

**ALASKA STATE LEGISLATURE**  
**SENATE JUDICIARY STANDING COMMITTEE**

February 12, 2010

1:33 p.m.

**MEMBERS PRESENT**

Senator Hollis French, Chair  
Senator Bill Wielechowski, Vice Chair  
Senator Dennis Egan

**MEMBERS ABSENT**

Senator Lesil McGuire  
Senator John Coghill

**COMMITTEE CALENDAR**

HOUSE BILL NO. 307

"An Act relating to sexual assault protective orders."

MOVED HB 307 OUT OF COMMITTEE

SENATE BILL NO. 210

"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 CSSB 210(JUD) OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 21

Proposing amendments to the Constitution of the State of Alaska relating to and increasing the number of members of the house of representatives to forty-eight and the number of members of the senate to twenty-four.

HEARD AND HELD

SENATE BILL NO. 214

"An Act relating to penalties for cruelty to animals."

HEARD AND HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 6(JUD) AM

"An Act relating to proscribing certain sexual conduct or sexual activities as cruelty to animals."

HEARD AND HELD

SENATE BILL NO. 252

"An Act relating to the crime of failure to appear; relating to arrest for violating certain conditions of release; relating to

release before trial, before sentence, and pending appeal; relating to material witnesses; relating to temporary release; relating to release on a petition to revoke probation; relating to the first appearance before a judicial officer after arrest; relating to service of process for domestic violence protective orders; making conforming amendments; amending Rules 5 and 41, Alaska Rules of Criminal Procedure, and Rules 206 and 603, Alaska Rules of Appellate Procedure; and providing for an effective date."

BILL HEARING POSTPONED

**PREVIOUS COMMITTEE ACTION**

BILL: HB 307

SHORT TITLE: SEXUAL ASSAULT PROTECTIVE ORDERS

SPONSOR(s): REPRESENTATIVE(s) HOLMES

01/19/10	(H)	READ THE FIRST TIME - REFERRALS
01/19/10	(H)	JUD
01/27/10	(H)	JUD AT 1:00 PM CAPITOL 120
01/27/10	(H)	Moved Out of Committee
01/27/10	(H)	MINUTE(JUD)
01/29/10	(H)	JUD RPT 7DP
01/29/10	(H)	DP: LYNN, GRUENBERG, HERRON, DAHLSTROM, HOLMES, GATTO, RAMRAS
02/01/10	(H)	TRANSMITTED TO (S)
02/01/10	(H)	VERSION: HB 307
02/03/10	(S)	READ THE FIRST TIME - REFERRALS
02/03/10	(S)	JUD
02/10/10	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/10/10	(S)	Heard & Held
02/10/10	(S)	MINUTE(JUD)

BILL: SB 210

SHORT TITLE: MILITARY DEPLOYMENT AND CHILD CUSTODY

SPONSOR(s): SENATOR(s) HUGGINS

01/19/10	(S)	PREFILE RELEASED 1/8/10
01/19/10	(S)	READ THE FIRST TIME - REFERRALS
01/19/10	(S)	JUD, FIN
02/08/10	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/08/10	(S)	Heard & Held
02/08/10	(S)	MINUTE(JUD)

BILL: SJR 21

SHORT TITLE: CONST. AM: INCREASE NUMBER OF LEGISLATORS

SPONSOR(s): COMMUNITY & REGIONAL AFFAIRS

04/09/09 (S) READ THE FIRST TIME - REFERRALS  
 04/09/09 (S) STA, JUD, FIN  
 02/02/10 (S) STA AT 9:00 AM BELTZ 105 (TSBldg)  
 02/02/10 (S) Moved SJR 21 Out of Committee  
 02/02/10 (S) MINUTE(STA)  
 02/03/10 (S) STA RPT 5DP  
 02/03/10 (S) DP: MENARD, FRENCH, MEYER, PASKVAN,  
 KOOKESH  
 02/08/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
 02/08/10 (S) Scheduled But Not Heard  
 02/12/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 214

SHORT TITLE: CRUELTY TO ANIMALS  
 SPONSOR(s): SENATOR(s) WIELECHOWSKI

01/19/10 (S) PREFILE RELEASED 1/15/10  
 01/19/10 (S) READ THE FIRST TIME - REFERRALS  
 01/19/10 (S) JUD  
 02/12/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 6

