

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

February 27, 2008

1:34 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 185

"An Act relating to sex offenders and child kidnappers."

HEARD AND HELD

SENATE BILL NO. 202

"An Act relating to expenditures in aid of or to implement the provisions of the federal Real ID Act."

HEARD AND HELD

SENATE BILL NO. 273

"An Act relating to cruelty to animals and promoting an exhibition of fighting animals."

SCHEDULED BUT NOT HEARD

CS FOR HOUSE BILL NO. 182(JUD)

"An Act making the offering of certain promotional checks an unfair or deceptive act or practice."

MOVED CSHB 182(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 185

SHORT TITLE: SEX OFFENDER/CHILD KIDNAPPER REGISTRATION

SPONSOR(s): SENATOR(s) WIELECHOWSKI

01/16/08	(S)	PREFILE RELEASED 1/4/08
01/16/08	(S)	READ THE FIRST TIME - REFERRALS
01/16/08	(S)	STA, JUD, FIN

02/07/08 (S) STA AT 9:00 AM BELTZ 211
02/07/08 (S) Heard & Held
02/07/08 (S) MINUTE(STA)
02/12/08 (S) STA AT 9:00 AM BELTZ 211
02/12/08 (S) Scheduled But Not Heard
02/19/08 (S) STA RPT CS 3DP 2NR NEW TITLE
02/19/08 (S) DP: MCGUIRE, FRENCH, STEVENS
02/19/08 (S) NR: GREEN, BUNDE
02/19/08 (S) STA AT 9:00 AM BELTZ 211
02/19/08 (S) Moved CSSB 185(STA) Out of Committee
02/19/08 (S) MINUTE(STA)
02/27/08 (S) JUD AT 1:30 PM BELTZ 211

BILL: SB 202

SHORT TITLE: PROHIBIT STATE SPENDING FOR REAL ID ACT
SPONSOR(s): SENATOR(s) WIELECHOWSKI

01/16/08 (S) PREFILE RELEASED 1/4/08
01/16/08 (S) READ THE FIRST TIME - REFERRALS
01/16/08 (S) STA, JUD
02/14/08 (S) STA AT 9:00 AM BELTZ 211
02/14/08 (S) Heard & Held
02/14/08 (S) MINUTE(STA)
02/19/08 (S) STA RPT 2DP 1DNP 1AM
02/19/08 (S) DP: MCGUIRE, FRENCH
02/19/08 (S) DNP: BUNDE
02/19/08 (S) AM: STEVENS
02/19/08 (S) STA AT 9:00 AM BELTZ 211
02/19/08 (S) Moved SB 202 Out of Committee
02/19/08 (S) MINUTE(STA)
02/27/08 (S) JUD AT 1:30 PM BELTZ 211

BILL: HB 182

SHORT TITLE: OFFERING PROMOTIONAL CHECKS
SPONSOR(s): REPRESENTATIVE(s) LYNN

03/07/07 (H) READ THE FIRST TIME - REFERRALS
03/07/07 (H) L&C, JUD
03/19/07 (H) L&C AT 3:00 PM CAPITOL 17
03/19/07 (H) Moved Out of Committee
03/19/07 (H) MINUTE(L&C)
03/21/07 (H) L&C RPT 7DP
03/21/07 (H) DP: GARDNER, LEDOUX, BUCH, NEUMAN,
GATTO, RAMRAS, OLSON
04/02/07 (H) JUD AT 1:00 PM CAPITOL 120
04/02/07 (H) Moved CSHB 182(JUD) Out of Committee
04/02/07 (H) MINUTE(JUD)

04/04/07 (H) JUD RPT CS(JUD) 6DP
04/04/07 (H) DP: GRUENBERG, LYNN, DAHLSTROM,
SAMUELS, HOLMES, RAMRAS
04/11/07 (H) TRANSMITTED TO (S)
04/11/07 (H) VERSION: CSHB 182(JUD)
04/13/07 (S) READ THE FIRST TIME - REFERRALS
04/13/07 (S) L&C, JUD
05/01/07 (S) L&C AT 1:30 PM BELTZ 211
05/01/07 (S) Moved CSHB 182(JUD) Out of Committee
05/01/07 (S) MINUTE(L&C)
05/02/07 (S) L&C RPT 4DP
05/02/07 (S) DP: ELLIS, BUNDE, DAVIS, STEVENS
02/20/08 (S) JUD AT 1:30 PM BELTZ 211
02/20/08 (S) Heard & Held
02/20/08 (S) MINUTE(JUD)

