MINUTE(JUD)  
02/01/06 (S) JUD AT 8:30 AM BUTROVICH 205

**WITNESS REGISTER**

Stacey Steinberg, Statewide Section Chief  
Collections and Support Section

Department of Law  
PO Box 110300

Juneau, AK 99811-0300

**POSITION STATEMENT:** Commented on SB 10

Larry Widgett, Director  
Government Relations  
Anchorage School District  
4600 DeBar Road  
Anchorage, AK 99508

**POSITION STATEMENT:** Testified in support of SB 10

Bruce Johnson  
Association of Alaska School Boards  
1111 W. 9<sup>th</sup> St  
Juneau, AK 99801

**POSITION STATEMENT:** Testified in support of SB 10

Mary Frances, Executive Director  
School Administrators Association

**POSITION STATEMENT:** Testified in support of SB 10

Anne Carpeneti, Assistant Attorney General  
Criminal Division  
Department of Law  
PO Box 110300  
Juneau, AK 99811-0300

**POSITION STATEMENT:** Commented on SB 10

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

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

#### **ACTION NARRATIVE**

**CHAIR RALPH SEEKINS** called the Senate Judiciary Standing Committee meeting to order at [8:37:36 AM](#). Present were Senators Hollis French, Charlie Huggins, Gretchen Guess, and Chair Ralph Seekins.

**SB 10-PARENTAL LIABILITY FOR CHILD'S DAMAGE**

[8:38:01 AM](#)

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

SENATOR GRETCHEN GUESS moved to adopt CSSB 10, version W as the working document before the committee. Hearing no objection, the motion carried.

[8:38:51 AM](#)

SENATOR GUESS, sponsor of SB 10, offered to start off by reporting her answers to the questions that were raised during the previous hearing of the bill. She said currently the state is not liable for acts of vandalism committed by children who are in state's custody. She suggested the committee decide whether or not to hold the state liable in this situation. She said constitutional issues could arise from the committee's decision because SB 10 is a bill concerning crimes against property instead of people. She recommended that the committee make its decision with regard to the best policy decision and then resolve constitutional issues as they arise.

With regard to an earlier question by Senator French, she said the same collections process that is applied to other adults would be applied to juvenile perpetrators when they become 18.

With regard to an earlier question by Chair Seekins, she said credit-reporting agencies are informed of outstanding payments owed by perpetrators to victims so that wouldn't be any different than with the average person.

With regard to an earlier concern of Mr. Newman, she said she has an amendment to allow juveniles to use vehicles to fulfill the conditions of their parole.

[8:41:24 AM](#)

CHAIR SEEKINS said he felt the state should be held liable for acts of vandalism committed by children under its custody because it would be unfair to deny compensation to the victims for the mere reason that they are wards of the state. He said he would support an amendment that would establish the state's liability in such cases.

SENATOR GUESS offered that one of her proposed amendments would establish state's liability. She said:

I think, Mr. Chair, as you stated, this bill is a balance, it is a balance of policy calls, of who and how are we going to hold people accountable, and then ensuring that victims are being taken care of at the same time. If the committee believes that we should go in this direction I don't have any objections, I think that it is a good decision that the committee should make.

SENATOR GUESS moved Amendment 1.

24-LS0115\W.3  
Cook

**A M E N D M E N T 1**

OFFERED IN THE SENATE

BY SENATOR GUESS

TO: CSSB 10( ), Draft Version "W"

Page 4, following line 24:

Insert a new bill section to read:

"\* **Sec. 7.** AS 34.50.020(b) is amended to read:

(b) A state agency or **an agent of a state agency** [ITS AGENTS], including a person working in or responsible for the operation of a foster, receiving, or detention home, or children's institution, is [NOT] liable, **to the same extent a parent is liable under (a) of this section,** for the acts of unemancipated minors in **the** [ITS] charge or custody **of the agency or agent**. A state agency or an agent of a state agency, including a nonprofit corporation that designates shelters for runaways under AS 47.10.392 - 47.10.399 and employees of or volunteers with that corporation, is [NOT] liable, **to the same extent a parent is liable under (a) of this section,** for the acts of a minor sheltered in a shelter for runaways, as defined in AS 47.10.399."

ReNUMBER the following bill sections accordingly.

Page 8, line 3, following "index.":

Insert "A state agency or an agent of a state agency, including a person working in or responsible for the operation of a foster, receiving, or detention home, or children's institution, is responsible for restitution, to the same extent a parent is responsible under this subsection, for the acts of

minors in the charge or custody of the agency or agent. A state agency or an agent of a state agency, including a nonprofit corporation that designates shelters for runaways under AS 47.10.392 - 47.10.399 and employees of or volunteers with that corporation, is responsible for restitution, to the same extent a parent is responsible under this subsection, for the acts of a minor sheltered in a shelter for runaways, as defined in AS 47.10.399."

