

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

February 28, 2007

1:07 p.m.

MEMBERS PRESENT

Representative Jay Ramras, Chair
Representative Nancy Dahlstrom, Vice Chair
Representative John Coghill
Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 117

"An Act relating to proclamations issued by the governor calling the legislature into special session."

- MOVED CSHB 117(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 88

"An Act relating to televisions, monitors, portable computers, and similar devices in motor vehicles; and providing for an effective date."

- MOVED CSHB 88(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 145

"An Act relating to sexual assault, sexual abuse of a minor, and online enticement of a minor."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 117

SHORT TITLE: PROCLAMATION CALLING A SPECIAL SESSION

SPONSOR(S): REPRESENTATIVE(S) HARRIS

02/01/07 (H) READ THE FIRST TIME - REFERRALS

02/01/07 (H) STA, JUD
02/20/07 (H) STA AT 8:00 AM CAPITOL 106
02/20/07 (H) Moved Out of Committee
02/20/07 (H) MINUTE(STA)
02/21/07 (H) STA RPT 6DP
02/21/07 (H) DP: JOHNSON, DOLL, COGHILL, GRUENBERG,
ROSES, LYNN
02/22/07 (H) STA AT 8:00 AM CAPITOL 106
02/22/07 (H) <Bill Hearing Canceled>
02/26/07 (H) JUD AT 1:00 PM CAPITOL 120
02/26/07 (H) Heard & Held
02/26/07 (H) MINUTE(JUD)
02/28/07 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 88

SHORT TITLE: TVS AND MONITORS IN MOTOR VEHICLES
SPONSOR(S): REPRESENTATIVE(S) GATTO, GRUENBERG

01/16/07 (H) PREFILE RELEASED 1/12/07
01/16/07 (H) READ THE FIRST TIME - REFERRALS
01/16/07 (H) STA, JUD, FIN
01/29/07 (H) BILL REPRINTED 1/29/07
02/08/07 (H) STA AT 8:00 AM CAPITOL 106
02/08/07 (H) Scheduled But Not Heard
02/13/07 (H) STA AT 8:00 AM CAPITOL 106
02/13/07 (H) Heard & Held
02/13/07 (H) MINUTE(STA)
02/15/07 (H) STA AT 8:00 AM CAPITOL 106
02/15/07 (H) Heard & Held
02/15/07 (H) MINUTE(STA)
02/20/07 (H) STA AT 8:00 AM CAPITOL 106
02/20/07 (H) Moved CSHB 88(STA) Out of Committee
02/20/07 (H) MINUTE(STA)
02/21/07 (H) STA RPT CS(STA) NT 6DP 1NR
02/21/07 (H) DP: DOLL, LYNN, GRUENBERG, ROSES,
JOHNSON, JOHANSEN
02/21/07 (H) NR: COGHILL
02/28/07 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 145

SHORT TITLE: SEXUAL CRIMES
SPONSOR(S): REPRESENTATIVE(S) ROSES

02/19/07 (H) READ THE FIRST TIME - REFERRALS
02/19/07 (H) JUD, FIN
02/28/07 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

TOM WRIGHT

House Majority Office
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 117, provided a comment on behalf of the sponsor, Representative John Harris.

REPRESENTATIVE CARL GATTO

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Joint prime sponsor of HB 88.

ANNE CARPENETI, Assistant Attorney General

Legal Services Section-Juneau
Criminal Division

Department of Law (DOL)
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 88, provided comments and responded to questions.

RODNEY DIAL, Lieutenant, Deputy Commander

A Detachment

Division of Alaska State Troopers
Department of Public Safety (DPS)
Ketchikan, Alaska

POSITION STATEMENT: Responded to questions during discussion of HB 88.

REPRESENTATIVE BOB ROSES

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 145.

CRYSTAL NOVOTNEY, Staff

to Representative Bob Roses

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 145, provided comments on behalf of the sponsor, Representative Roses.

