

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 8, 2010

1:34 p.m.

MEMBERS PRESENT

Representative Jay Ramras, Chair
Representative Nancy Dahlstrom, Vice Chair
Representative Carl Gatto
Representative Bob Herron
Representative Bob Lynn
Representative Max Gruenberg
Representative Lindsey Holmes

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 238

"An Act removing the number of persons under 18 years of age in the household as a reasonable ground for a landlord to reject a proposed sublease or assignment."

- MOVED HB 238 OUT OF COMMITTEE

HOUSE BILL NO. 334

"An Act establishing child custody, modification, and visitation standards for a military parent who is deployed; and amending Rule 99, Alaska Rules of Civil Procedure."

- MOVED CSHB 334(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 71

"An Act relating to a registry for advance health care directives."

- MOVED CSHB 71(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 238

SHORT TITLE: LANDLORD REJECTION OF OCCUPANT/SUBLEASE

SPONSOR(S): REPRESENTATIVE(S) MILLETT

04/17/09 (H) READ THE FIRST TIME - REFERRALS
 04/17/09 (H) L&C, JUD
 02/15/10 (H) L&C AT 3:15 PM BARNES 124
 02/15/10 (H) Moved Out of Committee
 02/15/10 (H) MINUTE(L&C)
 02/17/10 (H) L&C RPT 6DP 1NR
 02/17/10 (H) DP: BUCH, NEUMAN, CHENAULT, HOLMES,
 T.WILSON, OLSON
 02/17/10 (H) NR: LYNN
 02/17/10 (H) L&C AT 3:15 PM BARNES 124
 02/17/10 (H) <Bill Hearing Canceled>
 03/08/10 (H) JUD AT 1:30 PM CAPITOL 120

BILL: HB 334

SHORT TITLE: MILITARY DEPLOYMENT AND CHILD CUSTODY
 SPONSOR(S): REPRESENTATIVE(S) THOMAS

02/10/10 (H) READ THE FIRST TIME - REFERRALS
 02/10/10 (H) MLV, JUD
 02/23/10 (H) MLV AT 1:00 PM BARNES 124
 02/23/10 (H) Moved CSHB 334(MLV) Out of Committee
 02/23/10 (H) MINUTE(MLV)
 02/24/10 (H) MLV RPT CS(MLV) NT 6DP
 02/24/10 (H) DP: T.WILSON, LYNN, KAWASAKI, BUCH,
 RAMRAS, HARRIS
 03/08/10 (H) JUD AT 1:30 PM CAPITOL 120

BILL: HB 71

SHORT TITLE: ADVANCE HEALTH CARE DIRECTIVES REGISTRY
 SPONSOR(S): REPRESENTATIVE(S) HOLMES, DAHLSTROM, MILLETT,
 KAWASAKI

01/20/09 (H) PREFILE RELEASED 1/16/09
 01/20/09 (H) READ THE FIRST TIME - REFERRALS
 01/20/09 (H) HSS, JUD
 03/31/09 (H) HSS AT 3:00 PM CAPITOL 106
 03/31/09 (H) Heard & Held
 03/31/09 (H) MINUTE(HSS)
 04/14/09 (H) HSS AT 3:00 PM CAPITOL 106
 04/14/09 (H) Moved CSHB 71(HSS) Out of Committee
 04/14/09 (H) MINUTE(HSS)
 04/15/09 (H) HSS RPT CS(HSS) 3DP 3NR
 04/15/09 (H) DP: HOLMES, SEATON, CISSNA
 04/15/09 (H) NR: LYNN, KELLER, HERRON
 02/19/10 (H) JUD AT 1:00 PM CAPITOL 120
 02/19/10 (H) -- MEETING CANCELED --
 02/24/10 (H) JUD AT 1:00 PM CAPITOL 120

02/24/10 (H) Heard & Held
02/24/10 (H) MINUTE(JUD)
03/08/10 (H) JUD AT 1:30 PM CAPITOL 120

WITNESS REGISTER

REPRESENTATIVE CHARISSE MILLETT
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 238.

MARK ROMICK, Director
Planning and Program Development
Alaska Housing Finance Corporation (AHFC)
Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: Responded to questions during discussion of HB 238.

KACI SCHROEDER HOTCH, Staff
Representative Bill Thomas
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 334 on behalf of the sponsor, Representative Thomas.

BRIGADIER GENERAL THOMAS H. KATKUS, Acting Adjutant
General/Commissioner
Department of Military & Veterans' Affairs (DMVA)
Fort Richardson, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 334.

ALLEN M. BAILEY, Attorney at Law;
Chair
Custody Committee
Section of Family Law
American Bar Association
Anchorage, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 334.

PAGE HODSON
Alaska Moms for Custodial Justice
Anchorage, Alaska

POSITION STATEMENT: Expressed concerns during discussion of HB 334.

ANDREA WELLS, Family Readiness Support Assistant
3rd Maneuver Enhancement Brigade
U.S. Department of Defense (DOD)
Fort Richardson, Alaska;
Court Appointed Special Advocate (CASA) Volunteer
Alaska CASA Program
Office of Public Advocacy (OPA)
Department of Administration (DOA)
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 334.

MARK SAN SOUCI, Northwest Regional Liaison
State Liaison Office
U.S. Department of Defense (DOD)
Lakewood, Washington
POSITION STATEMENT: Testified in support of HB 334.

ADAM TOREM, Attorney at Law
Olympia, Washington
POSITION STATEMENT: Provided comments and responded to questions during discussion of HB 334.

ALLISON E. MENDEL, Attorney at Law
Anchorage, Alaska
POSITION STATEMENT: During discussion of HB 334, expressed concerns with the bill's current language and responded to questions.

MARK E. SULLIVAN, Attorney at Law
Raleigh, North Carolina
POSITION STATEMENT: Provided comments during discussion of HB 334 and responded to questions.

DOUG WOOLIVER, Administrative Attorney
Administrative Staff
Office of the Administrative Director
Alaska Court System (ACS)
Anchorage, Alaska
POSITION STATEMENT: Responded to a question during discussion of proposed amendments to HB 334.

JAMES WALDO, Staff
Representative Lindsey Holmes
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 71, provided a comment on behalf of Representative Holmes, one of the bill's joint prime sponsors.