SHORT TITLE: CRUELTY TO ANIMALS  
 SPONSOR(s): LYNN

01/20/09 (H) PREFILE RELEASED 1/9/09  
 01/20/09 (H) READ THE FIRST TIME - REFERRALS  
 01/20/09 (H) JUD, FIN  
 03/20/09 (H) JUD AT 1:00 PM CAPITOL 120  
 03/20/09 (H) Moved CSHB 6(JUD) Out of Committee  
 03/20/09 (H) MINUTE(JUD)  
 03/25/09 (H) JUD RPT CS(JUD) NT 4DP 1NR 1AM  
 03/25/09 (H) DP: LYNN, GRUENBERG, COGHILL, GATTO  
 03/25/09 (H) NR: RAMRAS  
 03/25/09 (H) AM: HOLMES  
 04/11/09 (H) FIN REFERRAL WAIVED  
 04/17/09 (H) TRANSMITTED TO (S)  
 04/17/09 (H) VERSION: CSHB 6(JUD) AM  
 04/18/09 (S) READ THE FIRST TIME - REFERRALS  
 04/18/09 (S) STA, JUD  
 01/26/10 (S) STA AT 9:00 AM BELTZ 105 (TSBldg)  
 01/26/10 (S) Moved CSHB 6(JUD)am Out of Committee  
 01/26/10 (S) MINUTE(STA)  
 01/27/10 (S) STA RPT 5DP  
 01/27/10 (S) DP: MENARD, FRENCH, MEYER, PASKVAN,  
 KOOKESH

02/12/10

(S)

JUD AT 1:30 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

JEAN MISCHEL, Drafting Attorney  
Legislative Legal Services  
Legislative Affairs Agency  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Responded to drafting questions about SJR 21.

SENATOR DONALD OLSON  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Sponsor of SJR 21.

GORDON HARRISON, representing himself  
Juneau, AK

**POSITION STATEMENT:** Testified in support of SJR 21.

JIM BALDWIN, representing himself  
Juneau, AK

**POSITION STATEMENT:** Testified in support of SJR 21.

DOUG MOODY, Attorney  
Public Defender Agency  
Alaska Department of Administration

**POSITION STATEMENT:** Available for questions on SB 214.

COLONEL AUDIE HOLLOWAY  
Alaska State Troopers  
Alaska Department of Public Safety

**POSITION STATEMENT:** Testified in support of SB 214.

JACKIE KAHN, Detective  
Anchorage Police Department

**POSITION STATEMENT:** Testified in support of SB 214.

KAYLA EPSTEIN, member  
Anchorage Animal Care and Control Advisory Board

**POSITION STATEMENT:** Testified that the board unanimously supports SB 214.

RONNIE ROSENBERG, Chair  
Fairbanks North Star Borough Animal Control Commission; and  
President Fairbanks Animal Shelter Fund

**POSITION STATEMENT:** Testified in support of SB 214 and HB 6.

MICHELE GIRAULT  
Friends of Pets  
Anchorage, AK

**POSITION STATEMENT:** Testified in support of SB 214.

ADAM PARASCANDOLA, Director  
Animal Cruelty Campaign  
Humane Society of the United States

**POSITION STATEMENT:** Testified in support of SB 214.

SALLY CLAMPITT, Executive Director  
Alaska SPCA

**POSITION STATEMENT:** Stated enthusiastic support for SB 214.

DR. MYRA WILSON, Veterinarian  
Anchorage Animal Care and Control

**POSITION STATEMENT:** Testified in support of SB 214.

ANNE CARPENETI, Attorney  
Criminal Division  
Department of Law (DOL)  
Juneau, AK

**POSITION STATEMENT:** Testified that DOL isn't taking a position on SB 214.

REPRESENTATIVE BOB LYNN  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Sponsor of HB 6.

