

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

May 9, 2007

2:45 p.m.

MEMBERS PRESENT

Senator Hollis French, Chair
Senator Charlie Huggins, Vice Chair
Senator Bill Wielechowski
Senator Lesil McGuire
Senator Gene Therriault

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Senator Con Bunde

COMMITTEE CALENDAR

CS FOR HOUSE BILL NO. 90(FIN)

"An Act relating to credit toward service of a sentence of imprisonment; relating to violation of probation and parole conditions by sex offenders; relating to bail; relating to distribution of certain materials to minors; relating to time limitations for prosecution of certain crimes; relating to sex offender registration; relating to the maximum time for probation; relating to certain post-conviction relief applications; relating to good time; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 95

"An Act relating to a requirement for competitive bidding on contracts for the preparation of election ballots."

MOVED CSSB 95(STA) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 118(RLS)

"An Act relating to underage possession of alcoholic beverages in a dwelling."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 90

SHORT TITLE: CRIMES/CRIM PROCEDURE/SENTENCING

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
04/13/07 (H) Moved CSHB 90(JUD) Out of Committee
04/13/07 (H) MINUTE(JUD)
04/16/07 (H) JUD RPT CS(JUD) NT 4DP 1NR
04/16/07 (H) DP: GRUENBERG, LYNN, SAMUELS, RAMRAS
04/16/07 (H) NR: HOLMES
04/16/07 (H) FIN REFERRAL ADDED AFTER JUD
04/24/07 (H) FIN AT 1:30 PM HOUSE FINANCE 519
04/24/07 (H) Moved CSHB 90(FIN) Out of Committee
04/24/07 (H) MINUTE(FIN)
04/25/07 (H) FIN RPT CS(FIN) NT 6DP 2NR
04/25/07 (H) DP: CRAWFORD, THOMAS, STOLTZE, HAWKER,
KELLY, MEYER
04/25/07 (H) NR: GARA, JOULE
05/01/07 (H) TRANSMITTED TO (S)
05/01/07 (H) VERSION: CSHB 90(FIN)
05/02/07 (S) READ THE FIRST TIME - REFERRALS
05/02/07 (S) JUD, FIN
05/09/07 (S) JUD AT 1:30 PM BELTZ 211

BILL: HB 118

SHORT TITLE: PROHIBIT ALLOWING MINORS TO HAVE ALCOHOL

SPONSOR(S): REPRESENTATIVE(S) MEYER

02/05/07 (H) READ THE FIRST TIME - REFERRALS
02/05/07 (H) L&C, JUD
02/16/07 (H) L&C AT 3:00 PM CAPITOL 17

02/16/07 (H) <Bill Hearing Canceled>
 02/21/07 (H) L&C AT 3:00 PM CAPITOL 17
 02/21/07 (H) Moved Out of Committee
 02/21/07 (H) MINUTE(L&C)
 02/22/07 (H) L&C RPT 4DP 2NR
 02/22/07 (H) DP: GARDNER, RAMRAS, GATTO, OLSON
 02/22/07 (H) NR: LEDOUX, NEUMAN
 03/12/07 (H) JUD AT 1:00 PM CAPITOL 120
 03/12/07 (H) Moved Out of Committee
 03/12/07 (H) MINUTE(JUD)
 03/14/07 (H) JUD RPT 2DP 4NR 1AM
 03/14/07 (H) DP: LYNN, RAMRAS
 03/14/07 (H) NR: COGHILL, DAHLSTROM, SAMUELS, HOLMES
 03/14/07 (H) AM: GRUENBERG
 04/02/07 (H) RLS AT 5:00 PM CAPITOL 106
 04/02/07 (H) Moved CSHB 118(RLS) Out of Committee
 04/02/07 (H) MINUTE(RLS)
 04/03/07 (H) RLS RPT CS(RLS) 4DP 3NR
 04/03/07 (H) DP: FAIRCLOUGH, KERTTULA, HARRIS,
 JOHNSON
 04/03/07 (H) NR: SAMUELS, GUTTENBERG, COGHILL
 04/03/07 (H) TRANSMITTED TO (S)
 04/03/07 (H) VERSION: CSHB 118(RLS)
 04/04/07 (S) READ THE FIRST TIME - REFERRALS
 04/04/07 (S) L&C, JUD
 04/17/07 (S) L&C AT 1:30 PM BELTZ 211
 04/17/07 (S) Heard & Held
 04/17/07 (S) MINUTE(L&C)
 04/19/07 (S) L&C AT 1:30 PM BELTZ 211
 04/19/07 (S) Scheduled But Not Heard
 04/24/07 (S) L&C AT 1:30 PM BELTZ 211
 04/24/07 (S) Moved CSHB 118(RLS) Out of Committee
 04/24/07 (S) MINUTE(L&C)
 04/25/07 (S) L&C RPT 2DP 2NR
 04/25/07 (S) DP: ELLIS, DAVIS
 04/25/07 (S) NR: BUNDE, STEVENS
 05/09/07 (S) JUD AT 1:30 PM BELTZ 211