ACTION NARRATIVE

[1:34:40 PM](#)

CHAIR JAY RAMRAS called the House Judiciary Standing Committee meeting to order at 1:34 p.m. Representatives Ramras, Herron, Gatto, and Gruenberg were present at the call to order. Representatives Holmes, Dahlstrom, and Lynn arrived as the meeting was in progress.

HB 238 - LANDLORD REJECTION OF OCCUPANT/SUBLEASE

[1:34:50 PM](#)

CHAIR RAMRAS announced that the first order of business would be HOUSE BILL NO. 238, "An Act removing the number of persons under 18 years of age in the household as a reasonable ground for a landlord to reject a proposed sublease or assignment."

[1:35:11 PM](#)

REPRESENTATIVE CHARISSE MILLETT, Alaska State Legislature, sponsor, explained that HB 238 would allow Alaska to comply with the federal [Fair Housing Act] by deleting the provision in AS 34.03.060(d) that allows a landlord to refuse to consent to a sublease or assignment based on the number of persons under the age of 18 who are in the household. She referred to such refusal as discriminatory, and noted that compliance with federal law would allow Alaska to receive additional federal funding for which it currently doesn't qualify. In response to a question, she relayed that previously-adopted legislation made a similar change to the statute pertaining to leases, and explained that HB 238 is merely proposing the same sort of conforming change to the statute pertaining to subleases/assignments.

CHAIR RAMRAS, relaying that he is concerned that a young tenant could have several people under the age of 18 move in with him/her, questioned whether the term, "household" is defined in statute.

REPRESENTATIVE MILLETT said she's not sure, but posited that the bill wouldn't preclude a landlord from rejecting a potential

renter based on the age of those whom the renter would have move in with him/her.

[1:38:39 PM](#)

MARK ROMICK, Director, Planning and Program Development, Alaska Housing Finance Corporation (AHFC), Department of Revenue (DOR), said that although there isn't a specific definition of the term, "household" under the federal Fair Housing Act, that term essentially includes anybody that's residing in the unit that's covered by the lease. Therefore, people who are living together in an apartment but who aren't immediate family members could constitute a household as long as everyone is covered under the lease. In response to questions, he explained that neither Alaska's Uniform Residential Landlord and Tenant Act nor the federal Fair Housing Act make a distinction with regard to time of residency or student status. Instead, the question becomes whether a person is legally able to enter into a lease agreement and whether a person is legally allowed to live in a particular unit, and those issues are among those left up to the landlord to address when considering whether to lease/rent a unit to a particular person.

REPRESENTATIVE GRUENBERG observed that a letter in members' packets from the U.S. Department of Housing and Urban Development (HUD) dated July 18, 2007, in part addresses the provision that would be repealed by the adoption of HB 238: "Such provision may be deemed contrary to federal regulations and laws, as note more specifically under the Fair Housing Act as amended." He questioned under what [legal] authority that statement was made, and how the term, "familial status discrimination" - as used elsewhere in that same letter - is defined.

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

MR. ROMICK indicated that the [legal] authority behind that statement could be found in the federal Fair Housing Act as amended, under 42 U.S.C. 3601, and that [42 U.S.C. 3602(k)] says [original punctuation provided]:

(k) "Familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with-

(1) a parent or another person having legal custody of such individual or individuals; or

(2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

[Vice Chair Dahlstrom returned the gavel to Chair Ramras.]

REPRESENTATIVE GRUENBERG observed that that federal definition specifically references age, and surmised that a landlord could still stipulate how the children in a household are to behave.

MR. ROMICK concurred, adding - in response to comments - that in order to comply with the federal Fair Housing Act, Alaska's Uniform Residential Landlord and Tenant Act cannot contain any reference to age.

CHAIR RAMRAS, after ascertaining that no one else wished to testify, closed public testimony on HB 238.

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REPRESENTATIVE DAHLSTROM moved to report HB 238 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 238 was reported from the House Judiciary Standing Committee.

HB 334 - MILITARY DEPLOYMENT AND CHILD CUSTODY

[1:47:27 PM](#)

CHAIR RAMRAS announced that the next order of business would be HOUSE BILL NO. 334, "An Act establishing child custody, modification, and visitation standards for a military parent who is deployed; and amending Rule 99, Alaska Rules of Civil Procedure." [Before the committee was CSHB 334(MLV).]

[1:49:52 PM](#)

KACI SCHROEDER HOTCH, Staff, Representative Bill Thomas, Alaska State Legislature, on behalf of the sponsor, Representative Thomas, noted that the country's recent, frequent military

deployments have put enormous strain on military families, and that this strain has sometimes resulted in divorce and child custody battles. House Bill 334 would provide the courts with guidelines for balancing the issues of child custody and military deployment. For example, the bill precludes the courts from considering military deployment as a factor when awarding child custody; provides for an expedited hearing so that child custody matters could be addressed before the military member is deployed; allows a military member to delegate visitation rights to another family member - in this way, the child would be able to maintain contact with that side of the family; provides for temporary child custody orders if warranted - such orders would expire within 10 of the deployed parent's returning [home] and notifying [the other parent] that he/she was ready to resume custody; and proposes to amend Rule 99(a) of the Alaska Rules of Civil Procedure such that the courts shall allow video or Internet testimony by a deployed parent during a child custody/visitation hearing/deposition. However, the bill also stipulates that none of the aforementioned may take place if it wouldn't be in the best interest of the child.

[1:52:53 PM](#)

[The committee then listened to a recording of a news broadcast regarding deployed military personnel involved in child custody battles.]

[1:56:13 PM](#)

BRIGADIER GENERAL THOMAS H. KATKUS, Acting Adjutant General/Commissioner, Department of Military & Veterans' Affairs (DMVA), noted that during the last eight-and-half years that the country has been at war, several pieces of legislation have been passed to support the military as it holistically addresses the three primary components of deployment: the family, the employers, and the military members themselves. In order for military personnel to remain fully engaged and focused on winning the nation's battles, they must not be distracted and shouldn't have to be worried about what's going on at home. Unfortunately, custody issues arising from deployment constitute a major distraction from the focus on staying alive during battle and achieving the mission, and so HB 334 is critically important, and other states have adopted similar legislation in an effort to address this critical issue.

