

HOUSE FINANCE COMMITTEE
April 9, 2008
8:53 a.m.

CALL TO ORDER

Co-Chair Chenault called the House Finance Committee meeting to order at 8:53:58 AM.

MEMBERS PRESENT

Representative Mike Chenault, Co-Chair
Representative Kevin Meyer, Co-Chair
Representative Bill Stoltze, Vice-Chair
Representative Harry Crawford
Representative Richard Foster
Representative Les Gara
Representative Mike Hawker
Representative Reggie Joule
Representative Mike Kelly
Representative Mary Nelson
Representative Bill Thomas Jr.

MEMBERS ABSENT

None

ALSO PRESENT

Senator Bettye Davis; Tom Obermeyer, Staff, Senator Bettye Davis; Denise Daniello, Executive Director, Alaska Commission on Aging; Senator Bill Wielechowski (Sponsor); Anne Carpeneti, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law; George Ascott, Staff, Senator Wielechowski; Dwayne Peeples, Deputy Commissioner, Department of Corrections

PRESENT VIA TELECONFERENCE

William Hogan, Deputy Commissioner for Family, Community, & Integrated Services, Department of Health and Social Services;

SUMMARY

CSSB 185(STA)(title am)

"An Act relating to the central registry of sex offenders and child kidnappers and to the registration requirements for sex offenders and child kidnappers; and providing for an effective date."

CSSB 185(FIN) was REPORTED out of Committee with a "do pass" recommendation and with two new zero

fiscal notes (COR and ADM); and previously published fiscal impact notes: FN2 (ADM), FN# (LAW), and FN4 (DPS).

CSSB 243(HES)

"An Act relating to the duties and powers of the Alaska Commission on Aging and the Department of Health and Social Services."

CSSB 243(FIN) was REPORTED out of Committee with individual recommendations and a zero fiscal note from Department of Health and Social Services.

[8:54:47 AM](#)

CS FOR SENATE BILL NO. 243(HES)

"An Act relating to the duties and powers of the Alaska Commission on Aging and the Department of Health and Social Services."

SENATOR BETTYE DAVIS (SPONSOR) introduced SB 243, which moves grant duties formerly carried out by the Commission on Aging to the Department of Health and Social Services. She pre-approved an amendment to be presented later in the meeting.

[8:55:52 AM](#)

TOM OBERMEYER, STAFF, SENATOR BETTYE DAVIS (SPONSOR), read paragraph one of the sponsor statement noting the zero fiscal note.

As required by a 2007 Legislative Audit, this "clean-up" bill brings into alignment grant duties and responsibilities that were previously given to the Department of Health and Social Services (DHSS), when the Commission on Aging (ACoA) and Division of Senior Services became part of DHSS...

Senate Bill 243 assigns authority for establishing state policy related to the Older Americans Act federal programs and state programs for Older Alaskans to the Department of Health and Social Services. The Department of Health and Social Services (DHSS) is recognized as the state "Unit on Aging." The bill also transfers grant authority related to senior service grants, adult day care, and family respite care grants from the Alaska Commission on Aging to DHSS. DHSS has assigned these grant administrative duties to Senior and Disabilities Services.

Mr. Obermeyer referenced the sectional analysis describing the authorities and responsibilities of each unit. The

fiscal note further illustrates the shifting of past powers into statute.

[8:57:52 AM](#)

DENISE DANIELLO, EXECUTIVE DIRECTOR, ALASKA COMMISSION ON AGING, testified before the committee and through a formal letter (copy on file) in support of the bill. Senate Bill 243(HES) amends statutes to reflect the current work of ACoA and DHSS initiated by Executive Order 108 in July 2003.

Ms. Daniello recapped that ACoA works closely with the Division of Senior and Disabilities Services (SDS) to assist the department in carrying out its "state unit on aging" responsibilities. Whereas, administrating and distributing state funds to senior service programs falls under SDS, the Commission focuses on planning, community education, and advocacy activities on behalf of older Alaskans. Current legislation cures the one and only finding reported by the Division of Legislative Audit in June 2007.

[8:59:45 AM](#)

Representative Gara inquired into ACoA's stance on Amendment #1. Ms. Daniello answered in support of the amendment, which allows residents of the pioneer home to receive the economic stimulus payment arriving from the Federal Government.

[9:01:05 AM](#)

Co-Chair Chenault MOVED to ADOPT amendment #1. Representative Hawker OBJECTED.

VIRGINIA SMILEY, DIRECTOR, ALASKA PIONEER HOMES, DEPARTMENT OF HEALTH AND SOCIAL SERVICES explained that in anticipation of a federally funded economic stimulus package, AS 47.55 did not allow pioneer home residents on payment assistance to keep the rebate. Amendment #1 adds an exemption in Sec. 7. AS 47.55.020(d)(10) for "the poorest of the poor" allowing those seniors to hold onto a federal refund that will come in this fiscal year.