DON MARVIN, Mayor  
Klawock, AK

**POSITION STATEMENT:** Testified in support of HB 6.

LESLIE ISAACS, City Administrator  
Klawock, AK

**POSITION STATEMENT:** Testified in support of HB 6.

#### **ACTION NARRATIVE**

[1:33:52 PM](#)

**CHAIR HOLLIS FRENCH** called the Senate Judiciary Standing Committee meeting to order at 1:33 p.m. Senators Wielechowski, Egan, and French were present at the call to order.

**HB 307-SEXUAL ASSAULT PROTECTIVE ORDERS**

[1:34:08 PM](#)

CHAIR FRENCH announced the consideration of HB 307. It was heard previously. Finding no questions or amendments, he asked for a motion.

[1:34:32 PM](#)

SENATOR WIELECHOWSKI motioned to report HB 307 from committee with individual recommendations and attached fiscal note(s). There being no objection, HB 307 moved from Senate Judiciary Standing Committee.

At ease from 1:34 p.m. to 1:35 p.m.

**SB 210-MILITARY DEPLOYMENT AND CHILD CUSTODY**

[1:35:41 PM](#)

CHAIR FRENCH announced the consideration of SB 210 and asked for a motion to adopt the proposed committee substitute (CS).

SENATOR WIELECHOWSKI moved to adopt work draft CS for SB 210, labeled 26-LS1243\N, as the working document. There being no objection, version N was before the committee.

[1:36:21 PM](#)

CHAIR FRENCH moved Amendment 1 and objected for discussion purposes.

**Amendment 1**

26-LS1243\N.1

OFFERED IN THE SENATE BY SENATOR FRENCH  
TO: CSSB 210( ), Draft Version "N"

Page 2, line 25, following "section.":  
Insert "In addition, there is a rebuttable presumption that a deployed parent's visitation rights may not be delegated to a family member who has a history of perpetrating domestic violence against a spouse, a child, or a domestic living partner, or to a family member with an individual in the family member's household who has a history of perpetrating domestic violence against a spouse, a child, or a domestic living partner."

Page 4, line 10, following "section.":

Insert "In addition, there is a rebuttable presumption that a deployed parent's visitation rights may not be delegated to a family member who has a history of perpetrating domestic violence against a spouse, a child, or a domestic living partner, or to a family member with an individual in the family member's household who has a history of perpetrating domestic violence against a spouse, a child, or a domestic living partner."

CHAIR FRENCH asked Ms. Mischel to tell the committee what the amendment intends to do.

JEAN MISCHEL, Drafting Attorney, Legislative Legal Services, Legislative Affairs Agency, explained that the amendment clarifies that both subsection (g) on page 2 and subsection (g) page 4 provide for consideration of the best interest of the child. Both subsections cross reference AS 25.24.150(c) and AS 25.24.150(g) pertaining to violence in the home when there is a custody dispute. AS 25.24.150(g) provides a rebuttable presumption against awarding custody to a parent who has perpetrated domestic violence. The amendment responds to the concerns expressed by the Alaska Network on Domestic Violence and Sexual Assault ("Network") and clarifies that the rebuttable presumption also applies if there is a delegation under this bill to a family member who has a history of domestic violence. The amendment language mirrors AS 25.24.150(g) as it relates to parents. It clarifies that the presumption against visitation requested by a military parent for a family member if that family member has a history of perpetuating domestic violence. It is not a substantive, but it makes it abundantly clear, she said.

[1:39:53 PM](#)

CHAIR FRENCH asked Mr. Tempel if he and the sponsor have reviewed the language in Amendment 1.

JOSH TEMPEL, Staff to Senator Huggins, replied they did review the language and have no objection.

CHAIR FRENCH removed his objection; finding no further objection, he announced that Amendment 1 passes.

[1:40:27 PM](#)

CHAIR FRENCH moved Amendment 2 and objected for discussion purposes.

Amendment 2

26-LS1243\N.2

OFFERED IN THE SENATE BY SENATOR FRENCH  
TO: CSSB 210( ), Draft Version "N"

Page 4, line 4, following "court":  
Insert "; if a valid court order issued under AS 12.61.120 or AS 25.20.060 or an equivalent provision in another jurisdiction is in effect that requires that the address or contact information of the parent who is not deployed be kept confidential, the notification shall be made to the court only, and a copy of the order shall be included in the notification"

MS. MISCHEL explained that the amendment responds to a concern expressed by the Network that immediate notification of the address of the nondeployed parent might contradict another protective order. The amendment cross references current law and provides that the notification will be made to the court only and will be kept confidential if a valid order is in effect.