The committee took a brief at-ease.

REPRESENTATIVE GRUENBERG surmised that HB 334 could be viewed one of two ways: it could be viewed as primarily an issue involving the military member and his/her rights, or it could be viewed more along the lines of how most courts would view it, which is as a custody or visitation battle involving at least one person who happens to be a military member. He predicted that HB 334 would be used almost exclusively in custody battles between warring parents, with the child as the prize.

BRIGADIER GENERAL KATKUS offered his belief that HB 334 is intended to avoid that by keeping the issue on neutral ground via not giving weight to the fact of deployment, which constitutes an uncontrolled circumstance for the military member, who shouldn't be placed at a disadvantage with regard to custody issues simply for serving his/her country.

REPRESENTATIVE GRUENBERG referred to the language on page 1, lines 6-8, that says in part, "a parent's temporary duty, mobilization, or deployment to military service and the resultant temporary disruption to the schedule of a child ... may not be a factor in a court's decision". He questioned whether this language is only addressing a very temporary situation.

BRIGADIER GENERAL KATKUS said he assumes that that's correct.

[2:02:15 PM](#)

ALLEN M. BAILEY, Attorney at Law; Chair, Custody Committee, Section of Family Law, American Bar Association, first mentioned that he practices family law, and that he is also a former member of the American Bar Association's Commission on Domestic Violence, and a member of the Alaska Bar Association's Family Law section's Executive Committee. He then offered his belief that HB 334 would not only be good for military members, but, if administered properly by [the Alaska Court System (ACS)], would also be good for the children of military members; the bill would not affect the bottom line of child custody issues, and could be used to support the relationship between a service member and his/her children.

MR. BAILEY characterized proposed AS 25.20.095(c) as a critical provision because it stipulates that any delegation of visitation rights must be in the child's best interest and that the family member receiving the delegation must have an existing close relationship with the child. Citing the Alaska Supreme Court case, Evans v. McTaggart, he offered his understanding

that based on Alaska case law, a standard of clear and convincing evidence would be used in such situations. He then noted that although proposed AS 25.20.095(d) provides for an expedited hearing, it contains a discrepancy because it also allows for an additional 10-day notice - contrary to the concept of the term, "expedited". Alaska law, specifically Rule 77 of the Alaska Rules of Civil Procedure, already provides for what he termed, "a much used" method by which to request an answer to a legal question on an expedited basis; he indicated, therefore, a belief that the bill's fiscal impact could be lessened by simply relying on that existing method rather than by trying to establish a new method via proposed subsection (d).

[2:08:28 PM](#)

PAGE HODSON, Alaska Moms for Custodial Justice, after explaining that her group is concerned primarily about situations where domestic violence, child abuse, and child custody issues overlap, relayed that her group also advocates for the best interests of the children. She said she likes the intent of HB 334, as well as some of its provisions, such as that pertaining to video and Internet participation in custody/visitation hearings/depositions, but is concerned about the focus on parents' rights over the rights of children. Her first concern with HB 334, she relayed, is that it doesn't make a distinction regarding the length of a deployment; for example, for a deployment lasting seven years - seven years out of a child's life - it would be hard to expect the courts to ignore the fact that such a lengthy deployment is going to have an impact on a child's life. She expressed her hope that some cleanup language regarding the length of deployment could be inserted into HB 334.

MS. HODSON explained that another concern she has with HB 334 is that it doesn't seem to distinguish between custodial parents and noncustodial parents, or take into account different types of shared custody arrangements; for example, there could be a reason why a parent is noncustodial and has only limited visitation rights - such as having a substance abuse problem in his/her past or being a perpetrator of domestic violence (DV). Moreover, such reasons could make other provisions of the bill problematic, such as the one pertaining to the delegation of visitation. That provision, she opined, has the most problems, particularly in light of the U.S. Supreme Court case, Troxel v. Granville, in which the court ruled that it is unconstitutional to delegate visitation to grandparents over the wishes of a custodial parent. Furthermore, delegating visitation rights to

third parties could serve to destabilize children even more; for example, if one parent is deployed, it may be better for the children to stay in one primary home and not have their weekends or school days disrupted in order to stay with a third party.

MS. HODSON offered her understanding that in addressing the issue of third party visitation, the bill doesn't appear to contain language stipulating that a hearing must take place, although not requiring a hearing could prove detrimental to the children, particularly given that in child custody proceedings, domestic violence is often missed initially, and given that such behavior is often passed down from generation to generation - a perpetrator of DV often learns that behavior growing up in an abusive home, in this case his/her child's grandparents' home. This lack of a required hearing in the provision regarding delegating visitation is of concern to her, as is the fact that the provision appears to create a special class of litigants wherein only deployed military litigants receive preference. Such a preference could face a legal challenge.

MS. HODSON noted that proposed AS 25.20.095(f)(2) stipulates that the court order entered into under the section must require the nondeployed parent to facilitate electronic and telephonic contact between the child and his/her deployed parent. She characterized the intent of this provision as good, but cautioned that perhaps the phrase, "must require" should be changed to the phrase, "may require" in order to give the court discretion in cases where the deployed parent has perpetrated domestic violence, for example, or where there are other reasons why such a requirement wouldn't be in the best interest of the child. She then pointed out that the implied preferences embedded in some of the current child custody statutes conflict with current DV statutes, often resulting in the courts minimizing how the domestic violence perpetrated in the home is affecting the children.

MS. HODSON, in conclusion, said: "I'm concerned about ... so much attention ... given, particularly, to the delegation of visitation, because it does indicate that it's an implied preference for that, as a standard, rather than something the court may consider." In response to comments and questions, she said she would prefer that the phrase, "may" or "may consider" be used throughout the provision pertaining to the delegation of visitation instead of the phrase, "must" or "shall"; that she believes the intent of the bill is very good; that her concerns regarding the bill are not intended to dishonor military members; and that whether the reason for a parent being overseas

makes a difference to a child depends on his/her age and maturity.