WITNESS REGISTER

KEVIN BROOKS, Deputy Commissioner
Department of Administration
Juneau, AK

POSITION STATEMENT: Said the administration is concerned with the broad language of the bill.

WHITNEY BREWSTER, Director
Division of Motor Vehicles
Department of Administration
Anchorage, AK

POSITION STATEMENT:

JIM HARRISON, Attorney at Law
Anchorage, AK

POSITION STATEMENT: Testified on SB 202 and provided information on Real ID.

BILL SCANNELL
No address provided

POSITION STATEMENT: Spoke in support of SB 202.

FRANK TURNEY
Fairbanks, AK

POSITION STATEMENT: Spoke in support of SB 202.

JOHN BRADIUS
Fairbanks, AK

POSITION STATEMENT: Spoke in support of SB 202.

BRENT RICHEY
Fairbanks, AK

POSITION STATEMENT: Spoke in support of SB 202.

MARTI COX
Fairbanks, AK

POSITION STATEMENT: Spoke in support of SB 202.

RON TIDLER, Detective Sergeant
Anchorage Police Department
Anchorage, AK

POSITION STATEMENT: Spoke in support of SB 185.

Payton MERIDETH, Detective
Fairbanks Police Department
Fairbanks, AK

POSITION STATEMENT:

KAREN FOSTER, Surviving Parents Coalition
Anchorage, AK

POSITION STATEMENT: Spoke in support of SB 185.

SUSAN SULLIVAN, Executive Director
Victims for Justice
Anchorage, AK

POSITION STATEMENT: Stated support for SB 185.

ANNE CARPENETI, Assistant Attorney General
Criminal Division
Department of Law
Juneau, AK

POSITION STATEMENT: Provided information on the fiscal note for SB 185.

ACTION NARRATIVE

CHAIR HOLLIS FRENCH called the Senate Judiciary Standing Committee meeting to order at [1:34:51 PM](#). Present at the call to order were Senators Huggins, Wielechowski, and French. Senator Therriault and McGuire arrived shortly thereafter.

CSHB 182(JUD)-OFFERING PROMOTIONAL CHECKS

[1:35:05 PM](#)

CHAIR FRENCH announced the consideration of HB 182. Before the committee was CSHB 182(JUD). He recapped that the bill was heard previously and public testimony was taken at that time.

[1:35:37 PM](#)

SENATOR WIELECHOWSKI motioned to report HB 182 from committee with individual recommendations and attached fiscal note(s).

CHAIR FRENCH announced that without objection, CSHB 182(JUD) is moved from committee.

SB 202-PROHIBIT STATE SPENDING FOR REAL ID ACT

[1:36:20 PM](#)

CHAIR FRENCH announced the consideration of SB 202.

SENATOR WIELECHOWSKI, sponsor of SB 202, noted that two committee members heard this bill in a prior committee. He explained that the federal Real ID law was put into effect in 2005 as part of an emergency appropriation bill. It's been described as the first attempt to implement a national ID card. SB 202 simply says that state money cannot be used to implement Real ID.

SENATOR WIELECHOWSKI said that the federal legislation requires this ID card to be carried and shown to enter a federal facility including IRS offices, courthouses, congressional buildings, and national parks. About 70 percent of the land in Alaska is under federal control so theoretically going anyplace within that federal territory could require carrying a Real ID card. That in itself is a concern, but more onerous yet is the provision that allows the secretary of Homeland Security unilateral authority to extend when and where a Real ID card must be shown. It's not a stretch to envision a scenario where people have to show their ID cards to get on Amtrak or to conduct private banking business. "There will be a common machine-readable technology on the back of your card, which enables any official to swipe your card and store all of your data onto a database, which will then be shared with every other state in the country and potentially with foreign nations."