ACTION NARRATIVE

CHAIR JAY RAMRAS called the House Judiciary Standing Committee meeting to order at [1:07:01 PM](#). Representatives Lynn, Holmes, Gruenberg, Dahlstrom, Coghill, and Ramras were present at the

call to order. Representative Samuels arrived as the meeting was in progress.

HB 117 - PROCLAMATION CALLING A SPECIAL SESSION

1:07:38 PM

CHAIR RAMRAS announced that the first order of business would be HOUSE BILL NO. 117, "An Act relating to proclamations issued by the governor calling the legislature into special session." [HB 117 was amended once on 2/26/07.]

REPRESENTATIVE GRUENBERG referred to the proposed committee substitute (CS) for HB 117, Version 25-LS0458\M, Cook, 2/27/07, in members' packets, and said that the bill has been redrafted to flow well and allow for a general rule of 30 days notice for a special session.

1:08:45 PM

REPRESENTATIVE GRUENBERG moved to adopt the proposed CS for HB 117, Version 25-LS0458\M, Cook, 2/27/07, as the work draft.

REPRESENTATIVE DAHLSTROM objected for the purpose of discussion.

REPRESENTATIVE GRUENBERG explained that in Version M, proposed subparagraph (A) provides an exemption for a proclamation issued under AS 26.23.020(k); proposed subparagraph (B) provides an exemption for a special session called to address a disaster - including a terrorist attack - as defined in AS 26.23.900; proposed subparagraph (C) provides an exemption for a proclamation issued while both houses are in regular or special session; and proposed subparagraph (D) incorporates the amendment adopted at the bill's last hearing, thus providing an exemption for a proclamation issued within one hour after the second house has adjourned from a regular or special session.

1:10:55 PM

TOM WRIGHT, House Majority Office, Alaska State Legislature, relayed on behalf of the sponsor, Representative John Harris, that the sponsor is happy with Version M.

REPRESENTATIVE DAHLSTROM removed her objection. [Although nothing further was stated, Version M was treated as having been adopted as the work draft.]

[1:12:00 PM](#)

REPRESENTATIVE DAHLSTROM moved to report the proposed CS for HB 117, Version 25-LS0458\M, Cook, 2/27/07, out of committee with individual recommendations and the accompanying fiscal note. There being no objection, CSHB 117(JUD) was reported from the House Judiciary Standing Committee.

HB 88 - TVS AND MONITORS IN MOTOR VEHICLES

[1:12:29 PM](#)

CHAIR RAMRAS announced that the next order of business would be HOUSE BILL NO. 88, "An Act relating to televisions, monitors, portable computers, and similar devices in motor vehicles; and providing for an effective date." [Before the committee was CSHB 88(STA).]

[1:12:46 PM](#)

REPRESENTATIVE GRUENBERG, joint prime sponsor of HB 88, moved to adopt the proposed committee substitute (CS) for HB 88, Version 25-LS0312\K, Luckhaupt, 2/25/07, as the work draft. There being no objection, Version K was before the committee.

[1:13:08 PM](#)

REPRESENTATIVE CARL GATTO, Alaska State Legislature, joint prime sponsor of HB 88, spoke about the progression of entertainment options that vehicles have had available for drivers to use over the years. These options now include television and other forms of monitors, and this is unacceptable because the distraction they cause can result in the death or injury of other people. In a situation wherein some people in Anchorage were killed, the driver that caused the accident had disabled the mechanism that prevented his [television/DVD] monitor from being on if the emergency brake was not engaged. The passenger in that vehicle had said that the driver had been watching the monitor on and off, but the driver claimed that he'd only lost control of the vehicle when he'd reached to pick something up and not because he'd been watching the monitor.

REPRESENTATIVE GATTO indicated that the goal of HB 88 is to prevent others from being injured by someone who wants to watch a [television/DVD] monitor while driving; the bill stipulates that any such monitor may not be viewable by the driver. This is particularly important given how easy it is to disable

mechanisms that are intended to prevent the monitor from being on while the vehicle is moving.