2:16:40 PM

ANDREA WELLS, Family Readiness Support Assistant, 3rd Maneuver Enhancement Brigade, U.S. Department of Defense (DOD), Fort Richardson, Alaska; Court Appointed Special Advocate (CASA) Volunteer, Alaska CASA Program, Office of Public Advocacy (OPA), Department of Administration (DOA), after mentioning that she is also a military spouse, offered her belief that HB 334 is really needed - particularly given that soldiers are deploying constantly and leaving their family members behind - and said that she supports HB 334 on a personal level because she and her husband, who is about to deploy, are currently addressing a child custody issue. She said that she really appreciates [the provisions mandating the court to order a delegation of visitation rights], and that it's been disturbing to her that when the courts or various other agencies [consider the issues of child custody and military deployment], they only look at the military member in terms of providing financial stability and medical resources.

MS. WELLS opined that it's very important for military personnel to be a part of their children's lives regardless that they've been deployed. There are plenty of agencies and organizations that consider the welfare of children, but none that address the issues specific to the children of military personnel, and so the effect on a military member when his/her child is removed from the home must be considered, particularly given that in certain situations, it's not always in the best interest of the child to live with the other parent, who, depending on his/her lifestyle, may not be able to maintain a familiar home life for the child. A lot of issues must be considered when military members deploy, and military members should not be penalized for serving their country and protecting its citizens, she opined, and expressed her hope that HB 334 would move forward as soon as possible.

2:20:07 PM

MARK SAN SOUCI, Northwest Regional Liaison, State Liaison Office, U.S. Department of Defense (DOD), mentioned that he is operating under the direction of the Under Secretary of Defense for Personnel and Readiness, and the Deputy Under Secretary for Military Community & Family Policy. He relayed that the DOD supports the language currently in HB 334, surmising that some

would say that it's better than similar laws in other states. The issue addressed by the bill has become an important one for the DOD, which believes that the welfare of the child is paramount; that the demands of military service should not abrogate the parent's rights; that this issue should be addressed at the state level rather than at the federal level; and that there are several protections states can enact that would serve both the rights of the parents and the welfare of the children.

MR. SAN SOUCI concluded by saying that with the substantially-increased and continued activity of the country's armed forces around the world, many states are recognizing the need [for legislation such as HB 334], and noted that 32 states have passed laws with some provisions similar to those in HB 334 and that 11 states are considering similar legislation. In response to questions, he reiterated that the DOD supports the bill as currently written; noted that the bill is partially based on model legislation; and opined that it's arguable whether any of the provisions of HB 334 are unconstitutional.

[2:25:17 PM](#)

ADAM TOREM, Attorney at Law, after relaying that he is the immediate past chair of the Washington State Bar Association's (WSBA's) Legal Assistance to Military Personnel (LAMP) Section, mentioned that HB 334 is based on Washington law that's been in effect for about nine months.

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

MR. TOREM noted that he is also a U.S. Air Force reservist. He then offered his belief that the ruling in Troxel would not apply to the bill's provisions regarding the delegation of visitation rights because that case did not involve a question of custody between two parents, and offered his understanding of how the courts in Washington address such situations under the aforementioned Washington law, which is to grant the family visitation that would otherwise have taken place except for the fact that the parent was deployed.

[Vice Chair Dahlstrom returned the gavel to Chair Ramras.]

MR. TOREM offered his additional understanding that [under HB 334,] the courts would be upholding the delegated visitation rights as requested by an otherwise fit parent who's deploying.

This would ensure that such parents have less to worry about on the battlefield.

[2:30:04 PM](#)

REPRESENTATIVE GRUENBERG predicted that because the bill's proposed delegation of visitation rights would result in a third party becoming involved in a case that would otherwise pertain solely to a custody agreement between a child's two parents, the courts in Alaska would apply the standard set out in McTaggart of clear and convincing evidence - a standard based on the Alaska Supreme Court's reading of Troxel.

MR. TOREM disagreed, citing the explicitness of Washington law as sufficient to prevent the courts in the Alaska from applying that standard, and surmising that any such issues that come before the court would still be viewed as just a contest between two parents who happen to be addressing the question of a temporary delegation of visitation rights - rather than as a contest between a parent and a third party addressing the question of permanent visitation rights [such as was the case in both Troxel and McTaggart]. He indicated that Washington law supports the concept of mediation as the first resort, and that no constitutional problems with that law have arisen.

REPRESENTATIVE GRUENBERG pointed out, however, that under Alaska law, mediation is not mandatory, surmising that "if the ... delegatee - the grandparents - wish to intervene, it would probably, I believe, be reversible error to deny them the right when they're the real parties in interest." He also noted that Washington law says that the court "may" order a delegation of visitation rights, whereas the bill says that the court "shall" order a delegation of visitation rights.

MR. TOREM offered his understanding, though, that the courts in Alaska would have the same amount of discretion under the bill as Washington courts have under Washington law because the language of proposed AS 25.20.095(c) says that delegation of visitation rights shall be ordered only "if" the court finds that the delegatee is a family member with an existing close relationship to the child, and that the delegation would be in the child's best interest. Any lawyer should be able to successfully argue that the term, "may" has the same meaning as the terms, "shall" and "if" when used together, he ventured.

REPRESENTATIVE GRUENBERG pointed out, however, that Washington law also uses the term, "if" along with the term, "may". He

posited that the intent of the bill would be clearer if the bill said, "may".

MR. TOREM acknowledged that Washington law uses the term, "may".

[2:37:41 PM](#)

ALLISON E. MENDEL, Attorney at Law, mentioned that she is a member of the Alaska Bar Association's Family Law section, and was present when the original version of HB 334 was presented to the section and so heard other members' comments regarding it. She indicated that she specializes in the field of domestic relations, and that in the approximately 400 divorce cases she has handled, she has represented both military members and nonmilitary members, and expressed concern with the way the bill is currently drafted and how it interacts with existing statute and whether it's going to achieve what it's intended to, that being, she surmised, to provide stability in the contact between the deployed military member and his/her child and family, and a solution to perceived problems with how the court system in Alaska deals with the issues [of deployment and child custody].

CHAIR RAMRAS disagreed that those are the goals of the bill.

