

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

April 13, 2007  
1:08 p.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

Representative Nancy Dahlstrom, Vice Chair

**OTHER LEGISLATORS PRESENT**

Representative Mike Doogan

**COMMITTEE CALENDAR**

HOUSE BILL NO. 225

"An Act relating to misconduct involving weapons and bail."

- HEARD AND HELD

HOUSE BILL NO. 14

"An Act relating to the purchase of alcoholic beverages and to access to licensed premises; relating to civil liability for certain persons accessing licensed premises; requiring driver's licenses and identification cards to be marked if a person is restricted from consuming alcoholic beverages as a result of a conviction or condition of probation or parole and relating to fees for the marked license; and requiring the surrender and cancellation of driver's licenses under certain circumstances."

- MOVED CSHB 14(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 90

"An Act relating to bail."

- MOVED CSHB 90(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 220

"An Act prohibiting computer-assisted remote hunting."

- MOVED CSHB 220(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 164

"An Act relating to reporting of vessel location by certain commercial passenger vessels operating in the marine waters of the state, to access to vessels by licensed marine engineers for purposes of monitoring compliance with state and federal requirements, and to the obligations of those engineers while aboard the vessels; and providing for an effective date."

- BILL HEARING CANCELED

**PREVIOUS COMMITTEE ACTION**

BILL: HB 225

SHORT TITLE: POSSESSION OF WEAPON WHILE ON BAIL

SPONSOR(S): REPRESENTATIVE(S) JOHNSON

03/27/07	(H)	READ THE FIRST TIME - REFERRALS
03/27/07	(H)	JUD, FIN
04/13/07	(H)	JUD AT 1:00 PM CAPITOL 120

BILL: HB 14

SHORT TITLE: RESTRICT ACCESS TO ALCOHOL

SPONSOR(S): REPRESENTATIVE(S) CRAWFORD

01/16/07	(H)	PREFILE RELEASED 1/5/07
01/16/07	(H)	READ THE FIRST TIME - REFERRALS
01/16/07	(H)	L&C, JUD, FIN
02/09/07	(H)	L&C AT 3:00 PM CAPITOL 17
02/09/07	(H)	-- Meeting Canceled --
02/23/07	(H)	L&C AT 3:00 PM CAPITOL 17
02/23/07	(H)	Scheduled But Not Heard
02/26/07	(H)	L&C AT 3:00 PM CAPITOL 17
02/26/07	(H)	-- MEETING CANCELED --
02/28/07	(H)	L&C AT 3:00 PM CAPITOL 17
02/28/07	(H)	Moved CSHB 14(L&C) Out of Committee
02/28/07	(H)	MINUTE(L&C)
03/01/07	(H)	L&C RPT CS(L&C) NT 2DP 5NR
03/01/07	(H)	DP: GARDNER, LEDOUX
03/01/07	(H)	NR: BUCH, NEUMAN, RAMRAS, GATTO, OLSON
04/11/07	(H)	JUD AT 1:00 PM CAPITOL 120
04/11/07	(H)	<Bill Hearing Rescheduled to 04/13/07>
04/13/07	(H)	JUD AT 1:00 PM CAPITOL 120

BILL: HB 90

SHORT TITLE: BAIL

SPONSOR(S): REPRESENTATIVE(S) SAMUELS, STOLTZE

01/16/07 (H) PREFILE RELEASED 1/12/07  
01/16/07 (H) READ THE FIRST TIME - REFERRALS  
01/16/07 (H) JUD  
02/05/07 (H) JUD AT 1:00 PM CAPITOL 120  
02/05/07 (H) <Bill Hearing Rescheduled to 02/08/07>  
02/08/07 (H) JUD AT 1:00 PM CAPITOL 120  
02/08/07 (H) <Bill Hearing Canceled>  
02/12/07 (H) JUD AT 1:00 PM CAPITOL 120  
02/12/07 (H) <Bill Hearing Canceled>  
03/28/07 (H) JUD AT 1:00 PM CAPITOL 120  
03/28/07 (H) Scheduled But Not Heard  
03/30/07 (H) JUD AT 1:00 PM CAPITOL 120  
03/30/07 (H) -- MEETING CANCELED --  
04/10/07 (H) JUD AT 1:00 PM CAPITOL 120  
04/10/07 (H) Heard & Held  
04/10/07 (H) MINUTE(JUD)  
04/13/07 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 220

SHORT TITLE: BAN COMPUTER-ASSISTED REMOTE HUNTING

SPONSOR(S): REPRESENTATIVE(S) BUCH

03/26/07 (H) READ THE FIRST TIME - REFERRALS  
03/26/07 (H) RES, JUD, FIN  
04/02/07 (H) RES AT 1:00 PM BARNES 124  
04/02/07 (H) Moved CSHB 220(RES) Out of Committee  
04/02/07 (H) MINUTE(RES)  
04/03/07 (H) RES RPT CS(RES) 6DP 3NR  
04/03/07 (H) DP: ROSES, WILSON, GUTTENBERG, EDGMON,  
SEATON, GATTO  
04/03/07 (H) NR: KAWASAKI, KOHRING, JOHNSON  
04/13/07 (H) JUD AT 1:00 PM CAPITOL 120

**WITNESS REGISTER**

REPRESENTATIVE CRAIG JOHNSON

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Sponsor of HB 225.