[1:40:21 PM](#)

SENATOR MCGUIRE joined the meeting.

SENATOR WIELECHOWSKI highlighted that the federal Act initially required radio-frequency ID (RFID), which would make the ID cards a tracking device. Although that provision was removed, the final rule says that individual states are welcome to have RFID. Other information that potentially could be on a person's ID card include DNA information, biometric information,

fingerprint information, and retinal scan information. The information that is placed on an ID card is then shared with other states so all DMV officials would have access to every American's identification in one centralized database. It's likely that Canadian and Mexican officials eventually will have access to every American's personal data as well.

[1:41:33 PM](#)

SENATOR WIELECHOWSKI said the cost to Alaska is unknown but the Real ID law requires keeping paper and electronic copies for many years. That mandate carries a cost. Also, states must ensure the physical security of locations where driver's licenses are produced. It's unclear how the federal government will monitor that but comparing this to the Transportation Security Act, it might include armed guards, heavy security, and metal detectors. The State of Alaska has estimated that it will be several million dollars. The Real ID law requires extensive changes to hiring and retention practices for DMV. Alaska is uniquely challenged because many residents have no easy access to DMV. Since it's difficult or impossible to fly without an ID card, Bush residents may be in a catch-22 situation. They can't get on the plane without an ID card and they can't get an ID card without flying to a larger community to make an in-person visit to the DMV. "This is an unresolved problem," he said.

SENATOR WIELECHOWSKI said that a number of gun owners have expressed concern and the Gun Owners of America has opposed Real ID. Currently anyone who buys a gun shows their federal ID and fills out form 4473. But it's not unreasonable to assume that a future president may, as a matter of national security, require more information. By simply swiping a person's ID card the federal government will know who is purchasing guns and ammunition.

[1:44:28 PM](#)

SENATOR THERRIAULT joined the meeting.

SENATOR WIELECHOWSKI said that Real ID does nothing to secure Alaska's borders. Unlike some other states, illegal immigrants cannot get driver's licenses in Alaska. Opposition to Real ID is mixed. At least 600 organizations from both ends of the political spectrum have opposed it and a number of presidential candidates have opposed it as well. 18 states have passed legislation opposing Real ID and 18 more have legislation pending. This bill says that if the federal government wishes to implement this program, it must pay for it. When he's talked to people who support the concept of Real ID to explain exactly

what it does, their support tends to wane. "Alaska has typically been at the forefront in privacy rights and liberty rights and freedom rights and I think we need to take a stand on this issue," he said.

[1:47:08 PM](#)

CHAIR FRENCH informed the committee that Kevin Brooks with the Department of Administration and Krista Stearns with the Department of Law are available to answer questions.

SENATOR HUGGINS asked if the administration supports the bill.

[1:47:44 PM](#)

KEVIN BROOKS, Deputy Commissioner, Department of Administration said the administration is concerned with the broad language of the bill. Currently the state is complying with many of the requirements of the Real ID Act. For example, the Department of Motor Vehicles (DMV) is using digital photos on driver's licenses and it's doing fraud training, all of which are good business practices. Clearly more public debate needs to occur and there certainly are common concerns about data sharing and making sure that databases are secure. During the recent National Governors Association meeting members overwhelmingly agreed that the federal government ought to pay for anything it mandates in this area. Some of the things contemplated under the Real ID Act are cause for concern with respect to cost and the policy implications of whether or not they should be done at all.

[1:49:47 PM](#)

SENATOR THERRIAULT said he supports the bill but if it were to pass, he wonders if the state would be able to continue doing some of the things it's already doing in this area. "Not in lockstep or necessarily in conjunction with the federal Act, but just as the State of Alaska."

SENATOR WIELECHOWSKI said one of the issues he didn't touch on is state sovereignty. Alaska has never had the federal government direct how to deal with driver's licenses. This gets to the issue of state's rights and the Tenth Amendment. States have the fundamental right to secure their driver's licenses. Alaskans should be concerned about that because no one supports issuing counterfeit licenses.