MS. MENDEL explained that the Family Law section of the Alaska Bar Association feels strongly that there isn't any evidence of a problem with the Alaska Court System (ACS) in terms of it treating military families, especially deployed members, respectfully; and that that has been her experience as well: that the ACS - having so much contact with military families - treats them very respectfully and is very careful about their rights - whether they are military members or nonmilitary members. She said she is not sure that there really is a problem for the bill to respond to; moreover, the bill could potentially create a problem when both parents addressing the issue of child custody are military members. She indicated that she, too, has concerns about the mandatory nature of some of the bill's provisions, and its lack of clarity regarding under what conditions visitation rights could be delegated, and that she would prefer that the bill not make the already-difficult issue of child custody worse in any respect.

MS. MENDEL - remarking on the bill's potential constitutional problems in light of the courts' rulings in Troxel and McTaggart - said she believes that there may be other ways of achieving the bill's goals regarding the delegation of visitation, an issue which, she opined, must be carefully considered. The

bill, she noted, doesn't actually address the issue of delegating visitation rights to a military member's current girlfriend/boyfriend, as some have indicated it would; instead, HB 334's proposed AS 25.20.095(h)(2) defines the term, "family member" as: "a person who is an adult sibling, aunt, uncle, first cousin, or grandparent related by blood, adoption, or marriage or a stepparent to the child who is the subject of a custody order issued under this section;". In many instances, she surmised, this could be present a problem for those whose relationship can't be so defined.

MS. MENDEL relayed that the biggest problem with HB 334 is that it is unclear with regard to how it would interact with Alaska's existing child custody laws; for example, under proposed AS 25.20.110(e), even as an experienced practitioner of family law, she is unable to determine when to tell the court that she wants a hearing, how the court is going to implement that provision, or even how the proposed procedure outlined in proposed AS 25.20.110(e) is intended to work. It's important that such procedural problems be addressed before the bill moves forward, so that it can be effective and easy to apply. The idea behind HB 334, she opined, is a good one, but it's important for the bill to be of a piece with existing Alaska statutes so that everyone can apply it properly.

[2:43:07 PM](#)

REPRESENTATIVE GRUENBERG asked Ms. Mendel whether she believes that the potential constitutional problem could be addressed by adding the phrase, "by clear and convincing evidence" to the language on page 2, line 2, such that proposed AS 25.20.095(c) would then in part read: "if the court finds by clear and convincing evidence that ...".

MS. MENDEL surmised that it would, and indicated that in lieu of such a change, some type of a standard should be inserted in order to address issues such as those raised in McTaggart. In response to a question, she predicted that as currently written, the bill would invite litigation because it has so many potential trouble spots. Referring to the bill's stipulation that a court cannot consider deployment as a factor, she said she couldn't envision how the court could possibly make a decision on behalf of a child without at least considering the fact that the parent is being deployed. In fact, shouldn't the court consider the fact of deployment in order to be able to make adequate accommodations for the child to see the deployed parent's other family members? She opined that the current

language of that stipulation doesn't mean what she believes is intended, that being to ensure that the court doesn't punish the deployed parent for being deployed.

CHAIR RAMRAS opined that the purpose of the bill is to require the court to consider the deployment, rather than simply allowing the court the discretion to consider the deployment if it so chooses.

MS. MENDEL agreed, but pointed out that the language instead says that deployment "may not be a factor in a court's decision", and thus won't ensure that the court considers the problems facing the deployed parent.

[2:45:55 PM](#)

REPRESENTATIVE GRUENBERG opined that the problems with the bill could be cured, and relayed that he wants the bill to succeed rather than be struck down by the courts. He referred to the language of proposed AS 25.20.095(e), which requires a deployed parent's waiver of his/her rights and protections with regard to custody or visitation to be in writing. He asked Ms. Mendel whether she would support amending that provision such that the deployed parent would be required to expressly waive his/her rights or protections "in writing or on the record". This should address situations in which the waiver is "done in open court," he remarked.

MS. MENDEL offered her belief that requiring the waivers to only be in writing would be unduly restrictive.

REPRESENTATIVE GRUENBERG noted that the language of proposed AS 25.20.095(e) in part says, "A parent who is deployed may not be construed to have waived any rights or protections", and questioned whether that language should instead say, "A parent who is deployed may not be presumed to have waived any rights or protections".

MS. MENDEL said she doesn't know what the term, "construed" is intended to mean. If the drafter meant to refer to a presumption, then the term, "presumed" would be the preferred term to use in the bill, because the term, "construed" doesn't have an accepted legal meaning.

[2:48:30 PM](#)

MARK E. SULLIVAN, Attorney at Law, mentioned that in addition to practicing family law for over 30 years, he is also a retired U.S. Army Reserve Judge Advocate General [with the rank of] Colonel, the author of "the military divorce handbook" published by the American Bar Association, and "a fellow" of the American Academy of Matrimonial Lawyers. He explained that during the last three years, he has been working on military custody statutes in 15 states, and has testified against similar legislation before Congress because he believes that it's the job of the states to address this issue rather than that of the federal government. Noting that he wrote North Carolina's statutes addressing military custody and visitation, he characterized HB 334 as a [much] better bill because it goes several steps beyond North Carolina's statutes.

MR. SULLIVAN offered his understanding that HB 334 won't allow the absence of a parent due to deployment to be construed as a waiver of rights to be with the child unless there is an express waiver to that effect; would require the nondeployed parent to make the child available to the deployed parent during periods of leave from deployment; would require the nondeployed parent to facilitate contact between the deployed parent and his/her child; would mandate that the deployed parent provide timely information about his/her leave schedule to the nondeployed parent; and would require the nondeployed parent to provide the deployed parent with immediate notification of any change of address or contact information.

MR. SULLIVAN, in conclusion, offered his belief that HB 334 would make Alaska one of the leading states in protecting children of military members and the military members themselves, and that its passage would help ensure that this issue is addressed at the state level rather than at the federal level.

[2:53:09 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 1, which read [original punctuation provided]:

Page 2, line 2, following "finds":
Insert "by clear and convincing evidence"

REPRESENTATIVE DAHLSTROM objected for the purpose of discussion.

REPRESENTATIVE GRUENBERG, referring to a copy of the McTaggart case, offered his belief that it's very clear that it involved a

visitation contest between a parent and a third party; that the court required the third party to bear the burden of proving that the best interests of the child would be promoted by visitation with the third party; and that "this" was based on the U.S. Supreme Court's ruling in Troxel. He said he does not believe that the court would, in any manner, consider "this" to be a contest between the two parents, because the person getting the visitation would be a third party.