[9:02:38 AM](#)

Representative Gara appreciated the clarification and expressed gratitude for the amendment. Representative Hawker thanked Ms. Smiley for her work.

[9:03:23 AM](#)

Representative Hawker WITHDREW his OBJECTION.

Senator Davis favored the amendment.

There being NO OBJECTION, amendment #1 was adopted.

Vice-Chair Stoltze MOVED to report CSSB 243(FIN) out of committee with individual recommendations and a zero fiscal note from Department of Health and Social Services. There being NO OBJECTION.

CSSB 243(FIN) was REPORTED out of Committee with individual recommendations and a zero fiscal note from Department of Health and Social Services.

[9:05:40 AM](#)

CS FOR SENATE BILL NO. 185(STA)(title am)

"An Act relating to the central registry of sex offenders and child kidnappers and to the registration requirements for sex offenders and child kidnappers; and providing for an effective date."

Vice-Chair Stoltze MOVED to ADOPT work draft #25-LS0985/L as a working draft for HCS CSSB 185(FIN).

There being NO OBJECTION, it was so ordered.

[9:06:52 AM](#)

Representative Gara expressed frustration with the draft corrections to the bill. He felt that the language drafted by Legal Services [to incorporate a conceptual amendment] did not represent the intent of the amendment.

Mr. Gara cited a provision that states electronic monitoring "may" be at the discretion of the court; the provision was changed to "shall". He further noted a recommendation to victims "under 14" years of age that was lowered to "under 13", which he did not believe related to the issue's legality.

Mr. Gara expressed concern that in a memo dated April 8, 2008 (copy on file) legislative legal counsel encouraged the addition of AS 11.41.434 to Section 2 of the bill, a statute he thought had been discussed and settled against in a previous meeting. Mr. Gara consented to substantively discuss the issues.

[9:08:21 AM](#)

Co-Chair Chenault asked Ms. Carpeneti for comments on the memo regarding Amendment #3, which he believed summarized conclusions formerly reached by committee members.

ANNE CARPENETI, ASSISTANT ATTORNEY GENERAL, LEGAL SERVICES SECTION-JUNEAU, CRIMINAL DIVISION, DEPARTMENT OF LAW, shared an understanding that the committee had made the provision discretionary and therefore implemented the adoption of

"may." In response to the addition of AS 11.41.434 [sexual abuse of a minor in the first degree], Ms. Carpeneti explained that the state does not charge many offenders under sexual assault [AS 11.41.410] when the crime involves a young victim. The state usually proceeds with AS 11.41.434 because there exists one less approval to convict an offender with the same serious, unclassified felony result. The department realized the state could monitor more offenders by employing the sexual abuse of a minor statute.

Ms. Carpaneti described "under 13" as tracking better with current statutes that use the phrase as a marker for various levels of crime in sexual abuse cases.

[9:10:37 AM](#)

Representative Gara accepted the addition of AS 11.41.434 to the bill. He reiterated what he thought was a transcription error of "shall" instead of "may" in the CS. He found first degree rape cases especially those involving a young person "beyond troubling." He elaborated on how AS 11.41.410 allows prosecuting an offender regardless of the victim's age. He showed awareness that the limitation, "under 13", usually defines a minor in state statute. Representative Gara argued the appropriateness of electronic monitoring for victims "under 14" as a policy prerogative in Alaska law instead of a convenient fit.

[9:12:04 AM](#)

Ms. Carpeneti agreed the issue is a policy call. Co-Chair Chenault repeated that "under 13" tracks more closely with existing statutes rather than throwing another value into the mix.

Representative Gara contended that should the committee choose "under 14", "there is nothing wrong with us doing that." Members could change the limit to "under 13," but electronic monitoring would only happen then. Representative Gara did not see why electronic monitoring shouldn't happen when the victim is "under 14". If a court uses AS 11.41.410, which has no age requirements to prosecute, he reasoned that the legislature could just as easily say 14 as 13. He recommended the committee stay with "under 14."

[9:12:59 AM](#)

Representative Kelly recognized the legal memo as triggering previous debate surrounding AS 11.41.410. He noted that the bill currently includes the most egregious assault violations. He acknowledged the suggestion from legal to capture sexual abuse as well and wondered about re-opening AS 11.41.434 as a point of dialogue.

Co-Chair Chenault spoke to the original intent of CSSB 185.

Representative Gara agreed with the addition of AS 11.41.434.

[9:14:48 AM](#)

Ms. Carpeneti reiterated that AS 11.41.434 captures a person convicted of sexual abuse of a minor in the first degree. The offense registers as an unclassified felony.