Page 8, line 23:  
Delete "from"

Page 8, line 24, following "(1)":  
Insert "from"

Page 8, line 25, following "(2)":  
Insert "except as provided in (d) of this section, from"

Page 8, line 28, following "(3)":  
Insert "from"

Page 11, line 26:  
Delete "by"

Page 11, line 27, following "(i)":  
Insert "by"

Page 12, line 5, following "(ii)":  
Insert "by"

Page 12, line 6, following "(iii)":  
Insert "except as provided in (m) of this section, by"

Page 12, line 9, following "(iv)":  
Insert "by"

Page 14, line 22, following "index.":

Insert "A state agency or an agent of a state agency, including a person working in or responsible for the operation of a foster, receiving, or detention home, or children's institution, is responsible for restitution, to the same extent a parent is responsible under this subsection, for the acts of minors in the charge or custody of the agency or agent. A state agency or an agent of a state agency, including a nonprofit corporation that designates shelters for runaways under AS 47.10.392 - 47.10.399 and employees of or volunteers with

that corporation, is responsible for restitution, to the same extent a parent is responsible under this subsection, for the acts of a minor sheltered in a shelter for runaways, as defined in AS 47.10.399."

Page 18, line 14:

Delete "sec. 7"

Insert "sec. 8"

SENATOR HOLLIS FRENCH noted he would be interested to hear the reason that the state has never been held liable for children who are wards of the state. He voiced agreement with Chair Seekins on the issue as well as support for the amendment.

[8:45:11 AM](#)

Senator Gene Therriault joined the committee.

SENATOR CHARLIE HUGGINS expressed concern that the state could be exploited under Amendment 1.

SENATOR GUESS explained that under the amendment, liability would be capped at \$15,000, just as it is for parents. She clarified that in the case of foster parents, the state would be held liable for vandalism committed by foster children.

CHAIR SEEKINS noted that without objection, Amendment 1 was adopted.

[8:47:38 AM](#)

SENATOR GUESS informed the committee that all the amendments she had prepared were requested by different parts of the administration and that she supports all of them.

CHAIR SEEKINS moved Amendment 2.

SENATOR GUESS explained Amendment 2 was written in response to a request from the Division of Juvenile Justice that juveniles with suspended licenses be allowed to drive in order to meet certain conditions of probation.

SENATOR THERRIAULT asked whether the amendment would replace the entire section pertaining to revoked licenses.

SENATOR GUESS replied that it would not.

24-LS0115\W.1  
Cook

A M E N D M E N T 2

OFFERED IN THE SENATE

BY SENATOR GUESS

TO: CSSB 10( ), Draft Version "W"

Page 3, line 23, following "public.":

Insert "The court may also impose limitations on the driver's license of a person who is under 18 years of age that will enable the person to satisfy conditions of probation without excessive risk or danger to the public."

CHAIR SEEKINS noted that without objection, Amendment 2 was adopted.

[8:48:40 AM](#)

CHAIR SEEKINS moved Amendment 3.

24-LS0115\W.2

Cook

A M E N D M E N T 3

OFFERED IN THE SENATE

BY SENATOR GUESS

TO: CSSB 10( ), Draft Version "W"

Page 4, line 9:

Delete "damages"

Insert "that portion of damages for which the parents are liable"

Page 4, line 12:

Delete "minor is not liable, but the"

Insert "The"

Page 7, line 19:

Delete "the minor is not responsible, but"

Page 7, line 20:

Delete ", "

Page 7, line 23:

Delete "the amount"

Insert "that portion of the amount for which the parents are liable"

Page 14, line 6:

Delete "the minor is not responsible, but"

Page 14, line 7:

Delete ", "

Page 14, line 10:

Delete "the amount"

Insert "that portion of the amount for which the parents are liable"

SENATOR GUESS explained that Amendment 3 resolves a conflict between two sentences in the outline of the payment structure of the bill.

[8:50:43 AM](#)

CHAIR SEEKINS noted the amendment created a sentence with two consecutive "the's."

SENATOR FRENCH concurred with Chair Seekins.

[8:51:46 AM](#)

SENATOR GUESS moved an amendment to Amendment 3. Delete the phrase "insert the" from page 4, line 7 of Amendment 3.

CHAIR SEEKINS noted that without objection, the amendment to Amendment 3 was adopted and that Amendment 3 was therefore adopted.