MR. SULLIVAN, in response to a question, expressed disfavor with Amendment 1, and indicated that [the lack of the language it's proposing to add] hasn't been seen as a problem by the courts in North Carolina, Washington, Vermont, Indiana, Colorado, Alabama, or Illinois; those courts have not viewed [the current language of proposed AS 25.20.095(c)] as raising a Troxel issue.

MR. BAILEY said:

The issue is whether or not a court faced with this kind of delegation, which impliedly says that the left-behind parent is not fit to make appropriate visitation decisions -- The [Alaska] Supreme Court said, "we believe that a finding of parental unfitness to make a visitation decision should be made using a clear and convincing evidence standard in order to reduce the possibility of an erroneous interference with parental prerogatives." ... As a person who had an excellent relationship with his grandparents when ... I was a child, I understand why this has been proposed. I'm just concerned about our [Alaska] Supreme Court's legal ruling.

A roll call vote was taken. Representatives Gruenberg and Holmes voted in favor of Amendment 1. Representatives Dahlstrom, Herron, Gatto, Lynn, and Ramras voted against it. Therefore, Amendment 1 failed by a vote of 2-5.

[2:58:16 PM](#)

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

Page 2, line 11, following "writing":
Insert "or on the record"

REPRESENTATIVE DAHLSTROM objected for the purpose of discussion.

REPRESENTATIVE GRUENBERG explained that sometimes waivers of rights or protections with regard to custody or visitation are made on the record in open court, rather than in writing.

MR. SULLIVAN, in response to a question, said he has no problem with Amendment 2.

REPRESENTATIVE DAHLSTROM removed her objection.

CHAIR RAMRAS, indicating that there were no further objections, announced that Amendment 2 was adopted.

[2:59:21 PM](#)

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

Page 2, line 9:
Delete "construed"
Insert "presumed"

REPRESENTATIVE DAHLSTROM objected for the purpose of discussion.

MR. SULLIVAN, in response to a question, relayed that he doesn't have a problem with Amendment 3.

REPRESENTATIVE DAHLSTROM removed her objection.

CHAIR RAMRAS announced that Amendment 3 was adopted.

[3:00:26 PM](#)

REPRESENTATIVE GRUENBERG [made a motion to adopt] Amendment 4, labeled 26-LS1310\S.7, Mischel, 3/8/10, which read:

Page 3, line 18, following "circumstances":
Insert "that materially affects the welfare of the child if the court approves a military family care plan and if the temporary duty, mobilization, or deployment is for a period that is less than six months"

Page 4, line 18, following "consider":
Insert "the terms of the parent's military family care plan and"

CHAIR RAMRAS indicated that there was an objection to Amendment 4. He expressed disfavor with establishing a time limit on deployment.

MR. SULLIVAN, in response to a question, indicated agreement.

REPRESENTATIVE GRUENBERG [made a motion to amend] Amendment 4 such that the language it proposes to add to page 3, line 18, would no longer contain the words: "and if the temporary duty, mobilization, or deployment is for a period that is less than six months".

CHAIR RAMRAS, after ascertaining that there were no objections to the amendment to Amendment 4, stated that Amendment 4 was amended.

MR. SULLIVAN, in response to a question, indicated that he disapproves of Amendment 4, as amended.

REPRESENTATIVE GRUENBERG explained that a "military family care plan" can be prepared by a military family, and, under Arizona law, can be presented to the court; and that the purpose of Amendment 4, as amended, is to state that if the court has already approved the military family care plan, then the court doesn't have to approve anything else - "it will take the place of a second hearing." He predicted that Amendment 4, as amended, would save [proposed AS 25.20.110(d)] from being unduly burdensome.

MR. SULLIVAN, in response to a question, surmised that Amendment 4, as amended, would allow the military family care plan to be a substitute plan for the court.

REPRESENTATIVE GRUENBERG concurred.

A roll call vote was taken. Representatives Gruenberg and Holmes voted in favor of Amendment 4, as amended. Representatives Herron, Lynn, Dahlstrom, and Ramras voted against it. Therefore, Amendment 4, as amended, failed by a vote of 2-4.

[3:05:11 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 5, labeled 26-LS1310\S.6, Mischel, 3/8/10, which read:

Page 1, line 6, following "(a)":

Insert "In determining the availability of a parent for custody or visitation, if a parent is deployed or in a position where the parent may be deployed, the court shall take particular care to ensure that the child has the maximum opportunity, consistent with the best interests of the child, to have contact with the parent."

REPRESENTATIVE DAHLSTROM objected for the purpose of discussion.

REPRESENTATIVE GRUENBERG explained that Amendment 5 would protect the child's right to have contact with the [deployed] parent.

MR. SULLIVAN relayed that he had no objection to Amendment 5.

REPRESENTATIVE DAHLSTROM removed her objection.

REPRESENTATIVE GRUENBERG, in response to a question, explained that the policy being set via Amendment 5 is that the courts shall take steps to ensure that the deployed parent and his/her child have maximum contact with each other. He offered his understanding that that's the whole purpose of HB 334. In response to further questions, he assured the committee that adoption of Amendment 5 wouldn't have any effect on how the military conducts its operations.

CHAIR RAMRAS announced that Amendment 5 was adopted.

[3:07:43 PM](#)

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

Page 2, lines 6-8:
Delete all material

Reletter the following paragraphs accordingly.

Page 4, lines 15-16:
Delete all material

Reletter the following paragraphs accordingly.

REPRESENTATIVE DAHLSTROM objected for the purpose of discussion.

REPRESENTATIVE GRUENBERG explained that Amendment 6 would delete the provisions regarding an expedited hearing because in Alaska, under Rule 77 of the Alaska Rules of Civil Procedure, the courts already provide for expedited hearings.

MR. SULLIVAN, in response to a question, indicated that he doesn't think that adopting Amendment 6 would be a good idea.

MR. BAILEY concurred that provisions within Rule 77 already provide for an expedited hearing for good cause. The only requirement for the court to comply with, he remarked, is that it give "the other side" at least 24 hours' notice before a motion is acted upon, adding that Rule 77 requires the attorneys involved to cooperate "in letting each other know if they're going to do this."