BILL: SB 95

SHORT TITLE: COMPETITIVE BIDDING FOR BALLOT PREP

SPONSOR(S): SENATOR(S) BUNDE

02/26/07 (S) READ THE FIRST TIME - REFERRALS
 02/26/07 (S) STA, JUD, FIN
 04/17/07 (S) STA AT 9:00 AM BELTZ 211
 04/17/07 (S) Scheduled But Not Heard
 04/24/07 (S) STA AT 9:00 AM BELTZ 211

04/24/07 (S) Moved CSSB 95(STA) Out of Committee
04/24/07 (S) MINUTE(STA)
04/25/07 (S) STA RPT CS 2DP 3NR SAME TITLE
04/25/07 (S) DP: MCGUIRE, BUNDE
04/25/07 (S) NR: FRENCH, STEVENS, GREEN
05/09/07 (S) JUD AT 1:30 PM BELTZ 211

WITNESS REGISTER

ANNE CARPENETI, Assistant Attorney General
Criminal Division
Department of Law (DOL)
POSITION STATEMENT: Explained the provisions in CSHB 90(FIN).

SHARON FOSTER, representing herself
Anchorage, AK
POSITION STATEMENT: Supported HB 90.

LAUREN RICE, Legislative Liaison
Department of Public Safety
POSITION STATEMENT: Supported HB 90.

PATRICK FOSTER
AG Publishing and Printing
Anchorage, AK
POSITION STATEMENT: Supported SB 95.

JASON HOOLEY, Special Assistant
Office of the Lieutenant Governor
POSITION STATEMENT: Supported SB 95.

MIKE PAWLOWSKI
Staff to Representative Meyer
Juneau, AK
POSITION STATEMENT: Presented HB 118 for the sponsor.

ACTION NARRATIVE

CHAIR HOLLIS FRENCH called the Senate Judiciary Standing Committee meeting to order at [2:45:37 PM](#). Present at the call to order were Senators Huggins, Wielechowski, and Chair French.

CSHB 90(FIN)-CRIMES/CRIM PROCEDURE/SENTENCING

[2:46:01 PM](#)

CHAIR FRENCH announced the consideration of HB 90, and noted that CSHB 90(FIN) was before the committee.

ANNE CARPENETI, Assistant Attorney General, Criminal Division, Department of Law (DOL), said the bill was introduced by Representative Samuels with a bail provision intended to fine-tune a statute that was passed last year to avoid serial bail hearings. In addition, it fine tunes other legislation that has been passed in the last 4 or 5 years.

She explained that section 1 of CSHB 90(FIN) creates a new crime: violation by a sex offender of condition of probation or parole. The reason is when SB 218 was adopted last session where someone who has been released on parole or probation will run out of "time hanging over their heads" to enforce their conditions of probation or parole - like taking periodic polygraphs and making sure they don't move into another area. This bill adds an enforcement mechanism for felony sex offenders who are on probation or parole who do not abide by the conditions of parole that are considered to be important in order to safeguard the public and to at least try to delay re-offense.

CHAIR FRENCH said the bill isn't adding to their sentence or a new condition to probation.

MS. CARPENETI agreed, and said the bill only applies to sex offenders with no time remaining on their original sentence.