GERALD LUCKHAUPT, Attorney

Legislative Legal Counsel

Legislative Legal and Research Services

Legislative Affairs Agency (LAA)  
Juneau, Alaska

**POSITION STATEMENT:** Responded to a question during discussion of HB 225.

JEANNE OSTNES, Staff  
to Representative Craig Johnson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Responded to a question during discussion of HB 225.

GARDNER COBB, Captain  
Anchorage Police Department (APD)  
Municipality of Anchorage (MOA)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 225.

WALT MONEGAN, Commissioner  
Department of Public Safety (DPS)  
Anchorage, Alaska

**POSITION STATEMENT:** Responded to a question during discussion of HB 225.

ANNE CARPENETI, Assistant Attorney General  
Legal Services Section-Juneau  
Criminal Division  
Department of Law (DOL)  
Juneau, Alaska

**POSITION STATEMENT:** Responded to questions during discussion of HB 225.

REPRESENTATIVE HARRY CRAWFORD  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of HB 14.

ED O'NEILL  
Brown Jug, Inc. ("Brown Jug")  
Anchorage, Alaska

**POSITION STATEMENT:** Provided comments during discussion of HB 225.

ANNE CARPENETI, Assistant Attorney General  
Legal Services Section-Juneau  
Criminal Division  
Department of Law (DOL)

Juneau, Alaska

**POSITION STATEMENT:** Responded to questions during discussion of proposed amendments to HB 90, Version K.

QUINLAN G. STEINER, Director  
Central Office  
Public Defender Agency (PDA)  
Department of Administration (DOA)  
Anchorage, Alaska

**POSITION STATEMENT:** Responded to questions during discussion of proposed amendments to HB 90, Version K.

DWAYNE PEEPLES, Deputy Commissioner  
Office of the Commissioner - Juneau  
Department of Corrections (DOC)  
Juneau, Alaska

**POSITION STATEMENT:** Responded to questions during discussion of proposed amendments to HB 90, Version K.

REPRESENTATIVE BOB BUCH  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of HB 220.

JOE KLUTSCH, President  
Alaska Professional Hunters Association (APHA)  
King Salmon, Alaska

**POSITION STATEMENT:** Testified in support of HB 220.

BURKE WALDRON, Lieutenant  
Alaska Bureau of Wildlife Enforcement  
Department of Public Safety (DPS)  
Anchorage, Alaska

**POSITION STATEMENT:** Provided a comment during discussion of HB 220.

DICK BISHOP, President  
Alaska Outdoor Council (AOC)  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 220.

KEVIN SAXBY, Senior Assistant Attorney General  
Natural Resources Section  
Civil Division (Anchorage)  
Department of Law (DOL)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 220, Version E.

## **ACTION NARRATIVE**

**CHAIR JAY RAMRAS** called the House Judiciary Standing Committee meeting to order at [1:08:22 PM](#). Representatives Coghill, Samuels, Lynn, Holmes, Gruenberg, and Ramras were present at the call to order. Representative Dahlstrom was excused. Representative Doogan was also in attendance.

### HB 225 - POSSESSION OF WEAPON WHILE ON BAIL

[1:08:49 PM](#)

CHAIR RAMRAS announced that the first order of business would be HOUSE BILL NO. 225, "An Act relating to misconduct involving weapons and bail."

REPRESENTATIVE LYNN moved to adopt the proposed committee substitute (CS) for HB 225, Version 25-LS0710\M, Luckhaupt, 4/11/07, as the work draft. There being no objection, Version M was before the committee.

[1:09:42 PM](#)

REPRESENTATIVE CRAIG JOHNSON, Alaska State Legislature, sponsor, relayed that under Version M of HB 225, it would be a felony for a person to possess a concealed firearm while he/she is on release, before or after trial, for the commission of a felony under AS 11, a crime against a person under AS 11.41, a crime involving domestic violence (DV), or a municipal crime similar to the latter two crimes; currently such behavior merely results in the person having his/her release revoked. He mentioned that HB 225 is endorsed by most law enforcement agencies in the state.

CHAIR RAMRAS asked why the bill only addresses concealed weapons.

REPRESENTATIVE JOHNSON indicated that he didn't want the bill to apply in instances where the person on release is merely out hunting. The bill is meant to address instances wherein individuals on release for gang-related crimes commit further gang-related crimes involving concealed weapons. In response to a question, he relayed that he has not yet heard the National Rifle Association's (NRA) position on this legislation.

REPRESENTATIVE GRUENBERG questioned whether Section 3 of Version M contains a typo.

[1:16:35 PM](#)

GERALD LUCKHAUPT, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency (LAA), explained that it does not contain a typo, but rather was written to include all felonies under AS 11 - even those not committed against a person - and all crimes against a person under AS 11.41 - whether felony crimes or misdemeanor crimes.

[1:17:49 PM](#)

REPRESENTATIVE COGHILL questioned whether, in applying to someone who has not yet been convicted of a crime, HB 225 would infringe upon a person's constitutional rights.