REPRESENTATIVE DAHLSTROM said she agrees with the intent of the bill. She asked whether the bill would apply to a Global Positioning System (GPS).

REPRESENTATIVE GRUENBERG said that language on page 2, line 11, specifically exempts equipment that displays only navigation or global positioning.

REPRESENTATIVE GATTO noted that one can choose to take a quick glance at a navigation or global positioning system, but when a car chase scene is taking place on the program that's playing on a [television/DVD] monitor, one is not likely to look away, and of course that is the purpose of such monitors - they are intended to be viewed continuously. He mentioned that cell phones are also exempted from the bill even though some cell phones do have monitor technology.

CHAIR RAMRAS relayed that the bill has a zero fiscal note.

REPRESENTATIVE COGHILL mentioned that the bill also exempts personal data assistants.

[1:20:38 PM](#)

ANNE CARPENETI, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law (DOL), relayed that she'd been working with Representative Gruenberg and various other [joint prime sponsors] on this legislation for a couple of years now, and characterized Version K of HB 88 as the most prosecutable thus far. Version K excludes cell phones and similar devices that are used for verbal communication, but [does not exclude] an "iPod" that is showing a movie which a driver could view from a normal driving position and he/she is watching it while driving.

MS. CARPENETI, in response to a question, said the bill would require the prosecutor to prove that the iPod was operating while the person was driving and that it was visible to the person while he/she was driving. In response to a further question, she said that the bill, on page 2, line 5, specifically excludes a device that is being used for verbal communication, and offered her belief that since she considers music to be a form of verbal communication, an iPod that is

being used solely to play music while one is driving would qualify for that exclusion.

REPRESENTATIVE COGHILL referred to language on page 2, line 8 - which exempts equipment that is displaying only audio equipment information, functions, and controls - and surmised that in the case of an iPod, the prosecutor would have to prove that the driver was in fact watching the video screen rather than just listening to music.

MS. CARPENETI reiterated that the bill requires the prosecutor to prove that the person was driving, that the screen was visible to that person, and that it was operating with a visible display while the person was driving.

[1:24:16 PM](#)

REPRESENTATIVE COGHILL, referring to page 3, subsection (f), asked what levels of proof will be needed for the different charges listed therein.

MS. CARPENETI said they all require proof beyond a reasonable doubt; the penalties relate to the harm caused by the person's driving, so if a driver, while watching a movie, kills another person, for example, that is a serious crime - a class A felony under the bill. In response to a question, she offered her understanding that the behavior the bill is attempting to stop is considered to be a primary offense; however, as a practical matter, the police officer's attention would first have to be drawn by the person's driving.

REPRESENTATIVE GATTO noted that when one is stopped at a traffic light and looks over at other drivers, one can see when there is a video screen operating. If there is, then a law enforcement officer would have a reason to pull the driver over.

MS. CARPENETI surmised that that is what [the legislature] would want, for a police officer to be able to stop the behavior before someone gets hurt because of it.

REPRESENTATIVE GRUENBERG, returning to the issue of iPods, reiterated Ms. Carpeneti's comments, and offered his understanding that it would be an affirmative defense to say that the device was only being used for the purpose of listening to music.

MS. CARPENETI offered her belief that in that situation, no one would even attempt to prosecute the person, and so he/she would never get to the point of having to raise an affirmative defense.

REPRESENTATIVE COGHILL suggested that if a driver gets into an accident while watching a video, he/she would have the opportunity to turn off that equipment before law enforcement officers arrive on the scene. He asked whether the mere fact that the equipment was there would be enough for officers to assume that that was the cause of the accident.

MS. CARPENETI said it would not be enough on its own because the bill doesn't apply to video screens that are disabled; prosecutors would need to have other information in order to support a prosecution. In response to a question, she relayed that her iPod, when playing music, just lists the songs being played.