[8:53:26 AM](#)

CHAIR SEEKINS moved Amendment 4.

24-LS0115\W.4  
Cook

#### A M E N D M E N T 4

OFFERED IN THE SENATE

BY SENATOR GUESS

TO: CSSB 10( ), Draft Version "W"

Page 1, line 5, through page 2, line 2:

Delete all material.

Page 2, line 3:

Delete "**Sec. 2**"

Insert "**Section 1**"

ReNUMBER the following bill sections accordingly.

Page 2, lines 11 - 12:

Delete all material and insert:

"(2) revoke the person's driver's license for a period of not less than six months but not to exceed one year;"

Page 3, line 2:

Delete "AS 04.16.050(c) and (d)"

Insert "AS 04.16.050(d)"

Page 18, line 14:

Delete "sec. 7"

Insert "sec. 6"

SENATOR GUESS explained Amendment 4 was drafted in response to concerns raised by the DOL over Section 1 of the bill's reference to repeat minor consuming, which is not a misdemeanor, and habitual minor consuming, which is a misdemeanor. The bill is attempting to deal with all misdemeanors and felonies in the same manner.

CHAIR SEEKINS noted that without objection, Amendment 4 was adopted.

[8:54:41 AM](#)

CHAIR SEEKINS moved Amendment 5.

24-LS0115\W.5

Cook

#### A M E N D M E N T 5

OFFERED IN THE SENATE

BY SENATOR GUESS

TO: CSSB 10( ), Draft Version "W"

Page 7, lines 1 - 7:

Delete all material.

Insert "allegation, including restitution to the victim unless the restitution is expressly waived by the victim. In determining the amount of restitution, the department or the entity"

Page 13, lines 20 - 26:

Delete all material.

Insert "including restitution to the victim unless the restitution is expressly waived by the victim. In determining the amount of restitution, the court may not consider the"

SENATOR GUESS explained Amendment 5 was drafted by request of the courts. It removes language about the bill's requirement that restitution include repayment to third parties for counseling and medical care. The courts asked to have that language removed because going to third party restitution is difficult in cases involving property crimes.

CHAIR SEEKINS noted that without objection, Amendment 5 was adopted. He then called for public testimony.

8:56:35 AM

STACEY STEINBERG, Statewide Section Chief, Collections and Support Section, Department of Law (DOL), said she was present to address the impact that SB 10 would have on the collections unit.

SENATOR FRENCH asked Ms. Steinberg to give the committee an overview of the average amount of a claim, how successful the department is in getting restitution, and a general overview of the collections process.

MS. STEINBERG said she did not have specific numbers but the unit began collecting restitution in January 2002. They collect in adult and juvenile cases. Since 2002, they have opened a total of 867 juvenile cases and have collected all of the restitution of 472 cases. She did not have current information on the average judgment but said she would estimate that currently there are 100-125 juvenile cases with a balance of over \$5,000.

9:00:30 AM

MS. STEINBERG estimated out of the total number of cases they have opened, 612 cases were joint and several, which is generally a juvenile with another juvenile, or a juvenile and a parent. They had approximately 255 cases that were not joint and several.

SENATOR FRENCH asked who would be the person that sets the ratio of liability.

MS. STEINBERG said currently the judge would decide if a case is to be joint and several. An example of joint and several liability is when a juvenile gets into trouble and goes through

the formal adjudication process, the judge determines the appropriate restitution to be paid to the victim and who is responsible to pay. The way joint and several liability works is it means that anyone is responsible for the full amount of the judgment. If the judgment is for \$5,000, the one parent can be held responsible for the entire amount or the Department can collect from the juvenile. Basically the DOL unit can collect from either party. If one party thinks the other party should pay - that is an issue between the two.

[9:03:09 AM](#)

MS. STEINBERG it provides a mechanism that favors the victim. For example if the juvenile does not have an income but the parent does, the DOL can collect the money more quickly.

SENATOR FRENCH asked whether SB 10 would preserve that system.

MS. STEINBERG said SB 10 could make it take longer to collect because they would only be able to collect so much from the parent before they would have to collect from the juvenile. If the juvenile were reluctant to make payments, they would have to rely on garnishing the permanent fund dividend. Currently they are able to collect from both the parent and the juvenile until the entire amount is collected.

[9:05:16 AM](#)

CHAIR SEEKINS asked Ms. Steinberg the number of juvenile cases they have who are wards of the state.

MS. STEINBERG did not know.

CHAIR SEEKINS said the committee was curious to know the number of juvenile offenders in foster care.

MS. STEINBERG said they do not obtain that information. They only get the judgment.