[2:48:53 PM](#)

She explained that section 2 improves the definition of the crime of the sending of indecent electronic material. Section 3 is a conforming section, regarding the forfeiture of equipment like computers. Section 4 is a provision for cold-case prosecutor funding. This would be helpful for pressing charges although there is a statute of limitations. Section 5 limits serial bail hearings by requiring a person to provide as much information as possible at the initial hearing.

[2:50:38 PM](#)

MS. CARPENETI said that section 6 puts standards for when a judge can award time against a sentence for a period of time spent in a treatment program into statute. This would make sentencing more uniform across the state. The three basic requirements for credits are that the court must order a person to a program, treatment programs must meet certain standards, and credit is only issued for days the program director approves.

CHAIR FRENCH asked if the bill is in any way related to electronic monitoring or home arrest.

MS. CARPENETI replied that it is not.

[2:52:25 PM](#)

MS. CARPENETI explained that section 7 provides fix-it elements needed in response to SB 218 that adopted mandatory minimum terms of 15 years of probation for felony sex offenders; but current statute sets out 10 years maximum probation for all crimes. This would allow the court to impose the 15 years mandatory minimum or more for sex offender probation.

Section 8 adds language regarding sex-offense registration for electronic distribution of illicit materials to a minor. Section 9 addresses applications for post-conviction relief. She explained that the state over the past 10 or 12 years has made good progress in eliminating lawsuits filed by prisoners by adopting a limit of one post-conviction application after a conviction is upheld on direct appeal. She explained that the courts have held that fairness requires a person to be able to bring a second application for post conviction relief so that a person can litigate a claim when his or her attorney's first petition was not effective. This section provides that the person in the second application has to file within a year of the final decision on the first one.

Section 10 provides that a person may not be awarded good time by the Department of Corrections (DOC) when in a treatment program, in a private residence or under electronic monitoring.

CHAIR FRENCH said that a person who is sentenced to 20 days in jail has to do 20 days of treatment or 20 days of home arrest or 20 days of electronic monitoring. The person does not the one-third deduction that he or she would get in a correction facility.

MS. CARPENETI agreed and added that Ms. Griffin has testified that there are no treatment programs that DOC sends a person to that isn't in connection with probation and parole. So you wouldn't be getting good time for that anyway; this is not a change in current practice.

[2:55:27 PM](#)

SENATOR MCGUIRE noted that in the past the reason for using electronic monitoring was to cut costs. She asked if that was the goal for the policy.

MS. CARPENETI explained that good time awards have always been a tool to encourage good behavior in jail. It doesn't apply to someone who has been released to serve a part of his or her sentence at home under electronic monitoring.

CHAIR FRENCH noted that Senator Therriault had joined the committee.

[2:56:19 PM](#)

CHAIR FRENCH asked about the applicability of section 11.

MS. CARPENETI replied it applies to sentences imposed on or after the effective date of the act. It could apply to crimes committed before that date, but only to sentences imposed afterwards. Section 9, the section on limitation on post-conviction relief applications, applies to persons who are in jail and were convicted before, on, or after the affected date.

[2:57:50 PM](#)

CHAIR FRENCH moved Amendment 1, which was offered in the House.

AMENDMENT 1

Offered in the House to CSHB 90(FIN)

Page 3, line 28:

Delete "**(A)**"

Page 3, lines 29 - 30:

Delete all material

SENATOR WIELECHOWSKI objected.

CHAIR FRENCH said that the amendment removes a reference to information the defendant knew about but did not present in a previous bail hearing. The reference could present a series of conflicts. He noted that the amendment is supported by the sponsors.

SENATOR WIELECHOWSKI removed his objection.

SENATOR THERRIAULT suggested it should be a conceptual amendment to accommodate grammar and drafting.

CHAIR FRENCH read the amendment.

SENATOR THERRIAULT said he had no objection.

CHAIR FRENCH, seeing no further objection, announced that Amendment 1 is adopted.

SENATOR WIELECHOWSKI moved Amendment 2.

25-LS0331\0.1
Luckhaupt

AMENDMENT 2

OFFERED IN THE SENATE BY SENATOR WIELECHOWSKI
TO: CSHB 90(FIN)

Page 3, line 15, following "age":

Insert "i
(6) kidnapping"

CHAIR FRENCH objected for discussion purposes.

SENATOR WIELECHOWSKI explained that the amendment would make the statute of limitations for kidnapping unlimited.