SENATOR WIELECHOWSKI said his primary concern with the issue relates to creating a large federal database that exposes Alaskans to the weaknesses of any other database in the country.

Also, the imposition of the cost is a concern. The fact that this data potentially will be shared with foreign governments is a concern. The wholesale collection of very personal information is a concern. The fact that people's movements will be tracked is a concern. "Where do we go with the surveillance and the potential for the invasion of privacy?" Every year 10 million Americans lose their identity and Alaskan's are very concerned about that issue. "This is opening that wide up for identity theft," he said.

1:52:20 PM

SENATOR THERRIAULT asked if this particular language would preclude the state from exercising its sovereignty if what it wanted to do happened to coincide with a directive of the federal law.

SENATOR WIELECHOWSKI said he doesn't believe it would.

SENATOR THERRIAULT asked if he discussed with the drafters or in a previous committee ways to clarify that the state can exercise its sovereignty and not be limited by federal directives.

SENATOR WIELECHOWSKI replied the previous committee looked at that thoroughly. He heard those members say it's possible to tell things that are headed towards Real ID. For example, tying into other databases relates to Real ID. He said he'd be happy to work with DMV on this.

SENATOR THERRIAULT noted that the sponsor talked about the expenditure of state funds but the language in the bill says "expend funds." He asked if the state agency could spend funds that aren't from a state source.

SENATOR WIELECHOWSKI said he's heard many people say that the bill doesn't go far enough because they don't want Real ID at all. "The intent is to interpret that that no funds be expended period." The federal government will have a hard time forcing the issue if enough states take that position.

1:55:12 PM

SENATOR THERRIAULT suggested the committee consider the circumstance where the federal government pays 100 percent of the program and asks the state to implement it. "Would we be any less bothered by that? I would think not," he said.

CHAIR FRENCH asked if the administration has established the cost to implement the federal Real ID Act.

MR. BROOKS replied the state's been looking at the potential costs since the final rules were published in January. Some aren't known. Clearly there will be some cost attached to conducting background checks on DMV employees because that isn't done now. Also there will a cost associated with additional fraud training, but that's a good business practice and ought to be done whether there's a Real ID Act or not. A big unknown is what it will cost to secure the facilities. The rules aren't entirely clear with respect to whether an armed guard or metal detector is contemplated. "We don't have clear direction so it is difficult to cost, but we're trying to put those costs together," he said.

CHAIR FRENCH asked if he could give a ballpark number.

MR. BROOKS suggested that the DMV director might be able to give an estimate.

[1:57:12 PM](#)

WHITNEY BREWSTER, Director, Division of Motor Vehicles, Department of Administration, said it will cost the DMV approximately \$2 million to implement the federal Real ID Act.

CHAIR FRENCH asked if that would be an ongoing cost of operation or a capital expenditure.

MS. BREWSTER replied the \$2 million would be a capital expenditure, but ongoing funds would be needed as well. The latter amount isn't known.

MR. BROOKS relayed that he told the previous committee that the \$13 million DMV budget is not sufficient to fully comply with Real ID. Although DMV is already compliant in a number of areas, complying with things like data sharing will require additional funding. Coming to terms with how much will be needed and whether the state should be doing certain things at all will be the topic for ongoing debate.

[1:59:33 PM](#)

CHAIR FRENCH questioned whether the language in the bill gives clear work direction to a judge who would ultimately try and decide whether some commissioner had essentially broken the law. If this bill passes it's fairly easy to foresee a circumstance where someone will challenge a step DMV takes to strengthen the integrity of the driver's license as an effort to comply with Real ID. It's the legislature's job to give the judge the

statutory sort of command as to how to decide a case like that. That was articulated in the last committee, Senator Therriault brought it up and it's on his mind as well. He asked Ms. Brewster if she had other matters to bring before the committee.