[1:31:31 PM](#)

RODNEY DIAL, Lieutenant, Deputy Commander, A Detachment, Division of Alaska State Troopers, Department of Public Safety (DPS), said that officers do from time to time see vehicles that have rear-mounted television monitors, which are quite easy to see, particularly at night. Under current law, he relayed, if a trooper, while at a traffic stop, looked over at another car and saw that a full motion video was playing on a monitor - whether permanently installed or temporarily mounted - the trooper could pull the driver over, and if, while driving around at night, a trooper saw the flashing light associated with a television monitor but not the actual monitor itself, the trooper would have probable cause to pull the driver over. He said he does not see that the bill would change law enforcement's current ability to stop a vehicle for violating either current law or the proposed law. Visual observations will play a big part in whether a law enforcement officer will pull someone over for a violation, and there is also the possibility that a concerned citizen might report someone who was watching television or a movie while driving.

REPRESENTATIVE DAHLSTROM recounted how she'd recently seen a vehicle with children in the back seat watching a video monitor that was mounted behind the driver; in that situation, there was also a monitor playing the same program mounted in view of the front passenger seat, but the driver, from what she could see, never once looked over at that monitor. She pondered whether

perhaps the driver didn't have the ability to turn that front monitor off, and asked what a law enforcement officer's reaction would be in such a situation.

LIEUTENANT DIAL said that the individual officer would have to make a determination regarding whether there was some sort of visual barrier between the driver and the passenger-side monitor. If there was, then the situation would probably not warrant a traffic stop, but if the driver could simply glance over and watch what was playing on the monitor, the officer would probably choose to investigate the situation further.

REPRESENTATIVE DAHLSTROM reiterated that she agrees with the intent of the bill, but mentioned that she is uneasy about possible unintended consequences.

REPRESENTATIVE GRUENBERG spoke of similar legislation that passed the House last year. In Representative Dahlstrom's example, he remarked, if in fact the monitor was permanently mounted where the driver could see it, the bill would apply. He also pointed out that the behavior outlined in the bill is already a traffic violation, and the bill merely increases the penalties. So for a felony charge, the prosecutor won't have to show that the driver was negligent if in fact his/her driving caused physical injury [to another] and the vehicle had a monitor mounted where it could be viewed by the driver while in a normal driving position; merely the fact that the monitor was mounted in such a location would constitute "negligence per se," he opined, and thus it would be easier to prosecute this type of behavior.

LIEUTENANT DIAL reiterated that the bill wouldn't change law enforcement's ability to make a traffic stop.

[1:37:28 PM](#)

CHAIR RAMRAS, after ascertaining that no one else wished to testify, closed public testimony on HB 88.

REPRESENTATIVE SAMUELS referred to the language on page 1, line 10, and asked whether that language would make it illegal for a passenger in the front seat of a vehicle to be using a portable computer if the driver is also able to see the screen.

REPRESENTATIVE GRUENBERG indicated that it is the intent of the bill for that to be illegal, and mentioned that the House State

Affairs Standing Committee added that provision two years ago to similar legislation.

CHAIR RAMRAS offered his belief, however, that under HB 88, all of the conditions outlined in the bill would have to be satisfied: a person was driving a motor vehicle; the vehicle had a device capable of providing a visual display that could be viewed by a driver in a normal driving position while the vehicle was in motion; and the visual display was operating while the person was driving.

REPRESENTATIVE SAMUELS, in response to comments, pointed out that the language on page 1, line 11, says "a visual display that can be viewed"; so regardless of whether the driver is actually looking at the monitor, merely operating a portable computer in the passenger seat while the vehicle is underway would be illegal under the bill. He expressed concern with that provision.

CHAIR RAMRAS expressed concern that the behavior outlined in the bill is a primary offense.