CHAIR FRENCH asked Mr. Tempel if he and the sponsor have reviewed the language.

MR. TEMPEL replied Senator Huggins supports the amendment.

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

[1:42:30 PM](#)

SENATOR WIELECHOWSKI moved to report CS for SB 210, [26-LS1243\N as amended], from committee with individual recommendations and attached fiscal notes. There being no objection, CSSB 210(JUD) moved from Senate Judiciary Standing Committee.

At ease from 1:42 p.m. to 1:43 p.m.

SJR 21-CONST. AM: INCREASE NUMBER OF LEGISLATORS

[1:43:39 PM](#)

CHAIR FRENCH announced the consideration of SJR 21.

SENATOR DONALD OLSON, Alaska State Legislature, sponsor of SJR 21, read from the following the sponsor statement:

" ...Each house district shall be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area..." Alaska Constitution Article VI, Section 6, titled Legislative Apportionment.

SJR 21 will put a constitutional amendment before the voters in the 2010 general election that would increase the size of the legislature to 48 representatives and 24 senators. Upon voter approval, the measure would apply to the 2012 determination of election district boundaries.

In 1913, Congress established the first territorial legislature with 8 senators and 16 representatives. The size of the legislature was increased to 12 senators and 24 representatives in 1942. 17 years later a constitution for the State of Alaska was ratified further increasing the size of the legislature to the current 20 senator and 40 representative membership. A feature of that apportionment was that most of the senate membership was equally distributed among the 4 judicial districts in order that one region may not dominate the others. The U.S. Supreme Court decision requiring "one man, one vote" eliminated redistricting by this method.

In the first 50 years of statehood, Alaska has not changed the size of its legislative body, the smallest bicameral legislature in the nation. In this time span, the population of the state has more than tripled. Most significantly, the population increase is disproportionate, strongly favoring large urban areas over rural and small community areas. The task then of applying the Article VI, section 6 requirements for contiguous, compact areas with integrated socio-economic features has correspondingly become more difficult and contentious. Except for the 1960 reapportionment right after statehood, all subsequent reapportionments have faced successful legal challenges, requiring boundary adjustments and on several occasions, a court constructed reapportionment plan.

Federal protections in the U.S. Voter Rights Act of 1965 for large minority concentrations further complicate Alaska's reapportionment process. Indeed, they can act to counter the Section 6 requirements. Rural election district distortions are evident in the current plan. There is a probability that the new population distribution of the 2010 census cannot reconcile Section 6 and the Voter Rights Act without increasing the size of the legislature. Indeed, the Alaska Supreme Court has established redistricting priorities that place voter rights considerations before the compact, contiguous language of Section 6.

Between 1960 and 2006, twenty nine states have changed the size of their legislative body. For the nine states with small populations similar to Alaska (509,000 to 1,429,000), the average size of their legislative bodies is 134 members.

Another measure of the effect of the state's growth and complexity on the work of the legislature is its budget responsibilities. Legislative expenditures for government programs and projects has risen from a figure of \$104 million in FY 61 to somewhere in the neighborhood of \$7 billion currently. This is an increase from \$2,700 per capita in 1961 nominal dollars to \$10,000 per capita today.

[1:49:07 PM](#)

SENATOR OLSON distributed a spreadsheet showing population trends in Alaska's 40 election districts. In 2000 the average population per district was 15,673 and the projected 2010 average population is 17,309 per district. It's disturbing that certain areas of the state will significantly drop below the average, he said. If SJR 21 is implemented the average population per district will be 14,424, which is much closer to the 2000 average.

CHAIR FRENCH said he appreciates the history; it's a reminder that we can and do change when times change.