JEANNE OSTNES, Staff to Representative Craig Johnson, Alaska State Legislature, sponsor, offered, on behalf of Representative Johnson, her understanding that a person would be charged with the crime created by HB 225 even if later he/she is found to be innocent of the original crime he/she was charged with and was on release for.

REPRESENTATIVE COGHILL urged caution in linking the proposed felony crime with the mere charge of a crime, particularly a misdemeanor crime.

[1:20:25 PM](#)

GARDNER COBB, Captain, Anchorage Police Department (APD), Municipality of Anchorage (MOA), relayed that the APD supports HB 225. It is common knowledge, he remarked, that the gun per capita ratio in Alaska is high, though most of those guns are in the hands of law-abiding citizens; however, with the recent rise in violent crimes across the country and the surge in youth violence - including the scourge of gang motivated crimes - in Anchorage and other parts of the state, it is clear that resources should be focused in order to bring down the level of violence, and the APD believes that HB 225 can help law enforcement in this regard. He then recounted some of the steps the APD has taken in dealing with gang-related and gang-motivated crimes, and mentioned that since September of 2005, the APD has seized 74 guns that were out on the street.

MR. COBB then referred to a recent, high-profile, gang-related case wherein in one of the defendants was released on bail and was later found in possession of a stolen semiautomatic pistol. He mentioned that because long guns are being used in gang-related case and DV cases, the APD would like to see the bill broadened to include all weapons even those found in a subject's vehicle.

MR. COBB, offering that the APD views HB 225 as important legislation, noted that AS 12.30.023(a)(11)(A) says the court can order the defendant not to have a firearm in the defendant's possession or control, in any vehicle over which the defendant has control, or in the defendant's residence. He suggested that including such language in HB 225 would be helpful because once a suspect in a vehicle is stopped and is asked to step out of the vehicle, he/she simply hides his/her weapons in the vehicle.

REPRESENTATIVE GRUENBERG noted that AS 12.30.023(a)(11)(B) stipulates that the court can also order the defendant to not carry a knife other than an ordinary pocket knife, and asked Mr. Cobb whether he would like to see such a provision included in HB 225.

MR. COBB said, "I would like to see a person out on bail for violent crimes and DV be restricted from any dangerous weapons within their immediate control."

[1:28:05 PM](#)

WALT MONEGAN, Commissioner, Department of Public Safety (DPS), added that the DPS is happy with the current language in the bill. Regarding the concern that the bill would apply to someone who is charged but not yet convicted, he pointed out that the person would also only be charged with the crime provided for in HB 225, and thus there would still be due process afforded for both charges. House Bill 225, he remarked, will give law enforcement the ability to act in situations where a suspect released on bail is found carrying a concealed firearm.

[1:29:46 PM](#)

ANNE CARPENETI, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law (DOL), in response to the constitutional issue raised earlier, relayed that there are two reasons why HB 225 would not violate a person's constitutional right to keep and bear arms: the bill

is limited to a person who is released on bail - thus there has been a probable cause determination that the person has committed a crime involving either violent or felonious behavior - and it's limited to the carrying of a concealed weapon. In response to comments and questions, she noted that probable cause is the standard that's used for all charges; that some property crimes can involve threats of violence; that the bill would apply in instances involving fourth degree assault because in such instances the victim could be placed in fear of being assaulted.

REPRESENTATIVE COGHILL suggested that the bill be amended to specify that it applies to higher-level crimes.

CHAIR RAMRAS relayed that HB 225 [Version M] would be held over.

HB 14 - RESTRICT ACCESS TO ALCOHOL

[1:34:16 PM](#)

CHAIR RAMRAS announced that the next order of business would be HOUSE BILL NO. 14, "An Act relating to the purchase of alcoholic beverages and to access to licensed premises; relating to civil liability for certain persons accessing licensed premises; requiring driver's licenses and identification cards to be marked if a person is restricted from consuming alcoholic beverages as a result of a conviction or condition of probation or parole and relating to fees for the marked license; and requiring the surrender and cancellation of driver's licenses under certain circumstances." [Before the committee was CSHB 14(L&C).]

CHAIR RAMRAS turned the gavel over to Representative Lynn.

REPRESENTATIVE SAMUELS moved to adopt the proposed committee substitute (CS) for HB 14, Version 25-LS0095\V, Luckhaupt, 3/5/07, as the work draft. There being no objection, Version V was before the committee.

[1:35:47 PM](#)

REPRESENTATIVE HARRY CRAWFORD, Alaska State Legislature, sponsor, indicated that HB 14 is meant to address drunk driving and the carnage that alcohol causes throughout the state. He recounted that after his own experience wherein his wife was hit by a drunk driver, he realized that drunk driving is a more pervasive problem [than he'd originally thought]. He said,

"Today, we'll have a number of people drive drunk in this state; a number of them will be charged, a number of them will cause accidents, and there may even be deaths today because of drunk driving or other alcohol-related offenses."

REPRESENTATIVE CRAWFORD mentioned that he has been attempting to get this legislation passed for three years, and that there have been a lot of iterations of the bill, which is attempting to prevent those who've proven they don't have the ability to handle alcohol from buying and consuming alcohol. Currently, although a judge can order a person to refrain from buying alcohol or entering premises where alcohol is sold, such orders are not enforced because those who are under such orders can't be identified. House Bill 14 establishes a voluntary program for licensees that will provide them with a method by which to identify persons who have been ordered to refrain from buying alcohol or entering premises where alcohol is sold.