CHAIR FRENCH removed his objection and announced that without further objection Amendment 2 is adopted.

At ease from [3:01:18 PM](#) to [3:01:38 PM](#).

SENATOR WIELECHOWSKI moved Amendment 3.

25-LS0331\0.3
Luckhaupt

AMENDMENT 3

OFFERED IN THE SENATE BY SENATOR WIELECHOWSKI
TO: CSHB 90(FIN)

Page 1, line 5, following "time;":

Insert "**relating to DNA samples collected for inclusion in the DNA identification registration system;**"

Page 6, following line 23:

Insert a new bill section to read:

"* **Sec. 11.** AS 44.41.035 is amended by adding a new subsection to read:

(q) The department shall process each sample collected and include the identification data resulting from the testing of the sample in the

identification registration system within 90 days after receiving the sample."

Renumber the following bill sections accordingly.

CHAIR FRENCH objected for discussion purposes.

SENATOR WIELECHOWSKI explained that the amendment would help find people earlier by requiring DNA samples to be processed within 90 days.

[3:02:51 PM](#)

SHARON FOSTER, representing herself, said that this amendment gives law enforcement the tools it needs to fight crimes and keep offenders from committing more crimes. If DNA can be taken upon arrest and processed within 90 days, it would help. She commented on a personal tie to the matter, and said that the state needs to set standards and ensure the information is in place within 60 days. It's costly and heartbreaking to not do so.

[3:08:59 PM](#)

SENATOR MCGUIRE said she supports both amendments and she thinks there is a real problem that needs to be addressed. There are 2,000 DNA buccal swabs that are not yet in the data base and she was calling on the commissioner of the Department of Public Safety (DPS) to take action. She said it could happen in two ways. First, there needs to be better education to municipal police officers about how to process the swabs in a timely manner. Second, the backlog needs to be addressed with another full time criminalist position in the crime lab.

[3:11:35 PM](#)

CHAIR FRENCH added that Senator Bunde allowed his bill to be folded into the current one. He removed his objection.

[3:12:11 PM](#)

LAUREN RICE, Legislative Liaison, Department of Public Safety (DPS), stated support for the amendment. The department wants the 90-day limit. Addressing Senator McGuire's comments, she said DPS knows about the federal grants and should the amendments pass, the DPS fiscal note will include four lab technicians. To make sure there is a smooth transition in implementation, she asked that this particular section have a 2009 effective date. Even if she started recruiting for this position now, the department would need at least six months for training followed with some supervision. Although DPS wants the

effective date of the collection to be immediate, they want the 90-day requirement for processing to be two years out. Also, on line 8 following "shall" DPS would like the language "make every effort to" to be inserted. The concern is that if a lab technician is unavailable or if a critical piece of equipment is broken, there would be problems if the processing took longer than 90 days.

CHAIR FRENCH thanked her and said the suggestions would be incorporated into a Senate CS.

3:15:08 PM

MS. CARPENETI suggested that the 90-day limitation apply to samples taken from individuals and not from a crime scene.

CHAIR FRENCH asked her to work with Senator Wielechowski on the language. He removed his objection and seeing no further objection, announced that Amendment 3 is adopted.

3:16:14 PM

SENATOR WIELECHOWSKI moved Amendment 4.

25-LS0331\0.4
Luckhaupt

AMENDMENT 4

OFFERED IN THE SENATE BY SENATOR WIELECHOWSKI
TO: CSHB 90(FIN)

Page 1, line 5, following "**time;**":

Insert "**relating to DNA samples from persons charged with certain offenses;**"

Page 6, following line 23:

Insert new bill sections to read:

"* **Sec. 11.** AS 44.41.035(b) is amended to read:

(b) The Department of Public Safety shall collect for inclusion into the DNA registration system a blood sample, oral sample, or both, from (1) a person convicted in this state of a crime against a person or a felony under AS 11 or AS 28.35 or a law or ordinance with elements similar to a crime against a person or a felony under AS 11 or AS 28.35, (2) a minor 16 years of age or older, adjudicated as a delinquent in this state for an act that would be a

crime against a person or a felony under AS 11 or AS 28.35 if committed by an adult or for an act that would violate a law or ordinance with elements similar to a crime against a person or a felony under AS 11 or AS 28.35 if committed by an adult, (3) a voluntary donor, (4) an anonymous DNA donor for use in forensic validation, forensic protocol development, quality control, or population or statistical data bases, [AND] (5) a person required to register as a sex offender or child kidnapper under AS 12.63, and (6) a person charged in a criminal complaint, indictment, presentment, or information with a crime against a person or a felony under AS 11 or AS 28.35, or a law or ordinance with elements similar to a crime against a person or a felony under AS 11 or AS 28.35. The department also may collect for inclusion into the DNA registration system a blood sample, oral sample, or tissue sample from crime scene evidence or from unidentified human remains. The DNA identification registration system consists of the blood, oral, or tissue samples drawn under this section, any DNA or other blood grouping tests done on those samples, and the identification data related to the samples or tests. Blood samples, oral samples, and tissue samples not subject to testing under this section, and test or identification data related to those samples, may not be entered into, or made a part of, the DNA identification registration system.

* **Sec. 12.** AS 44.41.035(i) is amended to read:

(i) The Department of Public Safety shall, upon receipt of a court order, destroy the material in the system relating to a person. The court shall issue the order if the person's DNA was included in the system under

(1) (b)(1) or (2) of this section and the court [IT] determines that

(A) [(1)] the conviction or adjudication that subjected the person to having a sample taken under this section is reversed; and

(B) [(2)] the person

(i) [(A)] is not retried or readjudicated for the crime; or

(ii) [(B)] after retrial, is acquitted of the crime or, after readjudication for the crime, is not found to be a delinquent; or

(2) (b)(6) of this section and the court determines that the criminal complaint, indictment, presentment, or information has been dismissed.

* Sec. 13. AS 44.41.035(1) is amended to read:

(1) The Department of Public Safety may not include in the DNA registration system a blood sample, oral sample, or tissue sample of the victim of a crime, unless that person would otherwise be included under (b)(1) - (6) [(b)(1) - (5)] of this section."

Renumber the following bill sections accordingly.

CHAIR FRENCH objected for discussion purposes.

SENATOR WIELECHOWSKI explained that the amendment tracks a bill that was filed by Senator Bunde with minor differences. It requires that DNA samples be taken from a person charged in a criminal complaint, indictment, presentment, or if there is information with a crime against a person or a felony under AS 11 or AS 28.35 or ordinances with similar elements. The goal is to get immediate DNA samples from those who are indicted for felonies. There is a provision that the information is to be destroyed if a person upon court order has been adjudicated to be not guilty. This is a safety valve to protect civil rights.

[3:17:33 PM](#)

MS. RICE asked the committee to change the word "charged" to "arrested". Currently the DPS computer system is set up with an interface for arrestees, but not for individuals who are charged. This would allow implementation without a computer system overhaul.

MS. CARPENETI said there are two ways to look at the matter. A criminal complaint means that usually somebody has reviewed the evidence and elements of the offense and filed a charge. It's one step removed from an arrest. The practical problem with a criminal charge is that DPS doesn't know when a person has been charged. "If you peg it to a charge, they may be summoned into court; they may never be arrested. They come into court, they answer the charges. There's nobody there to take it and if there were, there would be chain-of-custody problems with the evidence itself." She said she supports the DPS suggestion. The alternative would require setting up a new system for gathering buccal swabs from people who are charged and not arrested. Then there would need to be a system for getting the swabs to the police in a way that would be upheld in court.

[3:19:43 PM](#)

CHAIR FRENCH said it's clearly easiest to give the swab to the police officer who is arresting someone. The aim is the arrest. If the charges are later dismissed, it's likely that will happen before the sample is processed and the person wouldn't have his or her DNA analyzed. He questioned how to rewrite the amendment to achieve the goal.

SENATOR WIELECHOWSKI said changing "charged" to "arrested" will solve one problem and he'd be happy to work with DPS on other areas of concern.

CHAIR FRENCH said further change is needed because it reads strangely.

[3:22:00 PM](#)

SENATOR BUNDE, sponsor of SB 33, agreed with Senator Wielechowski that the swab should be done at the time of arrest. He referred the committee to the CS for SB 33, which includes the term "arrest". He described the buccal swab as the 21st century version of fingerprinting. It's not a huge step to go from the fingerprint to the DNA sample, he said.