REPRESENTATIVE GRUENBERG predicted that Rule 77 would allow for a more expedited hearing than that outlined in the bill because [part of] the language Amendment 6 is proposing to delete provides for an additional 10 days' notice, which, he opined, would be counterproductive.

[3:11:28 PM](#)

DOUG WOOLIVER, Administrative Attorney, Administrative Staff, Office of the Administrative Director, Alaska Court System (ACS), in response to a question, offered his understanding that Rule 77 would provide for a hearing sooner.

REPRESENTATIVE GRUENBERG, in response to a question regarding Amendment 6, offered his belief that the language that would be deleted from page 4, lines 15-16, pertains specifically to the military member, whereas the language that would be deleted from page 2, lines 6-8, could be used by either party because it is not, by its terms, limited. Either party, he remarked, could make use of Rule 77.

A roll call vote was taken. Representatives Gruenberg and Holmes voted in favor of Amendment 6. Representatives Lynn, Dahlstrom, Herron, and Ramras voted against it. Therefore, Amendment 6 failed by a vote of 2-4.

[3:14:08 PM](#)

REPRESENTATIVE GRUENBERG [made a motion to adopt] Amendment 7, labeled 26-LS1310\S.5, Mischel, 3/8/10, which [along with typographical errors] read:

Page 3, line 13, following "cause":

Insert "
 "(4) "parent" includes a legal guardian of
the child"

Page 4, line 26:

Delete "and military service"
Insert ", military service, and "parent"

CHAIR RAMRAS stated that there was an objection.

REPRESENTATIVE GRUENBERG explained that [this additional definition is necessary] because it is not uncommon for the courts to establish a legal guardian for a child.

CHAIR RAMRAS, after ascertaining that the objection was removed, announced that Amendment 7 was adopted.

[3:15:38 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 8, labeled 26-LS1310\S.3, Mischel, 3/8/10, which read:

Page 2, line 16:

Delete "the nondeployed"
Insert "each"

Page 2, line 17:

Delete "deployed parent's child and the deployed parent"
Insert "other parent and the child"

Page 2, line 19:

Delete "and"

Page 2, line 21, following "schedule":

Insert "; and
 (4) each parent provide immediate
notification of a change of address or contact
information as provided under AS 25.20.110(e)(5)"

Page 4, line 8:

Delete "the parent who is not deployed"
Insert "each parent"

Page 4, line 9:

Delete "deployed"
Insert "other"

Page 4, line 12:

Delete "who is not deployed"

REPRESENTATIVE DAHLSTROM objected for the purpose of discussion.

REPRESENTATIVE GRUENBERG explained that Amendment 8 would stipulate that each parent has the duty to facilitate communication between the child and his/her other parent, thereby providing for as much communication as possible between the child and both of his/her parents.

MR. SULLIVAN, in response to a question, agreed with Representative Gruenberg.

REPRESENTATIVE DAHLSTROM removed her objection.

CHAIR RAMRAS announced that Amendment 8 was adopted.

[3:17:43 PM](#)

REPRESENTATIVE GRUENBERG [made a motion to adopt] Amendment 9, which read [original punctuation provided]:

Page 1, line 8:

Delete "schedule"

REPRESENTATIVE DAHLSTROM objected for the purpose of discussion.

REPRESENTATIVE GRUENBERG made a motion to amend Amendment 9 such that the language that would be deleted from page 1, line 8, would be, "schedule of a". There being no objection, Amendment 9 was amended.

CHAIR RAMRAS noted that if Amendment 9, as amended, were to be adopted, proposed AS 25.20.095(a) would then read:

(a) Except as provided in this section, a parent's temporary duty, mobilization, or deployment to military service and the resultant temporary disruption to the child of the parent may not be a factor in a court's decision to grant or deny a petition for custody or visitation.

MR. SULLIVAN said he doesn't have any objections to Amendment 9, as amended.

REPRESENTATIVE DAHLSTROM removed her objection.

CHAIR RAMRAS announced that Amendment 9, as amended, was adopted.

[3:19:22 PM](#)

REPRESENTATIVE GRUENBERG [made a motion to adopt] Amendment 10, labeled 26-LS1310\S.1, Mischel, 3/8/10, which read:

Page 2, lines 22 - 25:

Delete "In making a determination of the best interests of the child, the court shall consider the factors under AS 25.24.150(c) and apply the rebuttable presumption under AS 25.24.150(g) to visitation, delegation, and custody orders issued under this section."

Insert "In making a determination of the best interests of the child, the court shall consider (1) the factors under AS 25.24.150(c) and apply the rebuttable presumption under AS 25.24.150(g) to visitation, delegation, and custody orders issued under this section, and (2) any history of violent behavior exhibited by a parent."

Page 2, line 30, following "partner.":

Insert "The court shall make specific written findings regarding the considerations required to be considered in (1) and (2) of this subsection. In this subsection, "history of violent behavior" does not include any behavior or actions performed or undertaken in connection with military duties."

REPRESENTATIVE DAHLSTROM objected.

MR. SULLIVAN, in response to a question, opined that the adoption of Amendment 10 would be a good idea.

REPRESENTATIVE DAHLSTROM removed her objection.

CHAIR RAMRAS, indicating that there were no further objections, announced that Amendment 10 was adopted.

[3:22:08 PM](#)

REPRESENTATIVE GRUENBERG [made a motion to adopt] Conceptual Amendment 11, such that on page 2, line 29, the word, "domestic" would be deleted, and such that on page 2, lines 29-30, the words, "against a spouse, a child, or a domestic living partner" would be removed. He explained that he wants the courts to consider whether the person has a history of any kind of violence, not just domestic violence. There being no objection, Conceptual Amendment 11 was adopted.

[3:23:47 PM](#)

REPRESENTATIVE GRUENBERG [made a motion to adopt] Amendment 12, which read [original punctuation provided]:

Page 4, line 2:

Delete "result in immediate danger of irreparable harm"

Insert "be detrimental"

REPRESENTATIVE DAHLSTROM objected for the purpose of discussion.