REPRESENTATIVE CRAWFORD said that because the proposed program is voluntary, there won't be any penalty against a licensee who chooses not to check a person's identification (ID) card for the purpose of determining whether the person has been ordered by the court to refrain from buying alcohol or entering premises where alcohol is sold. However, if a licensee chooses to check a person's ID, under HB 14, that ID will have been marked in such a way that a licensee will know whether a person is under such an order. The bill also provides licensees with a monetary incentive to check a person's ID; if a licensee checks a person's ID and determines that the person has been ordered to refrain from buying alcohol or entering premises where alcohol is sold, the licensee could receive \$1,000 in civil damages.

[1:40:23 PM](#)

REPRESENTATIVE CRAWFORD said that HB 14 focuses on prevention rather than on punishment since the latter alone has not been effective, adding that many Alaskans no longer have intact families because of those who've proven they are incapable of handling alcohol. In response to a question, he relayed that the bill only pertains to people who have been ordered by the court to refrain from buying alcohol or entering premises where alcohol is sold.

REPRESENTATIVE CRAWFORD, in response to another question, indicated that a licensee is only liable if he/she asks to see a person's ID, sees that the person has been ordered by the court to refrain from buying alcohol or entering premises where

alcohol is sold, and then proceeds to serve or sell that person alcohol anyway. If a licensee never asks to see the person's ID, then the licensee wouldn't be liable under the bill.

REPRESENTATIVE SAMUELS noted that some establishments check everyone's ID and so such establishments could be held liable.

REPRESENTATIVE CRAWFORD, in response to a question, said that a person who has been ordered by the court to refrain from buying alcohol or entering premises where alcohol is sold could be subject to a \$1,000 civil penalty - which would go to the licensee - if the person attempts to purchase alcohol and the licensee checks the person's ID and sees that the person may not purchase alcohol.

[1:47:06 PM](#)

ED O'NEILL, Brown Jug, Inc. ("Brown Jug"), noting that April is Sexual Assault Awareness Month, relayed that Brown Jug does a lot of Bush order business, and therefore would like to see IDs getting marked as HB 225 proposes so that the company could refrain from shipping alcohol to those that have been ordered by the court to refrain from buying alcohol or entering premises where alcohol is sold. Keeping alcohol out of the hands of people who shouldn't have it will help in the battle against sexual assault as well as drunk driving. He offered his company's hope that the bill will be allowed to continue through the process.

REPRESENTATIVE LYNN announced that the committee would hold HB 14 [Version V] over until later in the meeting.

[Following was a brief discussion regarding which bill to take up next.]

The committee took an at-ease from 1:49 p.m. to 1:50 p.m.

HB 90 - BAIL

[1:50:30 PM](#)

REPRESENTATIVE LYNN announced that the next order of business would be HOUSE BILL NO. 90, "An Act relating to bail." [Before the committee was the proposed committee substitute (CS) for HB 90, Version 25-LS0331\K, Luckhaupt, 3/7/07, which had been adopted as the work draft on 4/10/07.]

REPRESENTATIVE SAMUELS, joint prime sponsor of HB 90, made a motion to adopt Amendment 1, which read [original punctuation provided]:

Page 2, line 16  
(A) sexual penetration;

Page 4, line 28  
for court review; and

Page 5, line 1  
spent in a [AN] private residence...

Page 6, line 5  
Applications based on claim of ineffective assistance  
of counsel.

REPRESENTATIVE LYNN asked whether there were any objections. There being none, Amendment 1 was adopted.

REPRESENTATIVE SAMUELS made a motion to adopt Amendment 2, which read [original punctuation provided]:

Page 3, after line 7  
(4) hindering prosecution of murder;  
Renumber accordingly

REPRESENTATIVE LYNN asked whether there were any objections. There being none, Amendment 2 was adopted.

[1:52:32 PM](#)

REPRESENTATIVE SAMUELS made a motion to adopt Amendment 3, which read [original punctuation provided]:

Page 3, line 16  
(j)...unless the prosecuting authority stipulates otherwise or a defendant has been incarcerated for a period equal to the maximum sentence for the most serious charge for which the defendant is being held,  
a judicial officer may not...

REPRESENTATIVE GRUENBERG objected for the purpose of discussion.

[1:53:24 PM](#)

ANNE CARPENETI, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law (DOL), relayed that Amendment 3 was suggested by Quinlan Steiner of the Public Defender Agency as a way to ensure that a person is not imprisoned longer than a given charge warrants. Amendment 3, she indicated, would probably only apply in situations wherein the person is held on bail for a charge of disorderly conduct, which has a maximum term of imprisonment of 10 days.

[1:54:04 PM](#)

QUINLAN G. STEINER, Director, Central Office, Public Defender Agency (PDA), Department of Administration (DOA), concurred that he'd suggested this language as a way to ensure that a person is not imprisoned longer than a given charge warrants. In response to comments and a question regarding potential delays in getting a trial, he said he could envision using alternative language along the lines of, "reasonable likelihood that the maximum sentence has been reached".