CHAIR FRENCH said the difference is that in a security breach if his finger print gets out into the world it's one thing, but if his DNA gets out, he and his family could suffer adverse consequences for medical insurance, for instance. That is a concern.

SENATOR BUNDE explained that this type of DNA testing does not get into medical history. It's just enough for identification.

CHAIR FRENCH removed his objection and announced that with no further objection Amendment 4 is adopted.

[3:24:35 PM](#)

SENATOR BUNDE offered his CS to help draft the new CS.

MS. FOSTER added that federal money has already been allocated to Alaska to deal with the backlog, but the only issue now is that people at the crime lab are not allowed to work overtime. If they had the opportunity to use those funds for overtime, the backlog could be dealt with quickly.

CHAIR FRENCH thanked her and closed public testimony. He said that a CS would be prepared.

[3:26:20 PM](#)

SENATOR THERRIAULT asked why language on lines 25 and 26, page 2, was deleted.

MS. CARPENETI explained that the acts described in AS 11.41.455(a) (1)- (7) are similar to the acts described in paragraphs (A)(B)(C)(D)(E) and (F). It clarifies that it's a violation for an adult to send illicit pictures of him or herself to another adult or a minor.

CHAIR FRENCH said the list in AS 11.41.455(a) (1)-(7) is the same list they was just enumerated in the bill.

MS. CARPENETI added that there is no substantive change, but the way Section 455 is draft now, one could argue that it only applies to depictions of children doing these particular acts.

[3:28:35 PM](#)

CHAIR FRENCH set HB 90 aside.

SB 95-COMPETITIVE BIDDING FOR BALLOT PREP

[3:28:54 PM](#)

CHAIR FRENCH announced the consideration of SB 95. [Before the committee was CSSB 95(STA).]

SENATOR BUNDE, sponsor of SB 95, said the bill was requested last fall. He told the committee that the state does lots of business with small businesses throughout Alaska. They are the back bone of our economy, he said. In doing business at many levels, the state encourages economic activities and to get the best product at the best price it uses competitive bidding. However, competitive bidding does not apply to printing ballots. It doesn't seem right and it's hard to believe there could only be one printer in the state. In fact there are various printing businesses across the state that should be given a chance at this project.

[3:31:26 PM](#)

PATRICK FOSTER, AG Publishing and Printing, said he has been working in the print industry in Alaska for nearly 30 years. He supports SB 95 because he believes it is unfair that the Division of Elections sole-sources the printing of the state election ballots to a single shop on the Kenai Peninsula when there are many printing companies in Alaska that are fully capable of printing the ballots.

He explained that the State of Alaska uses Diebold electronic ballot readers for the purpose of tallying results for its statewide elections. Diebold requires printing companies that print ballots destined for their machines to be certified by them. At the time the state adopted the use of these ballot readers 8 years ago, no companies in Alaska were certified. Shortly thereafter a small Alaska printing company was certified and the Division of Elections has been handing over the contract to that company ever since - despite the fact that a number of other Alaska printing companies have voiced a desire to be included in the process. His company became a certified Diebold printer in 2003. He understood the comfort level the division has in working with a printer that has proven to do a decent job and he tries to give his customers that same comfort and recently succeeded in a ballot printing contract for the Municipality of Anchorage. He said at first the clerk was uneasy about switching printing companies, but he has been told the city is happy with his product and it has benefited the city by having to pay less for its ballots. He has been printing ballots for them for the last three years.

He thinks that the Division of Elections could develop a fine working relationship with any number of other printers. Some might think that printing a large number of ballots is a complex process. That is reason enough to leave things the way they are, but nothing is further from the truth. Printing a few hundred thousands ballots would be daunting for a small shop, but they would not bid on this project anyway. Alaska has many companies that are fully capable of handling this volume of work in the time required including handling the packaging and shipping logistics.

MR. FOSTER said it's possible the division could be concerned with putting the ballots out to bid each election cycle and he recommended that each bid be awarded for an election cycle with a performance option for other ones. So it could go for four years without going out to bid. He thinks that opening printing of ballots up to competitive bid could save the state a substantial amount of money, which could be "spread around a little more to other business." The state would also not have to rely on just one printing company for printing its ballots.