MS. BREWSTER said she wants the committee to know where DMV is with respect to complying with Real ID. Effective May 11, 2008 federal agencies can not accept driver's licenses or ID cards for official purposes unless the state has requested an extension of compliance through the Department of Homeland Security. Only three states have not sought an extension. Although Alaska applied for and received an extension, that does not mean that the state intends to comply with the Act. It buys more time; the initial extension expires on December 31, 2009.

CHAIR FRENCH asked if the states that haven't sought extensions are in open defiance or going toward cooperation.

MS. BREWSTER replied Montana, Maine, and South Carolina haven't sought extensions and she knows that Montana has objected to complying with the Real ID Act. Other states have passed legislation with similar intent as this bill, but they sought extensions as well.

MS. BREWSTER said that if the state were to seek a second extension, by October 11, 2009 it would have to show that it is materially compliant with the Real ID Act. There are 18 benchmarks and DMV currently meets 5. At the recent National Governors Conference the attendees unanimously voted to ask Congress to provide full federal funding for the Real ID Act by appropriating \$4 billion over the next 10 years. A substantial chunk of that would go toward FY09 formula grants to the states. Currently just \$80 million is available and Alaska has requested no federal grant funds. "We want to be able to improve and do the things to secure our driver's licenses, but we have some concerns that we may not be able to do that if this legislation passes as it is currently written," she said.

[2:04:58 PM](#)

MS. BREWSTER said she has reviewed the Real ID Act and the final rule and she could discuss what she understands the DMV would be required to do. She could also talk about what DMV is currently doing if it would be useful to the committee.

SENATOR THERRIAULT asked if she said that Alaska currently meets 5 of 18 requirements of Real ID.

MS. BREWSTER replied that's correct.

CHAIR FRENCH asked, absent Real ID, which of those requirements DMV would work to comply with in the course of keeping driver's licenses up to date.

MS. BREWSTER said that two legal presence bills are working through the Alaska legislative process now and that is one of the requirements of Real ID. If those bills were to pass, DMV would be required to make programming changes and that entails a cost. She understands that the way SB 202 is written the DMV would not be able to change its database to be able to have a driver's license expire when someone is no longer legally in the country. Another requirement of Real ID is that a physical residence address must be printed on a driver's license. Currently DMV collects that information but it prints a mailing address on the license. She understands that having a physical residence address on a driver's license is beneficial to law enforcement and DMV might look at that.

CHAIR FRENCH opened public testimony.

[2:08:11 PM](#)

JIM HARRISON, Attorney at Law, said he's familiar with Real ID and the 18 benchmarks Ms. Brewster referenced are found on pages 283 and 284 of the final rule. He explained that Alaska has a 5-year cycle of driver's license renewals so regardless of the extension, the DMV will have to be ready to issue compliant licenses and IDs by the end of 2009. If it doesn't, it won't meet the December 2014 deadline for when everyone under the age of 50 is required to have a compliant driver's license or ID in hand to do things like get on a plane or enter a federal facility. He also noted that this isn't the first attempt at a national driver's license. "They've tried to do it before with debate and it failed, and here they did it without debate and it got snuck through," he said.

[2:11:13 PM](#)

BILL SCANNELL said he has testified against Real ID in a number of state legislatures and he strongly favors SB 202. Referring to previous testimony from the administration, he pointed out that both are political appointees and from his perspective they're in favor of Real ID despite the fact that the governor has made it clear that she has problems with it. His second point is that digital photos aren't as secure as the Polaroid photos that were used previously. Real ID would compound security issues for Alaskans by facilitating free transfer of

digital photos and original documents, such as birth certificates, to DMV workers in other jurisdictions.

CHAIR FRENCH asked if he would oppose language that would allow DMV to continue to make driver's licenses more secure while maintaining a wall with regard to complying with aspects of Real ID that many find troubling.

MR. SCANNELL replied, "If they're really our own decisions as Alaskans then that's okay." He's not sure that the committee is hearing from good-faith partners, but what he truly opposes is a mandate from outside.

CHAIR FRENCH explained that the committee is wrestling with what happens when a mandate from outside happens to coincide with what Alaskans believe is a good idea. When that happens there's going to be legal trouble distinguishing whether it's complying with Real ID or if it's just a good idea with respect to driver's licenses.