REPRESENTATIVE GRUENBERG said he merely wants the court to have some discretion.

MS. CARPENETI said she is not concerned because, under the bill, either as currently written or with Amendment 3, a defendant would be able to get an additional bail hearing since a delay in getting a trial would constitute a change in circumstances - "new information" - that the defendant wouldn't have known about during a previous bail hearing.

MR. STEINER disagreed, adding that it would be hard to predict how the courts would view this provision.

REPRESENTATIVE GRUENBERG said he is concerned about potential ambiguity and therefore he wants the administration to research that point.

MS. CARPENETI reiterated her belief that use of the term, "new information" is sufficient for a number of circumstances and so a defendant would still be able to schedule another bail hearing.

[Representative Lynn returned the gavel to Chair Ramras.]

REPRESENTATIVE SAMUELS assured the committee that if Amendment 3 is adopted he will work with the administration to ensure that

nothing more needs to be done to address the concern that Amendment 3 is meant to alleviate.

REPRESENTATIVE GRUENBERG removed his objection to Amendment 3.

CHAIR RAMRAS noted that there were no further objections and announced that Amendment 3 was adopted.

[2:03:48 PM](#)

REPRESENTATIVE SAMUELS made a motion to adopt Amendment 4, which read [original punctuation provided]:

Page 5, lines 3 and 4: delete all material and insert:  
(c) Period of probation, together with any extension, may not exceed  
(1) except as provided in (2) of this section, 10 years;  
(2) for a person convicted of a felony sex offense, 25 years.

[Following was a brief discussion regarding a different proposed amendment.]

[The motion to adopt Amendment 4 was left pending, and HB 90, Version K, as amended, was set aside until later in the meeting.]

The committee took an at-ease from 2:05 p.m. to 2:06 p.m.

HB 14 - RESTRICT ACCESS TO ALCOHOL

[2:06:36 PM](#)

CHAIR RAMRAS announced that the committee would next return to the hearing on HOUSE BILL NO. 14, "An Act relating to the purchase of alcoholic beverages and to access to licensed premises; relating to civil liability for certain persons accessing licensed premises; requiring driver's licenses and identification cards to be marked if a person is restricted from consuming alcoholic beverages as a result of a conviction or condition of probation or parole and relating to fees for the marked license; and requiring the surrender and cancellation of driver's licenses under certain circumstances." [Before the committee was the proposed committee substitute (CS) for HB 14, Version 25-LS0095\V, Luckhaupt, 3/5/07, which had been adopted as the work draft earlier in the meeting.]

REPRESENTATIVE SAMUELS moved to report the proposed committee substitute (CS) for HB 14, Version 25-LS0095\V, Luckhaupt, 3/5/07, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 14(JUD) was reported from the House Judiciary Standing Committee.

HB 90 - BAIL

2:07:44 PM

CHAIR RAMRAS announced that the committee would next return to the hearing on HOUSE BILL NO. 90, "An Act relating to bail." [Before the committee was the proposed committee substitute (CS) for HB 90, Version 25-LS0331\K, Luckhaupt, 3/7/07, which had been adopted as the work draft on 4/10/07 and amended earlier in the meeting; left pending from earlier in the meeting was a motion to adopt Amendment 4.]

REPRESENTATIVE GRUENBERG objected to the motion to adopt Amendment 4 [text provided previously]. He offered his understanding that the normal minimum term of imprisonment for a felony sex crime is 15 years.

2:08:48 PM

ANNE CARPENETI, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law (DOL), clarified that the minimum term of imprisonment is 5 years for a class C felony sex offense, 10 years for a class B felony sex offense, and 15 years for an unclassified felony sex offense. In response to a question, she offered her understanding that the legislature's rationale behind providing long periods of probation for sex offenders stems from the fact that having serious supervision and control over sex offenders is the best way to manage them; in this way, the Department of Corrections (DOC) can spot when a person is moving away from compliance and towards re-offending.

2:11:13 PM

DWAYNE PEEPLES, Deputy Commissioner, Office of the Commissioner - Juneau, Department of Corrections (DOC), remarked that [without the adoption of Amendment 4], the proposed longer probation period would apply to everyone, and the DOC feels that such a change would place a heavy burden on the DOC. He

mentioned that the department has submitted only indeterminate fiscal notes for HB 90, and offered his belief that many who would re-offend would do so within 10-16 years of being released.

REPRESENTATIVE GRUENBERG suggested, in lieu of adopting Amendment 4, altering proposed AS 12.55.090 such that a period of probation, together with any extension, may not extend more than 10 years beyond the mandatory minimum sentence for any given crime.

MR. PEEPLES sought confirmation that [existing and proposed] AS 12.55.090(c) is discretionary.

MS. CARPENETI relayed that it is discretionary and that the proposed change would allow the court to institute a 25-year probation period in instances where the court feels that such supervision is necessary. Treatment experts have relayed that the goal with sex offenders is to extend the period between re-offenses; thus the longer authorities can have supervision over sex offenders, the better, because it is very difficult to treat sex offenders in any way other than to control them via the use of regular polygraph examinations and regular reporting to probation/parole officers.