[1:52:30 PM](#)

GORDON HARRISON, representing himself, said he is the former director of legislative research and he found the sponsor's comments regarding the history of the Alaska Legislature particularly interesting and important. The overriding concern

of the delegates at the 1955-56 Constitutional Convention was to assure broad representation throughout the state, particularly in rural areas. In an effort to ensure rural representation, the delegates did two things. They increased the number of legislators from 40 to 60 and they apportioned the Senate on a basis of geography. In a complicated apportionment scheme each judicial district got a set number of senators, and then each got additional senators based on the number of election districts within the particular judicial district. Southeast and Central Alaska each got five senators, Southcentral got six senators, and Northwest got four senators for a total of 20. In the early '60s the U.S. Supreme Court overturned this scheme in a series of reapportionment decisions. Federal law required all state senates to be apportioned on the basis of population.

[1:54:58 PM](#)

MR. HARRISON said it's interesting that in 1955 when Alaska's population was only 200,000, the delegates felt compelled to increase the size of the Legislature to 60 members. With a population that is now approaching 700,000, he suggested that it's a very timely and good idea to incrementally increase the Legislature by eight House districts and four Senate districts. This accomplishes the goal of maintaining a vital Legislature by having rural and Native interests adequately represented. The other objective is to make these districts workable and manageable for the people. Right now, some districts are huge and their many issues compete for time and attention. It's nearly impossible for legislators to travel to all the communities and adequately represent them.

[1:56:45 PM](#)

The spreadsheet that the sponsor distributed demonstrates that absent this legislation, rural districts will be hurting. It's almost inevitable that Southeast will lose District 5 and it's likely that either District 6 or District 37 will be lost along with a Senate seat. That means 3 Native rural districts will probably be lost. He hasn't done the calculations, but he assumes that MatSu will gain 1.5 and Anchorage will gain 0.5. By increasing the number of House districts to 48, the population is reduced to 14,424, which is manageable. The Railbelt will get the additional 12 legislators, but the existing districts will probably stay whole.

MR. HARRISON said he realizes that changing an institution is a big step, but this is one that he would recommend. It doesn't portend any fundamental change in the legislative process.

SENATOR EGAN asked how the House and Senate districts would be affected geographically because some Senate districts are already huge.

MR. HARRISON responded that without this change they promise to get even larger. If this were to pass, most House districts would hold their own while urban areas like Anchorage would have relatively small geographic districts. He confirmed that each Senate district is comprised of two House districts.

[2:00:37 PM](#)

CHAIR FRENCH pointed out that this won't create new seats in Native areas; it simply maintains the status quo. The new seats will go to the Railbelt. The MatSu area will have 4 or 5 more representatives here in Juneau representing their interests. "They're not going to be outweighed or outnumbered by anybody," he said.

MR. HARRISON agreed that this does nothing to change the balance of power between rural and urban areas. Rural districts will simply maintain some presence and the districts will be a more realistic size for traveling and campaigning.

[2:03:04 PM](#)

JIM BALDWIN, representing himself, told the committee that during the last districting he represented the Office of the Governor. He said he supports SJR 21 as a valuable tool for the redistricting board; it may ameliorate the effect of the Voting Rights Act on the process.

He explained that Alaska is covered by Section 5 of the Voting Rights Act and as such it has to pre-clear any changes to the election process or procedure with the U.S. Department of Justice (DOJ). Any proposed change requires proof that it does not abridge anyone's right to vote on the basis of race, color or minority language. The idea is to prevent any back slide, or retrogression, in the level of representation for minority voters, he said.

CHAIR FRENCH asked how it's possible to avoid conflict with the Voting Rights Act when population ratios change. Non-Natives moving to the state dilute the voting power of Natives.

[2:06:29 PM](#)

MR. BALDWIN conceded that it may not be possible, but the Voting Rights Act and the regulations require the state to examine all possible alternatives before saying that retrogression cannot be

avoided. The board- the state government - bears a fairly heavy burden in order to stay in compliance with the Voting Rights Act, he said.

CHAIR FRENCH asked what prompted Congress to pass the Voting Rights Act.

MR. BALDWIN replied it arose from post-Civil War constitutional amendments dealing with the treatment of minority voters, principally in the south. Other states were brought in because they had either literacy requirements in their constitutions or significant language minorities. According to the federal register, Alaska has been covered since 1972, principally on the basis of language minorities. The federal government wants to ensure that states protect minority voters and one means of doing that is to apply the retrogression test. He noted that it's been fertile ground for litigation during every redistricting cycle, primarily on the national scene. He cited Georgia v. Ashcroft as the most recent case.