[3:35:59 PM](#)

CHAIR FRENCH found no further questions. He noted that Mr. Kendal submitted a letter for the bill packet. He asked if the bill would require that each election be competitively bid or could a two-election cycle package be put out to (RFP).

SENATOR BUNDE replied it's within the Division of Elections' purview to develop its own guidelines and process.

CHAIR FRENCH commented the process could be broken up by region.

SENATOR WIELECHOWSKI asked for clarification of language on page 3, lines 30-31, that adds a new section.

CHAIR FRENCH answered that section is simply the result of re-numbering.

[3:38:02 PM](#)

JASON HOOLEY, Special Assistant for the Office of the Lieutenant Governor, said the current bill is a workable solution.

CHAIR FRENCH found no further questions or testimony.

SENATOR MCGUIRE motioned to report CSSB 95(STA) from committee with individual recommendations and attached fiscal note(s). There being no objection, it was so ordered.

At-ease from [3:39:40 PM](#) to [3:42:26 PM](#)

CSHB 118(RLS)-PROHIBIT ALLOWING MINORS TO HAVE ALCOHOL

CHAIR FRENCH announced the consideration of CSHB 118(RLS).

[3:42:38 PM](#)

MIKE PAWLOWSKI, staff to Representative Kevin Meyer, sponsor of HB 118, said this bill would give police a tool to combat minors' possession of alcohol in a dwelling.

[3:44:30 PM](#)

SENATOR MCGUIRE said it sounds like the sponsor believes that parents can't be charged for having alcohol in the home with minors.

MR. PAWLOWSKI explained that the word "physically" was added to line 5, on page 1. The sponsor's intent is that a parent in absentia isn't responsible. The responsible person is the one who is physically in the dwelling and exercising dominion and control.

SENATOR MCGUIRE said she doesn't disagree with the policy, but in the past couple of years the government has been reaching farther and farther into the house. Alaska is becoming a "nanny

state". She asked if it's reckless if someone is in a friend's house and a bottle of wine is in the wine cabinet that is not locked.

[3:47:14 PM](#)

MR. PAWLOWSKI responded that issue had been talked about a lot as the bill has worked its way through the process. A reason they chose "recklessly" and not "criminal negligence" is because it addresses aware of and conscious disregard of the risk. The definition of "recklessly" in AS 04.21.080(3) says the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. It affects the person who is in possession of the dwelling at the time.

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CHAIR FRENCH said most of the time the incident would be committed by a teenager whose parents are out of town. Chances are he would be cited for Minor in Possession. Adults who host are a bit more culpable. He asked why such an incident wouldn't be considered contributing to the delinquency of a minor.

[3:50:07 PM](#)

MR. PAWLOWSKI replied it should be. He added that DPS is often more concerned with insuring that people don't drive and with keeping kids from running away. The gathering of evidence and prosecution is very difficult. The bill sponsor firmly believes that the over-21 people who are throwing parties for underage people will be seriously affected by several \$500 fines in a row. This is a tool for the police to very easily say, "You have this violation and when we can prove it, we're going to get you for furnishing as well. And that's the kind of conjunction we hope works out." They often can't prove the adults were furnishing alcohol.

SENATOR THERRIAULT posed a hypothetical situation where a bunch of neighbors came for dinner and their 19-year old college student is invited to have a glass of wine with everybody else at the table. He asked if that would run afoul of this law and how that situation would be differentiated that from a raucous party.

MR. PAWLOWSKI replied the important part of that example is that the minor's parents are accompanying him and it's not in a licensed premises. That exemption is in AS 04.16.051 which says "This section does not prohibit the furnishing or deliver of an alcoholic beverage by a parent to the parent's child." The

sponsor didn't want to make the policy call of parental permission.

SENATOR MCGUIRE remarked the bill is an example of the government trying to control families and it will have many unintended consequences. She said she's aware of the mental intent of recklessness, but is unsure about the definition of disregarding known risk.

[3:54:51 PM](#)

CHAIR FRENCH announced he would hold HB 118 for further work. There being no further business to come before the committee, he adjourned the meeting at [3:55:05 PM](#).