CHAIR SEEKINS asked the number of cases where there is no liability listed for the parent.

MS. STEINBERG repeated the collections unit does not get any additional information.

[9:08:05 AM](#)

CHAIR SEEKINS asked the number of sole liability out of the total number of cases.

MS. STEINBERG said there were 255 cases up to date that were not joint and several.

CHAIR SEEKINS speculated that was an indication.

SENATOR GUESS noted the cases Ms. Steinberg was referring to were all crimes against property and persons. Also courts look at the ability of the child to pay. There is no data to suggest that if the restitution was paid then all of the damage was paid because is it not a one-to-one relationship, especially in juvenile cases. SB 10 does not restrict a parent from giving their child the money to pay the restitution. She asserted it was important to start holding juveniles accountable even if there might be a slow-down of restitution.

[9:12:39 AM](#)

SENATOR FRENCH commented he is struggling with whether the victim would be getting further punished by waiting for the juvenile to pay restitution.

CHAIR SEEKINS agreed.

SENATOR GUESS said there was currently a case in court where the damage was over \$120,000 but the judgment was for only \$5,000 because that was all that the child could pay.

SENATOR THERRIAULT said he worked on this section of the statute years ago and remembered that they had to be mindful not to set up a system where a child could impose a lot of damage to get back at the parents for something the child felt they deserved.

[9:16:06 AM](#)

SENATOR FRENCH asked Ms. Steinberg whether she reads Amendment 1 as though it makes foster parents liable.

MS. STEINBERG responded she is not the best person to answer that question because the collections department does not determine who is responsible for paying money to a victim. They work only off of the judgment.

SENATOR FRENCH commented it is a different set of lawyers that go to court and argue about the amount of restitution and who should pay it.

MS. STEINBERG agreed. Someone in the criminal division handles those matters. She remarked that she was testifying on behalf of

the civil division, which simply collects the restitution judgments.

[9:18:44 AM](#)

SENATOR GUESS said she believed it was the intent of the committee to hold the state, not the foster parents, liable for children under its custody. She would work with the drafters to ensure that the bill reflects that intent.

CHAIR SEEKINS agreed that was the intent.

LARRY WIGET, Director of Government Relations, Anchorage School District, thanked the committee for discussing the issues pertinent to the bill. His testimony was as follows:

The Anchorage School Board urges the Legislature to allow a school district to recover with appropriate judicial protections, the full amount of damages to school property from an unemancipated minor from either parent, both parents, or the legal guardian of a minor, who as a result of knowing or intentional act, destroys real or personal property belonging to a school district.

Vandalism damages a schools physical plant, has a negative impact on student learning and demoralizes hard working staff and students. Every taxpayer dollar spent on repairing vandalism is a dollar that the school district cannot invest in textbooks, teachers, or technologies.

For example, between December 2001 and August 2004, vandals did \$770,469 in major damage to our schools and facilities. Of this amount, over \$325,000 was incurred in the summer of 2004 by juveniles who set fire to playground equipment in four of our elementary schools. We believe that offenders should be held fully accountable for the damages done to our schools and facilities. Parents must also accept some responsibility for their child's act and we should be able to collect from minors past their 19<sup>th</sup> birthday. Thank you.

[9:21:38 AM](#)

BRUCE JOHNSON, Association of Alaska School Boards, expressed support for SB 10 and commended the committee for its efforts to create a fair approach to the issue of school vandalism.

SENATOR HUGGINS asked Mr. Johnson whether he had any figures relating to the statewide cost of school vandalism.

MR. JOHNSON replied he did not but his organization could conduct a survey of school districts throughout the state and he could report back with the results in a few days.

9:23:58 AM

MARY FRANCES, Executive Director, School Administrators Association, testified in support of SB 10. She said oftentimes the cost of vandalism to a school exceeds the maximum amount that it can recover under state law. Her organization has long supported a resolution to increase the maximum amount that a district can recover relative to the actual cost of the damage.

CHAIR SEEKINS closed public testimony.

ANNE CARPENETI, Criminal Division, Department of Law (DOL) introduced herself.

TONY NEWMAN, Program Officer, Division of Juvenile Justice (DJJ) introduced himself.

SENATOR THERRIAULT asked Ms. Carpeneti whether her concerns regarding the fiscal note have been addressed with the amendments of the day.

MS. CARPENETI stated the amendments did not address the concerns outlined in the DOL's fiscal note. The three layered collection system proposed by the bill would require three files for each collection and thus would require more effort to manage. The amendments do not address the concerns of Senator French and Ms. Steinberg that the collection system proposed by the bill would limit the amount of restitution that the DOL would be able to collect. Additionally, the fiscal note does not address the liability that SB 10 would create for the state.