He said he agrees with Mr. Harrison that a retrogression determination seems to be looming. With just 40 districts the DOJ will possibly pressure the state to find minority populations wherever it can to try to meet the non-retrogression standard or to minimize it to the greatest extent possible. It's likely that the DOJ will emphasize finding where the previously rural populations exist and moving lines to pick them up.

MR. BALDWIN said that the Alaska Constitution also has redistricting standards that require socially integrated and compact districts. He thinks that when the census is complete and the locations of minority populations are known, there could be pressure to pick up populations in urban areas - or to redraw districts in a way that keep Native populations together. If the number of legislators remains constant it will be a problem for everyone to confront, not just rural districts, he concluded.

[2:12:58 PM](#)

CHAIR FRENCH asked him to tell the public why this resolution needs to pass this year.

MR. BALDWIN said there's a very compressed time schedule for the board to do its work. Census materials will arrive in March 2011 and the board then has to develop a plan and go through preclearance in the court process by June 1 of the next election cycle.

CHAIR FRENCH closed public testimony and held SJR 21 in committee.

**SB 214-CRUELTY TO ANIMALS**

[2:15:23 PM](#)

CHAIR FRENCH announced the consideration of SB 214.

SENATOR WIELECHOWSKI, sponsor of SB 214, said the link between animal cruelty, domestic violence and other violent crimes has been well documented since the 1970s. SB 214 works hand-in-hand with the governor's platform against domestic violence by increasing the punishment to a felony offense for the most heinous crimes of animal cruelty. The bill provides the opportunity to identify and punish perpetrators of domestic violence early on, before they can do further harm to people in the community.

Currently, animal cruelty is a misdemeanor offense and a class C felony on the third offense if it occurs within 10 years. Forty five other states have animal cruelty provisions with a felony on the first offense. Alaska is the only state that requires a third offense prior to triggering the felony clause. This bill will amend current statute to ensure that the most heinous acts of animal cruelty are a felony on the first offense. This bill creates a felony animal cruelty provision for knowingly inflicting severe and prolonged physical pain or suffering on an animal or for killing or injuring an animal by the use of a decompression chamber or poison. By comparison, the penalty for a serious injury of a person is typically a class A or a class B felony. The penalty for killing a person with poison is an unclassified felony.

SB 214 also creates a class A misdemeanor for a first offense and class C felony for second offense within 10 years for failing to care for an animal with criminal negligence resulting in death, severe pain or suffering or for knowingly killing or injuring an animal with the intent to intimidate, threaten or terrorize another person. By comparison, the penalty for negligent child endangerment is a class C felony and stalking is a class A misdemeanor on the first offense and a class C felony on the second offense. In nearly all these provisions, the penalties for crimes inflicted on humans are much greater than the penalties for crimes inflicted on animals. The penalty for stalking, however, is the same as that for knowingly killing or injuring an animal with the intent to intimidate, threaten, or terrorize another person. The provision for animal cruelty is

essentially one component of stalking or terrorizing another person.

[2:18:13 PM](#)

SENATOR WIELECHOWSKI highlighted that in Alaska, stealing a \$500 purebred dog or vandalizing a \$500 portrait of an animal is currently a Class C felony, but killing or severely injuring that same pet is only a class A misdemeanor. This doesn't make sense, he said.

As previously mentioned, there is a direct and proven link between crimes of domestic violence and animal cruelty. Over 70 percent of pet owners entering domestic violence shelters report that their batterer had threatened, injured, or killed family pets. Over 90 percent of violent attacks on animals are committed in the presence of a partner or a family member to seek revenge or control. SB 214 provides an opportunity to prevent further violent acts by identifying those dangerous individuals before they can do more harm to both animals and people.

SENATOR WIELECHOWSKI noted that SB 214 is supported by the Alaska Department of Public Safety, the Council on Domestic Violence and Sexual Assault, Alaska Network on Domestic Violence and Sexual Assault, Alaska Veterinary Association, the Municipality of Anchorage Animal Control Advisory Board, the Humane Society of the U.S., the Alaska Peace Officers Association, and many other groups and individuals.