MR. SULLIVAN, in response to a question, said he does not like Amendment 12 because it appears to be open ended. He explained that when he drafted language for North Carolina's statutes, the idea behind the language that Amendment 12 is proposing to delete was that if a person is going to stop the return of the child to the custodial parent, then the person needs to be able to allege an emergency - otherwise there should be a presumption that the child is going to go back to the custodial parent, and the issue of whether that would be detrimental could then be litigated afterwards.

CHAIR RAMRAS announced that Amendment 12 was withdrawn.

[3:26:06 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 13, which read [original punctuation provided]:

Page 1, lines 10-11:

Delete "(b) A parent who is deployed may petition a court of competent jurisdiction for custody or visitation. The"

Insert "(b) If a parent petitions a court of competent jurisdiction for custody or visitation, the"

REPRESENTATIVE DAHLSTROM objected for the purpose of discussion.

REPRESENTATIVE GRUENBERG opined that it's clear under current law that a parent who's deployed, obviously, may petition the court, and so the language in proposed AS 25.20.095(b) that again references deployment is unnecessary; "all we have to say is, if the parent petitions, then the petition shall be construed ..., et cetera."

MR. SULLIVAN said that although it sounds like Amendment 13 would clarify the [provision], his intention in drafting the language currently in proposed AS 25.20.095(b) was to specify that there could be a separate [additional] petition for affirmative relief in the context of custody and visitation that's not the original petition for custody or visitation.

REPRESENTATIVE GRUENBERG opined that it's not necessary to state that. "That's clear; you can do it by a motion or you can do it by an original action - under the laws of Alaska, you can do it either way," he concluded.

MR. SULLIVAN, acknowledged that point, and said he doesn't have an objection.

A roll call vote was taken. Representatives Gruenberg and Holmes voted in favor of Amendment 13. Representatives Lynn, Dahlstrom, Herron, and Ramras voted against it. Therefore, Amendment 13 failed by a vote of 2-4.

[3:28:49 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 14, which read [original punctuation provided]:

Page 2, line 1:
Delete "shall"
Insert "may"

REPRESENTATIVE DAHLSTROM objected.

A roll call vote was taken. Representatives Gruenberg and Holmes voted in favor of Amendment 14. Representatives Dahlstrom, Herron, Lynn, and Ramras voted against it. Therefore, Amendment 14 failed by a vote of 2-4.

[3:29:54 PM](#)

REPRESENTATIVE DAHLSTROM moved to report CSHB 334(MLV), as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 334(JUD) was reported from the House Judiciary Standing Committee.

The committee took an at-ease from 3:30 p.m. to 3:31 p.m.

HB 71 - ADVANCE HEALTH CARE DIRECTIVES REGISTRY

[3:31:36 PM](#)

CHAIR RAMRAS announced that the final order of business would be HOUSE BILL NO. 71, "An Act relating to a registry for advance health care directives." [Before the committee was CSHB 71(HSS); adopted as a work draft on 2/24/10 was the proposed committee substitute (CS) for HB 71, Version 26-LS0289\T, Kurtz/Bannister, 1/21/10.]

CHAIR RAMRAS stated that public testimony on HB 71 was closed, and indicated that he had concerns about the bill's fiscal impact.

REPRESENTATIVE HOLMES, speaking as one of the bill's joint prime sponsors, explained that under Version T, the Department of Health and Social Services (DHSS) would be allowed to charge people for filing their advance health care directives with the proposed registry. She indicated that the DHSS's fiscal note in members' packets doesn't reflect that authorization.

[3:32:32 PM](#)

JAMES WALDO, Staff, Representative Lindsey Holmes, Alaska State Legislature, on behalf of Representative Holmes, one of the bill's joint prime sponsors, added that that authorizing language can be found in proposed AS 13.52.310(h), which begins on page 3, line 3, and which in part reads: "(h) The department may charge a fee to file a directive in the registry or provide a copy of a directive filed in the registry under this section ...".

[3:33:05 PM](#)

CHAIR RAMRAS made a motion to adopt Amendment 1, to replace the word "may", on page 3, line 3, with the word "shall".

REPRESENTATIVE GRUENBERG objected.

CHAIR RAMRAS, observing that the fiscal note reflects an annual cost of \$111,400 to fund a Public Health Specialist II position, expressed disfavor with that cost, and indicated that merely giving the DHSS the flexibility to charge a fee but not mandating that it do so was not acceptable to him.

REPRESENTATIVE HOLMES expressed a preference for leaving the language as is, adding that she would prefer for the DHSS to retain the discretion to charge a fee, particularly given that the proposed registry's costs are going to be reduced over time.

CHAIR RAMRAS offered his understanding, however, that the personal services costs wouldn't ever be eliminated. He offered his belief that although the proposed registry could be helpful, the information that would be included in the registry is already available elsewhere.

REPRESENTATIVE GRUENBERG pointed out that testimony at the bill's last hearing indicated that a number of people would have trouble affording a registry fee, and surmised that adoption of Amendment 1 could "chill" the ability of people to use the proposed registry, and that that could prove more costly in the end. He expressed a preference for instead simply encouraging as many people as possible to make use of the proposed registry.

CHAIR RAMRAS pointed out that adoption of Amendment 1 wouldn't preclude anyone from using the proposed registry, and likened having to pay a fee for using the registry to having to pay a licensing fee in order to go fishing, for example.

REPRESENTATIVE GRUENBERG argued, however, that people over a certain age don't have to pay a fee for a fishing license, and asked Chair Ramras whether he would be amenable to amending Amendment 1 [such that persons over a certain age wouldn't have to pay a fee for using the proposed registry].

CHAIR RAMRAS indicated that he would not be amenable to such a change.

A roll call vote was taken. Representatives Dahlstrom, Herron, and Ramras voted in favor of Amendment 1. Representatives Holmes, Lynn, and Gruenberg voted against it. Therefore, Amendment 1 failed by a vote of 3-3.

[3:37:14 PM](#)

REPRESENTATIVE GRUENBERG moved to report the proposed committee substitute (CS) for HB 71, Version 26-LS0289\T, Kurtz/Bannister, 1/21/10, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 71(JUD) was reported from the House Judiciary Standing Committee.

[3:37:51 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:37 p.m.