[1:42:43 PM](#)

LIEUTENANT DIAL, in response to a question, said that during the 17 years he has been a law enforcement officer he has never issued a citation for the behavior outlined in the bill. He said he envisions that the bill would be used in situations wherein someone is killed by a driver who was watching a video monitor; furthermore, in such a situation, law enforcement would have to clearly show that the driver's conduct was egregious. He said he doesn't envision that law enforcement officers would be stopping someone because the passenger was working on a portable computer. The language in the bill merely addresses the types of entertainment systems that are currently being installed in vehicles. He referred to television shows which promote the installation of monitors in numerous places in a vehicle, and indicated that placing monitors in vehicles in such a fashion is proving to be distracting to drivers.

REPRESENTATIVE GRUENBERG posited that if a driver has to crane to see a portable computer monitor being operated by the passenger, that monitor would not be considered viewable. The intent of the bill is to prohibit situations in which the monitor has been turned so that the driver really could see what is on screen, and this would not be the case normally when a passenger is working on a portable computer.

REPRESENTATIVE GATTO, in response to comments, noted that generally a person cannot see what is on a portable computer unless the screen is facing directly at the person. Just because it is possible to see a passenger's portable computer screen while driving doesn't mean that it is likely that one would make an effort to do so. Again, in order to be prosecuted under the bill, all three of the aforementioned criteria must be satisfied; furthermore, someone else would have to notice the behavior, and the facts of the case would have to be proven beyond a reasonable doubt.

[1:47:11 PM](#)

CHAIR RAMRAS pointed out, however, that regardless of how unlikely it is for someone to satisfy all of the criteria outlined in the bill in a situation involving a passenger's portable computer, the language in the bill is stipulating that the aforementioned scenario would warrant being pulled over.

REPRESENTATIVE DAHLSTROM remarked on how difficult it would be to prove that a driver got into an accident because he/she was looking at a passenger's portable computer.

REPRESENTATIVE GRUENBERG opined that if a portable computer monitor can be viewed by a driver in a normal driving position and both the vehicle and the computer are operating, that is a dangerous practice and [is already] illegal; the bill can save lives, and though some people may be inconvenienced by it because they want to be able to watch television while driving, the purpose of the bill is to prevent that kind of activity.

REPRESENTATIVE GATTO pointed out that nothing in the bill prevents someone from reading a book while driving or from doing other "stupid things," and reiterated that the goal of the bill is to prevent a driver from giving his/her undivided attention to some device while driving because that puts everyone at risk. If an accident happens, and witnesses are able to say that the driver had a movie playing on a video screen, that is all part of gathering evidence. Just because a person has a monitor of some sort in his/her vehicle doesn't mean that he/she will be prosecuted for it; a lot of criteria will have to be satisfied. The bill will put people on notice that this type of behavior will not be tolerated.

REPRESENTATIVE COGHILL agreed, but expressed concern that the bill will be used for other purposes by law enforcement. He

asked whether prior similar legislation also made the behavior a felony in certain circumstances.

REPRESENTATIVE GRUENBERG indicated that it did.

REPRESENTATIVE COGHILL said that if someone gets hurt because a driver was watching a monitor while driving, the driver should be held accountable. However, he indicated that he doesn't want law enforcement to start targeting every driver whose passenger has a portable computer.

CHAIR RAMRAS asked whether it would be possible to alter proposed subsection (f)(1) - which says, "a person who violates (a) of this section is guilty of (1) a class A misdemeanor, unless any of the circumstances described in (2) - (4) of this subsection apply" - such that it would not be a primary offense. He expressed concern that the bill would be used to invade a person's privacy.

REPRESENTATIVE LYNN indicated that he didn't have any problem with the behavior outlined in the bill being considered a primary offense.

REPRESENTATIVE GRUENBERG explained that that behavior is already a primary offense. He went on to note that subsection (f)(2)-(4), which makes the behavior a felony if someone is hurt or killed by the behavior, would only apply after an accident has occurred. For the misdemeanor charge outlined in subsection (f)(1), if the police are not allowed to pull someone over for that behavior, it would gut the bill, and he therefore strongly objects to [altering that language], he remarked.