SENATOR WIELECHOWSKI related two recent instances of violence and animal cruelty in this state to show why it's time to join 45 other states and allow felony prosecution for the most despicable acts of animal cruelty.

[2:22:28 PM](#)

CHAIR FRENCH recalled that animal cruelty has to rise to the level of torture for it to be a felony.

SENATOR WIELECHOWSKI said it's essentially torturing on three occasions.

[2:23:48 PM](#)

DOUG MOODY, Attorney, Public Defender Agency, Alaska Department of Administration, said he is available to answer questions and that the PDA seconds Ms. Carpeneti's testimony.

COLONEL AUDIE HOLLOWAY, Alaska State Troopers, Department of Public Safety (DPS), said that domestic violence perpetrators use threats or violence to pets to coerce their victims. Numerous studies show that cruelty to animals is linked to crimes against persons. The troopers receive frequent requests to investigate animal cruelty ranging from starvation to using animals for target practice. Because of other priorities they are unable to investigate most of those cases. Hopefully increasing the penalties will cause perpetrators to think twice about committing these acts, he said.

[2:25:30 PM](#)

JACKIE KAHN, Detective, Anchorage Police Department, said she is the point of contact for animal cruelty cases and she believes that people don't realize how much animal cruelty goes on. In less than two years she has reviewed at least 60 cases of reported animal cruelty ranging from neglect to torture. She highlighted the point that people that commit acts of animal cruelty are statistically linked to other violent crimes and other criminal activity. I've seen that in practice in Anchorage, she said. SB 214 is an important bill that will help keep these people from committing future crimes.

[2:29:11 PM](#)

KAYLA EPSTEIN, member, Anchorage Animal Care and Control Advisory Board, said the board unanimously supports SB 214. Most people want to protect small helpless creatures from harm and pedophiles know and take advantage of this. While people like to think that pedophiles are strangers, the fact is that 70 percent are either family members or someone that the family knows. Abuse of animals is an aid to perpetrators in cases of domestic violence. They use abuse or threats of abuse to demonstrate power and control, to isolate, to force submission, to perpetuate an environment of fear, to prevent the victim from leaving or to coerce them to return, and to punish a victim for leaving or for showing independence. 71 percent of pet-owning women entering shelters report that their batterer has injured, maimed, killed, or threatened family pets for revenge or psychological control. In those cases, 87 percent of the women witnessed the abuse and 76 percent of children were witness. 25 percent of abused women will not leave their situation out of fear for the animals they care about. In homes where a spouse is abused, child abuse is twice as likely to occur if there is also animal abuse. Increasing the penalty for animal abuse to a felony would give prosecutors one more weapon to fight the very difficult domestic violence and sexual abuse of a minor cases.

[2:33:49 PM](#)

RONNIE ROSENBERG, Chair, Fairbanks North Star Borough Animal Control Commission, said she is also the founder and president of the Fairbanks Animal Shelter Fund. From time to time over the years they have seen egregious animal abuse and it's time to join the other 45 states and prosecute them on the first offense as a felon. These events are very disruptive to the fabric of neighborhoods and communities.

MICHELE GIRAULT, Friends of Pets, Anchorage, stated support for SB 214. She reported having received many calls over the years from women whose pets had been killed by their partners. The link between violence toward pets and violence toward women and children is better recognized now and she believes that passing this bill will help address other violent issues and perhaps save a child or woman from being battered. Alaska needs to take a stand and make animal cruelty a felony, she said.

[2:37:34 PM](#)

ADAM PARASCANDOLA, Director, Animal Cruelty Campaign, Humane Society of the United States, stated support for SB 214. He cited a study released by the Chicago Police Department in 2008 that found "a startling propensity for offenders charged with crimes against animals to commit other violent offenses towards human victims." Investigators examined the criminal records of animal cruelty and animal fighting arrestees and found that 86 percent had two or more past arrests, 70 percent had been arrested for felonies including homicide, 70 percent had past narcotics arrests, and 65 percent had been arrested for battery crimes. A Canadian police study similarly found that 70 percent of those arrested for animal cruelty had prior records of violent crimes including homicide. This research makes it clear that people who are capable of atrocious acts of cruelty to animals are similarly dangerous to humans and communities. He noted that after the District of Columbia passed a felony law against animal cruelty the first case he investigated was linked to domestic violence. SB 214 is reasonable and practical, he concluded.