SENATOR THERRIAULT asked whether the bill would create a new financial obligation for the state.

9:28:07 AM

SENATOR GUESS replied:

The amendment that we passed today that provided state obligation hadn't been discussed before, so it is not reflected in any fiscal notes. Right now there is no

obligation for the state so there would be. On the law fiscal note, again, this is why I am just going to agree to disagree with the administration somewhat. Right now it depends on how many cases come down, so there is two files open if it is joint and severable which is most of the cases. It is going to be three in cases where it is over \$20,000 so I guess I don't see that it is so much more complex than the current system, which is going to have at least 2 cases open. In some cases we are only going to have 1 because those under \$5,000 will only be the juvenile and won't be joint and severable. Again, unfortunately as we are changing it we don't necessarily know because we would need better statistics than we have now on what the actual damage is versus the ordered damage and how that breaks out in the new system versus the old system.

MS. CARPENETI speculated that Ms. Steinberg could answer the question. The fiscal note from collections comes from her.

SENATOR THERRIAULT remarked that Senator Guess is correct in her claim that the fiscal impact of the bill would depend on the number of cases that have to be prefiled. He said his staff gathered data showing that 99 percent of the vandalism claims fall below \$5,000 and this proves that the number of cases requiring multilayered filling would be fairly minimal.

He expressed concern with a discrepancy in the DOL fiscal note. He said that while the note shows an estimate of a one-time payment of \$6500 for the cost of equipment, it also shows an annual equipment expense of \$7300. He asked Ms. Steinberg to comment on whether the amendments have affected the fiscal notes.

MS. STEINBERG said the current fiscal note did not consider the possibility of state liability represented by Amendment 1. The other amendments would not seem to have any affect on the current fiscal note. She said she was not prepared to discuss the fiscal note.

[9:32:31 AM](#)

MS. CARPENETI interrupted to say the DOL discussed fiscal notes with Senator Guess who said she would prefer to take up the matter when the bill reached the Senate Finance Standing Committee.

SENATOR THERRIAULT asserted the bill should not leave the Senate Judiciary Standing Committee with attached fiscal notes that are known to be invalid

MR. NEWMAN advised he wanted to consult the DJJ to determine the fiscal impact, if any, for his division. He said with regard to the earlier question about the number of children in state custody, the state has 1,300 children in custody or under supervision at any given time. Of these children, 70 percent are under the supervision of the state while under the custody of the parents while 30 percent are in the custody of the state.

To determine the state's liability for children in custody, it is important to consider that most of these children are in a state facility where they have a limited opportunity to commit acts of vandalism. If they do commit such acts, they would be committing them against state property for which the state would be liable for anyway. He said he is most interested in the liability that the state might incur from vandalism committed by children placed in foster homes.

[9:35:14 AM](#)

CHAIR SEEKINS held SB 10 in committee. He announced a brief recess at [9:35:49 AM](#).

#### **HB 101-SEX TOURISM**

[9:42:26 AM](#)

CHAIR RALPH SEEKINS announced HB 101 to be up for consideration.

SENATOR GRETCHEN GUESS moved SCS CSHB 101(JUD) version I as the working document before the committee. Hearing no objection, the motion carried.

REPRESENTATIVE ERIC CROFT, sponsor, said he would find out whether the immediate effective date was appropriate. While he believes that it is, he had some further checking to do with law enforcement.

[9:43:53 AM](#)

CHAIR SEEKINS closed public testimony.

SENATOR GUESS moved SCS CSHB 101(JUD) from committee with individual recommendations and attached zero fiscal notes. Hearing no objection, the motion carried. Chair Seekins announced a brief recess at [9:44:34 AM](#).

**HB 148-TRAFFICKING OF PERSONS**

[9:45:51 AM](#)

CHAIR RALPH SEEKINS announced HB 148 to be up for consideration.

REPRESENTATIVE BETH KERTTULA informed committee members that their expected testimony has not worked out.

CHAIR SEEKINS closed public testimony. He asked Representative Kerttula whether there should be a change in the effective date.

REPRESENTATIVE KERTTULA reported the effective date should be updated.

[9:47:30 AM](#)

SENATOR GRETCHEN GUESS moved Amendment 1. Change the effective date to July 1, 2006. Hearing no objection, Amendment 1 was adopted.

SENATOR GUESS moved SCS CSHB 148(JUD) out of committee with individual recommendations and attached zero fiscal notes. Hearing no objection, the motion carried.

There being no further business to come before the committee, Chair Seekins adjourned the meeting at [9:48:19 AM](#).