MR. SCANNELL replied some Real ID requirements would make no sense in terms of any security decisions that Alaskans would want to make with respect to driver's licenses. For example, if DMV were to require photographs to be taken first that would be a clear sign that it was trying to be Real ID compliant. "Under Homeland Security's final rules it states...that the first thing that happens when you walk into the DMV is that they take a picture of you."

[2:17:20 PM](#)

FRANK TURNEY, Fairbanks, expressed the view that Alaskans and the rest of the citizens in the U.S. were hoodwinked by the Real ID Act passed in 2005. It's a vicious attack on Fourth Amendment rights. He supports SB 202 but he would suggest amending it to halt any funding from the federal government or any other source to implement the Real ID Act. Montana has done this and encourages other states to do the same. He has asked Governor Palin to take a stand on the Fourth Amendment right and exercise the Tenth Amendment right versus the federal government and just say no. Privacy and technology experts have submitted detailed comments explaining the privacy and security threats related to the Real ID Act. Three elected bodies in the Interior have passed resolutions against the Real ID Act. [Copies are in the bill file.] He said that if this is passed it is the "mark of the beast."

[2:20:28 PM](#)

JOHN BRADING, Fairbanks, said he supports SB 202 with an amendment that says that Alaska completely rejects the Real ID Act because it violates the U.S. Constitution as well as the Alaska Constitution. Implementation will create a vicious government vehicle that will rob and abuse citizen freedoms. It's an instrument of totalitarianism that will manipulate people into servitude and control freedom. Without the freedom to travel uninhibited by whatever conveyance, liberty is lost. It's an illegal invasion of privacy to collect a database of information on every citizen and it violates the Fourth Amendment. Furthermore, it will become an identity theft free for all. This sort of continual surveillance leads to the next step, which is a police state. Take a stand, he said.

[2:22:03 PM](#)

BRENT RICHEY, Fairbanks, echoed things said previously. He supports SB 202 because the state shouldn't pay for federal mandates. In fact, he doesn't agree with the Real ID Act period, regardless of which government pays for it. It's an infringement on Fourth Amendment rights and citizen privacy. Whether SB 202 passes or not, he doesn't think Real ID should be implemented in Alaska.

[2:23:29 PM](#)

LARRY SMITH, Fairbanks, said he too is concerned with the "mark of the beast" because of the talk about DNA. He believes there will be identity theft "and once identity theft starts then they're going to try to put this chip inside you somehow so that they can say well we'll do away with all of this if you just do this." It's ridiculous to do this in Homeland Security because if "we ever get invaded and somebody ever gets a hold of this information they're going to know where every single gun is in this country." To date that's the only reason we've never been invaded, he said. Letting other countries have information on U.S. citizens is crazy. We might as well give them bank account numbers and everything else because they'll end up with them anyway, he said.

[2:24:50 PM](#)

MARTI COX, Fairbanks, representing herself, said she supports SB 202 and all other opposition to the Real ID Act. Any benefit to security would be minimal and easily eclipsed by the almost certain abuses this system would facilitate. This nation was built on freedom and its prosperity is the result of freedom; she doesn't want it eroded by unconstitutional intrusions such as the Real ID Act. As a Republican who believes that the founding fathers were wise to write the Fourth Amendment, she

asked her fellow Republicans on the committee to defer to the founding fathers when voting. "America is the last ditch for freedom and you five are in that ditch," she concluded.

[2:26:25 PM](#)

CHAIR FRENCH closed public testimony.

SENATOR WIELECHOWSKI commented that the testimony he's heard indicates that SB 202 doesn't go far enough. Others have expressed the same concern saying that, even if the federal government does pay for this, they don't want it. Senator Therriault highlighted that the bill talks about all funds so perhaps federal funds could be excluded as well. We should get a legal opinion about saying flat out that we're not accepting Real ID, he said. "I would be open to...at least a discussion on that," he said. With respect to DMV, he emphasized that there is no intention to get in the way of its best business practices. No one opposes DMV wanting to change some aspect of our own sovereign driver's licenses. Although there may be differences of opinion, as a state we should be able to decide that on our own.