[1:58:58 PM](#)

LIEUTENANT DIAL confirmed that the behavior is already a primary offense, and mentioned that current law also already allows law enforcement officers to pull someone over for driving while wearing headphones.

REPRESENTATIVE LYNN relayed that when he was a police officer, it was never his goal to invade people's privacy but rather to simply ensure that people were following the law. Although everyone is concerned about protecting one's right to privacy, that can be taken to extremes, he pointed out, and concluded by saying he supports the bill.

LIEUTENANT DIAL, in response to a question, said that currently a device would have to be mounted to the vehicle where the driver can view it in order for its operation while the driver is operating the vehicle to be a primary offense; law enforcement officers do not currently stop people just because a passenger in the front seat is operating a portable computer.

2:02:19 PM

REPRESENTATIVE GRUENBERG offered his understanding that the aforementioned prior legislation at one point stipulated that the device had to be installed in the vehicle, but there was a concern that a driver could simply watch a movie on a device that isn't installed in the vehicle, and that would be just as dangerous. The alternative, he remarked, is to do nothing; the language of the bill must either apply only to devices that are installed or apply to all devices whether installed or not. If the former, some people who are driving in a very dangerous manner won't be prosecuted, and if the latter, a portable computer being operated by a passenger in the front seat could fall under the bill. Again, the intent of the bill is to prevent drivers from viewing a monitor instead of watching the road. Any law is capable of being unjustly enforced, he remarked, but that's why law enforcement, prosecutors, judges, and juries have "some common-sense discretion."

REPRESENTATIVE GRUENBERG went on to say:

In law school, we spent lots of time dealing with ridiculous "hypotheticals" to show how laws could be misapplied, and there are whole law books ... where every case is a ridiculous application of a common-sense principle. ... We have to rely on the police and the whole justice system, with its limited resources, using some common sense, and I don't think that we can, in this body, manage legislation for every possible misuse. ... We've got to legislate for the general common sense approach, and this is something I think that's very reasonable if it's properly applied.

REPRESENTATIVE GATTO asked Lieutenant Dial whether he, or any of his colleagues, would take action in a situation wherein he/they absolutely knew that it was just the passenger that was viewing a portable computer.

LIEUTENANT DIAL said that he doesn't know of a single situation wherein taking action against someone for engaging in a lawful

activity has even been considered. If the driver was not doing anything reckless, law enforcement wouldn't link the two things together and intervene. Regardless of whether HB 88 passes, he said, he doesn't see either himself or his colleagues citing a driver in the aforementioned scenario.

REPRESENTATIVE COGHILL mentioned that HB 88 has also been referred to the House Finance Committee, and remarked that although he is concerned that the current language of the bill could result in [unnecessary arguments] being raised in court, he is not willing to hold the bill in committee.

REPRESENTATIVE GRUENBERG indicated that he is amenable to altering the bill so that members were more comfortable with it.

CHAIR RAMRAS suggested that they report the bill from committee and simply ask [the joint prime sponsors] to work on the bill's language so as to address members' concerns before the bill is heard in its next committee of referral.

REPRESENTATIVE GRUENBERG, speaking as one of the bill's joint prime sponsors, agreed to do so, adding that he simply wants "this to be a good bill."

[2:10:16 PM](#)

REPRESENTATIVE SAMUELS moved to report the proposed CS for HB 88, Version 25-LS0312\K, Luckhaupt, 2/25/07, out of committee with individual recommendations and the accompanying fiscal note. There being no objection, CSHB 88(JUD) was reported from the House Judiciary Standing Committee.

The committee took an at-ease from 2:11 p.m. to 2:13 p.m.