CHAIR RAMRAS offered his understanding that although rapists, as they get older, may lose interest in raping victims, pedophiles never lose interest in molesting children and must therefore be managed/supervised their whole lives.

[2:14:10 PM](#)

MR. PEEPLES relayed that the DOC is unable at this time to determine the fiscal impact of HB 90.

QUINLAN G. STEINER, Director, Central Office, Public Defender Agency (PDA), Department of Administration (DOA), indicated that he can't speak to whether proposed AS 12.55.090 or Amendment 4 would be of any benefit, but said he agrees that most re-offenses would occur within 15 years of release.

REPRESENTATIVE GRUENBERG asked whether stipulating, via Amendment 4, that the increased probation period applies only to felony sex offenses is sufficient.

MR. PEEPLES indicated that it is.

REPRESENTATIVE LYNN said he is tempted to offer an amendment to the amendment that would result in sex offenders never being released from prison.

REPRESENTATIVE GRUENBERG removed his objection to Amendment 4.

CHAIR RAMRAS noted that there were no further objections and announced that Amendment 4 was adopted.

[2:17:11 PM](#)

REPRESENTATIVE SAMUELS, joint prime sponsor of HB 90, made a motion to adopt Amendment 5, which read [original punctuation provided]:

Page 1, between lines 12 and 13

(a) A person commits the crime of violation by sex offender of condition of probation or parole if the person

(1) is on probation or parole for conviction of a sex offense;

(2) has served the entire term of incarceration imposed for conviction of the sex offense; and

(3) either

REPRESENTATIVE HOLMES objected for the purpose of discussion.

MS. CARPENETI offered that Amendment 5 came about as a result of a conversation between the DOL and the DOC, and is intended to avoid a large fiscal note and address a concern regarding what happens in instances where a sex offender is on probation but has run out of incarceration time and thus has no incentive to continue taking polygraph examinations or continue with his/her treatment program. Amendment 5 provides "that it's a crime" only if the person has no more time left on his/her sentence for the underlying sex offense.

REPRESENTATIVE HOLMES removed her objection.

CHAIR RAMRAS noted that there were no further objections and announced that Amendment 5 was adopted.

[2:19:00 PM](#)

REPRESENTATIVE SAMUELS made a motion to adopt Amendment 6, which read [original punctuation provided]:

Page 4, line 24

(2) must be confined at all times to the grounds of the facility or be in the physical custody of an employee of the facility, except for court appearances or meetings with counsel;

CHAIR RAMRAS asked whether there were any objections. There being none, Amendment 6 was adopted.

REPRESENTATIVE SAMUELS noted that Amendment 1, which was already adopted, is similar to Amendment 7, labeled 25-LS0331\K.2, Luckhaupt, 4/13/07, which read:

Page 4, line 28, following "review;":  
Insert "and"

Page 5, line 1:  
Delete "an"  
Insert "a"

Page 6, line 5, following "**ineffective**":  
Insert "**assistance of**"

Page 6, line 7:  
Delete "applicant's attorney"  
Insert "assistance the applicant's attorney provided"

CHAIR RAMRAS made a motion to adopt Amendment 7 as amended to read:

Page 6, line 7:  
Delete "applicant's attorney"  
Insert "assistance the applicant's attorney provided"

REPRESENTATIVE GRUENBERG relayed that he has no objection to Amendment 7, as amended.

REPRESENTATIVE SAMUELS objected.

CHAIR RAMRAS offered his understanding that Amendment 7, as amended, pertains to the new provision addressing applications based on claim of ineffective counsel - proposed AS 12.72.025.

MS. CARPENETI concurred, adding that proposed AS 12.72.025 specifically addresses second applications for post conviction

relief wherein the applicant is claiming his/her first attorney did not provide effective assistance of counsel.

[2:22:33 PM](#)

CHAIR RAMRAS offered that Amendment 7, as amended, doesn't change the meaning of the aforementioned provision and is merely a "housekeeping" amendment.

REPRESENTATIVE GRUENBERG noted that the technical term is "ineffective assistance of counsel".

MS. CARPENETI said she has no objection to Amendment 7, as amended.

REPRESENTATIVE SAMUELS removed his objection.

CHAIR RAMRAS announced that Amendment 7, as amended, was adopted.

[2:23:08 PM](#)

CHAIR RAMRAS [made a motion to adopt] Amendment 8 - labeled 25-LS0331\K.1, Luckhaupt, 4/12/07 - and said it would augment Amendment 1 and that it should be considered a conceptual amendment so that the drafter can integrate it with Amendment 6; Amendment 8 read:

Page 4, line 25, following "facility":

Insert "unless the person is at work or traveling to or from work"

CHAIR RAMRAS explained that Conceptual Amendment 8 addresses those people who are attending a treatment program that requires its participants to work as part of treatment.

MS. CARPENETI, in response to a question, said that the DOL's concern with Conceptual Amendment 8 is that Nygren credit - credit against a sentence of imprisonment - is supposed to be for treatment programs that are similar to incarceration - the courts have already held this in both the Nygren case and various other cases - and so treatment programs that allow a person to leave a facility in order to work unsupervised by anyone from the facility is a program that is not similar to incarceration and thus shouldn't qualify as a program suitable for allowing the defendant to receive Nygren credit for time spent in that program.