Representative Kelly supported an amendment to do just that.

[9:15:17 AM](#)

Co-Chair Chenault MOVED amendment #5:

Page 2, line 6
Delete "shall"
Insert "may"

Page 2, line 7
After "AS 11.41.410"
Insert "or AS 11.41.434"

Page 2, line 8
Delete "14"
Insert "13"

Vice-Chair Stoltze OBJECTED.

[9:15:55 AM](#)

Representative Gara expressed general agreement with amendment #5, but continued to urge applying electronic monitoring in instances where the victim is older.

Representative Gara MOVED to ADOPT an amendment to Amendment #5 to leave the age of the victim at "under 14" instead of "under 13" or in effect delete lines 9-11. Representative Kelly endorsed the action.

[9:18:03 AM](#)

Representative Hawker OBJECTED citing consistency with present legislative age bracketing a more compelling reason to insert "under 13" than reaching out with a one year variance on this particular issue.

[9:19:08 AM](#)

Representative Gara guessed he would agree if the issue upset consistency. He explained that according to AS 11.41.410 "rape is rape" with no age discussion, and the

legislature requests electronic monitoring of those individuals who rape children under 14. He continued that AS 11.41.410 identifies three kinds of victims, "those who are 16, those who are 18, those who are 13." He asserted the variable choice of picking "13" out of the three ages. He maintained the electronic monitoring matter of either age as a policy call.

[9:19:59 AM](#)

Ms. Carpeneti clarified the phrase "under 14" in the current draft as meaning 13 year olds. She continued that if the legislature desires to monitor perpetrators of 14 year old victims, the number should change to "under 15."

Co-Chair Chenault inferred by extension Amendment #5 as written to focus on "under 13" to mean 12 year olds.

[9:20:50 AM](#)

Vice-Chair Stoltze concurred with Mr. Luckhaupt and legal counsel in support of Amendment #5 as offered and in opposition of the amendment to that amendment.

[9:21:56 AM](#)

SENATOR BILL WIELECHOWSKI (SPONSOR), voiced no strong feelings on either age 14 or 13.

Representative Kelly queried the effect of a change on the statutes if protecting a 13 year old instead of a 12 year old. Ms. Carpeneti simplified the matter as a policy call saying, "Concerns about consistency are as important as you make them."

[9:23:21 AM](#)

Representative Kelly disclosed his support for the amendment to the amendment answering that this piece of legislation holds wisdom and not enough violence elsewhere in statute to let the year go. Representative Hawker maintained his objection.

A roll call vote was taken on the motion.

IN FAVOR: Kelly, Thomas, Crawford, Gara
OPPOSED: Hawker, Joule, Stoltze, Chenault

The MOTION FAILED (4-4).

[9:24:51 AM](#)

There being NO OBJECTION, Amendment #5 was adopted.

9:26:00 AM

DWAYNE PEEPLES, DEPUTY COMMISSIONER, DEPARTMENT OF CORRECTIONS addressed the indeterminate fiscal note from the Department of Corrections (DOC) dated 04/09/08 8:15am (copy on file). He elaborated that based on consultations with the Department of Law and the Alaska Court System, the Department of Corrections could not unearth any data distinguishable by age under AS 11.41.410. The Department of Corrections proceeded to gather information from AS 11.41.434. During the period 2002-07, under the sexual abuse of a minor statute, data showed 32 convicted individuals with an average sentence of around 9 years. Based on an assumption that the courts would exercise discretion in applying electronic monitoring, the Department utilized a figure between $\frac{1}{4}$ and $\frac{1}{2}$ of the number reported.

Mr. Peeples anticipated the operation of a Passive Global Positioning System (GPS), which tracks an individual's steps by zone during the course of a day and fires off an alarm if the person enters a prohibited area. He speculated that the Intensive Supervision Surveillance Program (ISSP) would require one probation officer for every 20 offenders. The Department of Corrections could potentially absorb the cost of watching the earliest offenders and report a more accurate prospective once a year. The department estimated a minimum expenditure of \$2,500 for the GPS in the initial stages and annual costs thereafter to fund the Probation Officer position.

Representative Gara complimented Co-Chair Chenault and Mr. Peeples on their successful efforts to make the bill better. Senator Wielechowski thanked the committee.

9:30:28 AM

Vice-Chair Stoltze MOVED to REPORT HCS CS SB 185(FIN) as amended out of Committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION.

CSSB 185(FIN) was REPORTED out of Committee with a "do pass" recommendation and with two new zero fiscal notes (COR and ADM); and previously published fiscal impact notes: FN2 (ADM), FN# (LAW), and FN4 (DPS).

9:31:52 AM

ADJOURNMENT

The meeting was adjourned at 9:32 AM