HB 145 - SEXUAL CRIMES

[2:13:18 PM](#)

CHAIR RAMRAS announced that the final order of business would be HOUSE BILL NO. 145, "An Act relating to sexual assault, sexual abuse of a minor, and online enticement of a minor."

[2:14:50 PM](#)

REPRESENTATIVE BOB ROSES, Alaska State Legislature, sponsor, said he would prefer that HB 145 be held over in order to allow him to address some of the concerns that he's heard from members

thus far. He posited that legislators are charged with the responsibility of doing everything they can to protect those citizens that are unable to protect themselves. Under the current laws pertaining to sexual abuse of a minor crimes, certain age groups are being left out, he opined. House Bill 145 will extend the age of consent to the age of 18, thereby drawing a bright line distinction: those who are under the age of 18 will be considered minors, those who are [18 years of age or older] will be considered adults. The bill also focuses on the practice of "online enticement," which is becoming more prevalent and is difficult to prosecute.

[Chair Ramras turned the gavel over to Vice Chair Dahlstrom.]

[2:19:45 PM](#)

CRYSTAL NOVOTNEY, Staff to Representative Bob Roses, relayed on behalf of the sponsor, Representative Roses, that in addition to establishing that a minor is under the age of 18 and an adult is [18 years of age or older], HB 145 includes a threshold of a four-year age difference, so that someone who is 19 years old will not be prosecuted for having consensual sex with someone who is 17 years old. The bill will instead focus on those that look outside their peer group for sexual partners. Currently, for example, there is no legal recourse when a 16-year-old engages in consensual sex with a 50-year-old. The bill will provide 16- and 17-year-olds with legal recourse when someone takes advantage of them sexually.

REPRESENTATIVE COGHILL asked whether the bill is addressing a specific, known problem or whether it is simply establishing a new policy.

REPRESENTATIVE ROSES offered that it is doing both, and mentioned that he has personal friends whose families have been impacted by the behavior outlined in the bill. He offered his understanding that the North Pole chief of police will at some point provide testimony regarding the difficulties his force is experiencing wherein older individuals are preying on younger people - for example, hanging around the middle schools with the intention of enticing the children. Representative Roses mentioned that in one situation that he knew about, a man living in Colorado began using the Internet to entice a 13-year-old Alaskan girl and then, when she turned 16 and her parents were out of town, he flew to Alaska to engage in sex with her - that man knew Alaska law and knew what he could get away with.

REPRESENTATIVE ROSES said he wants to draw attention to such situations, and although HB 145 may not stop every incident, it is the responsibility of legislators to put the tools in place that will allow the criminal justice system to better protect Alaska's citizens. In response to a question, he said that some of the issues in particular that he would like to resolve pertain to how the proposed new age of consent will affect 17-year-olds who are going off to college, certain marriage contracts that some cultures in Alaska engage in, and those who've qualified for emancipation. He also mentioned that the sentencing scheme outlined in the bill is also of concern, given that someone could potentially be going to prison for a very long time.

[2:27:56 PM](#)

REPRESENTATIVE COGHILL said he agrees with the concept of raising the age of consent, and asked Representative Roses whether he's done any research regarding how other states have handled the types of issues being raised by HB 145.

REPRESENTATIVE ROSES said he and his staff have done research regarding what other states have done, and that they will be conducting further research as well.

REPRESENTATIVE GRUENBERG, in response to a question, explained that Alaska case law has held that a reasonable mistake of fact as to age is an affirmative defense.

VICE CHAIR DAHLSTROM, in response to comments, noted that sexual abuse of a minor crimes have also been perpetrated by women.

REPRESENTATIVE GRUENBERG asked the sponsor to provide a listing of the states and their statutory age of consent, and to provide a comparison - broken down by age of both offenders and victims - between how the existing law treats offenders and how the new law will treat those same offenders.

REPRESENTATIVE ROSES indicated that he would be providing further information.

VICE CHAIR DAHLSTROM relayed that HB 145 would be held over.

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:34 p.m.