MR. PEEPLES, in response to questions, confirmed that the halfway house in Fairbanks that is part of the DOC would not fall under the definition of, "treatment center", and said that some of the treatment beds available at a facility operated by the Salvation Army are usually reserved for those receiving post-sentence treatment.

MS. CARPENETI pointed out that the provision which Conceptual Amendment 8 would alter - proposed AS 12.55.027(c)(2) - pertains to pre-sentence treatment.

[2:27:28 PM](#)

REPRESENTATIVE GRUENBERG surmised that Conceptual Amendment 8, when integrated with amendment 6, would provide another exception to proposed AS 12.55.027(c)(2), and that the Chair's intention with Conceptual Amendment 8 is to have Nygren credit given only if work is part of the treatment program and the work is specifically approved by the court.

MS. CARPENETI pointed out that the bill already requires that any qualifying treatment program be one that's approved by the court.

REPRESENTATIVE GRUENBERG clarified that he is suggesting that the court specifically approve the work portion of a particular treatment program. He acknowledged that additional language might need to be crafted to address this point.

CHAIR RAMRAS, referring to a situation he was familiar with wherein a young woman attended and successfully completed a treatment program in the Lower 48, surmised that had that program had a work component, the woman would have had to choose between participating in the work component or receiving credit for her time there. He said he doesn't want to restrict remedies that will help people become productive members of society.

[2:30:39 PM](#)

CHAIR RAMRAS expressed an interest in amending Conceptual Amendment 8.

REPRESENTATIVE HOLMES relayed that she's received suggested language from Mr. Steiner that incorporates the concepts of both Amendment 6 and Conceptual Amendment 8; that language reads

[original punctuation provided]: "must be confined at all times to the grounds of the facility or be in the physical custody of an employee of the facility, except for court appearances, meetings with counsel, and for work as required by the treatment program;".

REPRESENTATIVE SAMUELS, in response to comments, pointed out that if one is able to go to work while attending a treatment program, it is not like being in jail; therefore, a person whose treatment program has a work component should still have to serve all of his/her jail time or else it will result in him/her being treated differently than someone else who committed a similar crime and received a similar sentence but couldn't afford to go to a treatment program.

CHAIR RAMRAS, remarking that there is no equity in the system, said he is more interested in the wellness of the broader community and less interested in who gets a better leg up.

REPRESENTATIVE GRUENBERG made a motion to amend Conceptual Amendment 8 such that it would say:

Page 4, line 25, following "facility":

Insert "unless the person is at work or traveling to or from work as required by the treatment program and as specifically approved by the court for credit"

REPRESENTATIVE GRUENBERG explained that he wants the court to specifically know that the person is going to and from work and working, and to approve that, and that [the work component] be part of the treatment program.

CHAIR RAMRAS asked whether there were any objections. There being none, the amendment to Conceptual Amendment 8 was adopted.

REPRESENTATIVE SAMUELS removed his objection to Conceptual Amendment 8, as amended, and offered his understanding that under it the court would have to specifically say that a particular type of work counts towards Nygren credit.

REPRESENTATIVE GRUENBERG indicated that such was his intention.

CHAIR RAMRAS announced that Conceptual Amendment 8, as amended, was adopted.

[2:37:56 PM](#)

REPRESENTATIVE GRUENBERG moved to report the proposed committee substitute (CS) for HB 90, Version 25-LS0331\K, Luckhaupt, 3/7/07, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 90(JUD) was reported from the House Judiciary Standing Committee.

HB 220 - BAN COMPUTER-ASSISTED REMOTE HUNTING

[2:38:31 PM](#)

CHAIR RAMRAS announced that the final order of business would be HOUSE BILL NO. 220, "An Act prohibiting computer-assisted remote hunting." [Before the committee was CSHB 220(RES), and provided in members' packets was a proposed committee substitute (CS) for HB 220, Version 25-LS0795\E, Kane, 4/11/07.]

[2:39:14 PM](#)

REPRESENTATIVE BOB BUCH, Alaska State Legislature, sponsor, relayed that HB 220 would ban Internet hunting and is endorsed by a broad spectrum of the community.

[2:41:52 PM](#)

JOE KLUTSCH, President, Alaska Professional Hunters Association (APHA), after relaying that the APHA represents the vast majority of Alaska's hunting guides and is committed to "fair-chase" hunting practices and ethical standards of conduct, offered the APHA's belief that the intent of HB 220 is "absolutely correct." He then asked the sponsor and members to refrain from referring to the behavior outlined in the bill as "hunting." The organized killing of an animal via cyberspace and robotics is not hunting. True hunting is a problem-solving exercise that involves planning, knowledge of the species being pursued, and knowledge of its habitat. Furthermore, a hunter in Alaska has to be prepared to cope with all the elements of nature common to outdoor activities. Hunting is a real-life drama that can involve doubt, frustration, anxiety, discovery, great physical and mental challenge, and joy and disappointment.

MR. KLUTSCH said that in the aforementioned setting, the outcome of the hunting process is not assured. He relayed that the APHA believes that HB 220 is appropriate, that "these kind of activities" shouldn't be allowed to occur in Alaska, and that a number of other states have taken action similar to what HB 220 is proposing. In conclusion, he said that the APHA is offering

its whole-hearted support [of HB 220] and encourages the committee to "do the same."