[2:28:28 PM](#)

CHAIR FRENCH set SB 202 aside.

SENATOR THERRIAULT asked if he intends to ask the drafter to prepare a memorandum speaking to the issue of how broadly the court would interpret the current language. Senator Wielechowski referred to prohibiting the use of state funds, but he reads the language to say that the use of any funds would be prohibited. The drafter could clarify that and perhaps suggest language to make it clear that the state can make its own sovereign decisions, and if those decisions happen to coincide with something in the federal act it wouldn't specifically be precluded.

CHAIR FRENCH added that he's thinking about something along the lines of a but-for test--Would you take this step but for the federal Real ID Act? It seems reasonable for DMV to be able to make a decision to put some different insignia on a driver's license to make it more secure. But if DMV is taking steps to conform to the Real ID Act, it sounds as though everyone is saying not to spend our money on that.

SB 202 was held in committee.

SB 185-SEX OFFENDER/CHILD KIDNAPPER REGISTRATION

2:29:58 PM

CHAIR FRENCH announced the consideration of SB 185. Before the committee was CSSB 185(STA).

SENATOR WIELECHOWSKI, sponsor, described SB 185 as legislation to keep Alaska in the forefront on the battle against sexual predators. It requires convicted sex offenders to register their email addresses and other electronic identifiers in addition to their home address, which is already required. This is important in Alaska since this state has one of the highest uses of the Internet in the country. The concern, which is substantiated by experts, is that there is great potential for Internet predation by sex abusers. According to public safety officials, an estimated 16,000 sexual predators are prowling the Internet right now. This powerful tool would help keep track of convicted sexual predators' activities and it will help to catch and punish them if they do break the law. Currently only three states require sex offenders to register their email addresses but more than 12 have legislation in the works. SB 185 has support from the Department of Public Safety, law enforcement across the state, and many other groups. "This is common sense bill that will keep our children safer," he said.

2:32:12 PM

RON TIDLER, Detective Sergeant, Anchorage Police Department (APD) and Commander of the Alaska Internet Crimes Against Children Task Force said the concerns he expressed in the previous committee have been addressed in the committee substitute (CS). On behalf of the task force, he stated support for SB 185.

CHAIR FRENCH asked him to tell the committee about his day-to-day job and what the Anchorage Police Department is doing with respect to Internet sex predators.

DETECTIVE SERGEANT TIDLER explained that the task force is composed of state and local agencies. Its mission is to fight Internet crimes against children using a variety of tools. For example, it's possible to identify computers that have child pornography and knowing that makes it possible get search warrants and administrative subpoenas on records to help physically locate the computers. Through forensic examination of the computers, it's possible to identify the individuals who participate in this activity so they can be charged with possession or distribution of child pornography. In some well-documented cases victims have been rescued as a result of these

efforts. He said that between 40 percent and 80 percent of the subjects involved in this activity have already had some sort of sexual contact with a child. "We believe that any tool that is given to us to fight this effort is going to be well worth it," he said.

2:35:32 PM

PAYTON MERIDETH, Detective, Fairbanks Police Department (FPD), stated support for SB 185 as a member of the Alaska Internet Crimes Against Children Task Force. One of his duties is to investigate crimes related to children. Most of the cases he works are possession and distribution of child pornography. He's found that a number of suspects in child pornography cases are already registered sex offenders. Regardless, after someone is arrested on possession or distribution of child pornography, they're required to register as a sex offender in the state of Alaska. Because recidivism for these offenders is high, having access to email addresses and other Internet identifiers will aid law enforcement. FPD supports any bill that requires sex offenders to register this electronic information. He noted that Chief Hoffman sent a letter supporting a similar bill. The individuals working on the Alaska ICAC Task Force and the law enforcement officers working on this problem are very good at what they do and the state of Alaska should be proud of them. "They're really trying to put a dent in the problem that we have here," he said.

2:38:06 PM

CHAIR FRENCH remarked the bill almost seems to be a cleanup measure. It's just another way of registering a sex offender's address.

DETECTIVE MERIDETH agreed; other electronic identifiers such as memberships to organizations or websites will also help law enforcement become aware of whether or not they are using that information to again prey upon children. It's a very simple piece of information to provide.

SENATOR THERRIAULT asked if these email addresses would be available to the public because that might provide a mechanism for sex offenders to communicate amongst themselves.

SENATOR WIELECHOWSKI relayed that that issue was discussed extensively during a previous committee hearing because the experts were very concerned about potential information sharing. To address that concern a decision was made to establish a publicly available database so that you could enter an email

address and find out whether or not that person is registered. Page 3, lines 21-25 talk about administration and that the Department of Public Safety may provide a method for participating in a federal program so it should be free to all states.

2:41:11 PM

KAREN FOSTER, Surviving Parents Coalition, Anchorage, said that in honor of her daughter, who was raped and murdered, she is dedicating her life to balancing the scales of justice and protecting children. No one can understand the pain of losing a child to violent death, but it does give strength and passion that most people will never feel. Her passion is to ensure that no other parent will have her experience as a mother and not one more child will have to undergo rape, torture, and death.

MS. FOSTER said she was in Washington D.C. recently working on legislation to provide funding for the ICAC Task Force. She learned how many sexual predators there are in the U.S. and that more than 50 percent of the child pornography in the world is produced and distributed in this country. She described new technology that makes it possible to identify people who are downloading illegal child pornography, the files they are downloading and with whom they are sharing the files. This gives law enforcement evidence that in most cases will allow a prosecution without a child victim having to testify. In these cases prosecutions have had a 96 percent success rate, she said.

MS. FOSTER said this technology will provide law enforcement with an incredible tool so that with a couple of pushes of a button they will know if a computer contains anything illegal. She asked for a demonstration of the new technology to look at Alaska electronically. She learned that at that particular moment there were 1,428 Internet communication identifiers downloading illegal child pornography. Some of these files are best described as unspeakable acts and the titles would offend and horrify. We know where these people are, she said, but the Alaska ICAC Task Force has only a few officers to track down leads. A Department of Justice study shows that only 2 percent of these crimes are ever investigated and 30 percent of the time there's a child victim in the offender's home. Using the Alaska statistic, that means that there are more than 428 Alaska children waiting to be rescued, she said. SB 185 will help law enforcement officers rescue victims. They should be given every tool possible to do their job.

MS. FOSTER noted that the bill reflects no fiscal impact on the Office of the Public Defender or the Department of Law, but she would argue that it will actually save money. She urged the committee to put politics aside and support the bill.

[2:47:17 PM](#)

SUSAN SULLIVAN, Executive Director, Victims for Justice, stated support for SB 185. Requiring offenders to register their electronic addresses and Internet identifiers will assist investigators and help prevent Internet crimes. Also, it will provide peace of mind to victims and their families to know that tools are available to prevent revictimization.

CHAIR FRENCH closed public testimony.

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SENATOR THERRIAULT noted an inconsistency between the bill and the Department of Law (DOL) fiscal note. The bill says that any change to a an offender's electronic address must be reported by the next day and the DOL fiscal note talks about giving notice within five days.

SENATOR WIELECHOWSKI explained that initially the bill was drafted to require notification within five days. There didn't seem to be any reason for that since sex offenders are required to notify the DPS within one day when they change their address. The last committee changed the time to one day and the fiscal note wasn't updated to reflect that change.

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ANNE CARPENETI, Assistant Attorney General, Criminal Division, Department of Law, apologized that the fiscal note simply wasn't updated. The fiscal impact wouldn't change.

CHAIR FRENCH asked if the violation for failure to register an updated address is a misdemeanor, which is the same as failure to register as a sex offender.

MS. CARPENETI replied generally that's correct.

CHAIR FRENCH held SB 185 for a subsequent hearing.

There being no further business to come before the committee, Chair French adjourned the meeting at [2:50:27 PM](#).