[2:43:59 PM](#)

BURKE WALDRON, Lieutenant, Alaska Bureau of Wildlife Enforcement, Department of Public Safety (DPS), relayed simply that "the Troopers certainly sponsor" HB 220.

[2:44:36 PM](#)

DICK BISHOP, President, Alaska Outdoor Council (AOC), relayed that the AOC supports HB 220. He went on to say that the common value across the spectrum of ethical, responsible hunters is the satisfaction of being personally involved in the natural course of events that affect wildlife and wild lands, and whether the hunter's prime motive is to fill the freezer or drying rack or to find a prize specimen to preserve, admire, and honor for a lifetime, the hunting experience provides challenges and lifelong satisfaction. Hunts are celebrated in different ways among different cultures, but the bottom line, he opined, is that personal experience is what counts; the prospect of computer-assisted remote hunting flies in the face of all that is most valuable in the hunting experience. Hunting is not a pursuit that should be reduced to another armchair video game or to a shopping junket on the Internet. The values associated with hunting and the wildlife hunted deserve more respect than points on a video game, and more initiative than a credit card purchase. He concluded by asking the committee to please pass HB 220 in order to clarify that hunting is too important to Alaskans and the state's visitors to simply trivialize it by allowing it to become another form of electronic diversion.

[2:47:30 PM](#)

KEVIN SAXBY, Senior Assistant Attorney General, Natural Resources Section, Civil Division (Anchorage), Department of Law (DOL), said that the DOL supports the intent of HB 220 and had made some suggestions for improving the bill. The Alaska Department of Fish & Game (ADF&G) and the Board of Game, he relayed, have had quite a bit of experience in complying with the Americans with Disabilities Act (ADA), and subsection (b) addresses the ADA.

[2:48:34 PM](#)

REPRESENTATIVE SAMUELS moved to adopt the proposed committee substitute (CS) for HB 220, Version 25-LS0795\E, Kane, 4/11/07, as the work draft. There being no objection, Version E was before the committee.

MR. SAXBY went on to say that the language in Version E reflects the ADF&G's experience in complying with the ADA. The ADF&G, in negotiating with people to arrive at a reasonable accommodation for their particular circumstances, has determined that there are certain features that are essential to the act of hunting, and two of those features are that a person must be present in the field and that there must be some degree of meaningful participation in the actual act itself - the taking of the animal. Version E stipulates, via subsection (b), that these two features must be present. The reason the administration has asked that this additional language be included in the bill, he relayed, is that subsection (b) provides a broad exemption and will be viewed as a legislative pronouncement.

MR. SAXBY indicated that language in subsection (b) of Version E also clarifies that the Board of Game, as technological advances are made, retains the authority to decide what technology is appropriate.

CHAIR RAMRAS asked how computer-assisted remote hunting works.

REPRESENTATIVE BUCH offered his understanding that the owner of a piece of private property in Texas set up a [video] camera that was linked with the scope on a rifle, and when game is herded in front of the camera, a client would be able to aim and fire the rifle via his/her computer, and then someone on site would finish dispatching the animal should that be necessary. In response to a question, he mentioned that this type of hunting has actually taken place.

[2:52:05 PM](#)

MR. SAXBY said that a couple of years ago, a person who was quadriplegic won a permit to participate in a particular hunt, and that person argued that he wanted someone else to essentially do everything for him while he participated vicariously in the hunt from his hospital bed by hearing about the hunt. The ADF&G said that was not acceptable because such activity wouldn't qualify under the criteria of being present in the field and participating meaningfully in the taking of the animal. The statewide ADA coordinator was very supportive of

the ADF&G's position and helped the department "draw the appropriate line."

MR. SAXBY, in response to comments and a question, said that there is no statute that allows vicarious hunting, and that the administration was fearful that the broad exemption provided by the [previous version of the] bill might be interpreted as allowing vicarious hunting. He mentioned, however, that AS 16.05.255(a) authorizes the Board of Game to establish the means and methods by which a person with disabilities can hunt. In response to another question, he said he is not aware of anyone having requested to be able to fish remotely.

REPRESENTATIVE BUCH, in response to a question regarding jurisdiction, explained that the bill stipulates that one may not engage in computer-assisted remote hunting either in the state or from the state.

REPRESENTATIVE GRUENBERG asked whether the administration has the jurisdiction to prosecute someone outside of Alaska.

MR. SAXBY said the administration would probably only prosecute someone in the state. In response to another question, he said the administration is satisfied with the language in Version E.

REPRESENTATIVE GRUENBERG suggested to the sponsor that he give consideration to whether he wants the bill to contain a forfeiture provision.

REPRESENTATIVE SAMUELS said he assumes that computer-assisted remote hunting could only be accomplished through the use of a game farm, and therefore outlawing such activity will ensure that it never happens and thus nothing would be subject to forfeiture.

[2:58:17 PM](#)

REPRESENTATIVE SAMUELS moved to report the proposed committee substitute (CS) for HB 220, Version 25-LS0795\E, Kane, 4/11/07, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 220(JUD) was reported from the House Judiciary Standing Committee.

#### **ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:58 p.m.