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SALLY CLAMPITT, Executive Director, Alaska SPCA, stated enthusiastic support for SB 214. Alaska SPCA receives numerous calls from across the state reporting incidents of cruelty or inhumane treatment of animals, particularly dogs. Local animal control ordinances are frequently weak and ineffective and when there is no enforcement agency these cases are handled by the state troopers that have many other pressing obligations. If

animal cruelty were a felony on the first offense and the law was energetically and decisively enforced, the word would get out. It would likely be an effective and long-term deterrent to people who commit heinous acts against animals. Alaska has a long history of having some of the worst animal cruelty laws and SB 214 would bring it closer in alignment with legislation in other states. This is appropriate as there is growing intolerance for animal cruelty.

[2:43:26 PM](#)

DR. MYRA WILSON, Veterinarian, Anchorage Animal Care and Control, stated support for SB 214. She could reiterate previous testimony from an animal control perspective. Her agency has seen numerous cases of animal cruelty and would like to see all the hard work that APD, animal control officers, and veterinarians put into these animal cruelty cases result in more stringent penalties.

[2:45:16 PM](#)

ANNE CARPENETI, Attorney, Criminal Division, Department of Law (DOL), said the department isn't taking a position on SB 214, but in the past it has testified in opposition to felony level penalties for animal cruelty. She reported that in 1978 the Criminal Code Revision Commission debated whether or not animal cruelty should be a felony and the majority decided it ought to be resolved as a class A misdemeanor. The maximum penalty of which is one year in jail. Over the years DOL has held that the prosecution of animal cruelty cases should be less serious than the prosecution of assault and other offenses against humans.

MS. CARPENETI said Senator Wielechowski is correct when he points to the elements of the offenses. Murder of a human being is a higher level than a class A misdemeanor. Torturing and killing a person is an unclassified felony that would probably bring a mandatory 99 years in jail. However, the reality of criminal prosecution of crimes against people in this state, particularly domestic violence crimes, is that they tend to be resolved as class A misdemeanors - assault in the fourth degree. Not until the third assault in the fourth degree within a ten year period does one get a class C felony. DOL's concern is that crimes against people generally get resolved as class A misdemeanors. It's an issue of parity; humans should be protected more seriously than animals.

CHAIR FRENCH said he's surprised, given the governor's focus on domestic violence, that he or the attorney general isn't willing to rethink that historical opposition. He doesn't believe anyone

is seeking parity between harm against pets and harm against humans, but he knows that many serious assaults against women and children that resolve as misdemeanor do so because of the leverage a potential felony conviction affords. If this becomes law, many felony animal cruelty charges will similarly resolve as misdemeanors, but with less fuss and muss, he said.

[2:49:43 PM](#)

MS. CARPENETI said that's probably true. It's clear that animal cruelty should be taken seriously because the evidence shows that it is a gateway crime to domestic violence. However, a gateway crime shouldn't have a larger penalty than the target crime.

SENATOR WIELECHOWSKI said it's factually incorrect to say that these proposed penalties are at parity with the penalties for similar acts committed against humans. Knowingly inflicting severe and prolonged pain or suffering on an animal would be a class C felony. A similar act committed against a human is either a class A or a class B felony and possibly an unclassified felony. Killing or injuring an animal by poison or decompression chamber would be a class C felony, which is the lowest form of felony. Doing the same to a human is an unclassified felony.

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MS. CARPENETI said, "It could be that since 1978 our state has matured and gotten to a point where animal cruelty ought to be a felony." I was simply giving the historical perspective, she added.

SENATOR WIELECHOWSKI said he has a big problem if this administration is allowing criminals who inflict severe and prolonged pain and suffering on other humans to plead out to a misdemeanor. Let me know if you need more resources to address that, he said.

CHAIR FRENCH announced he would hold SB 214 in committee.

### **HB 6-CRUELTY TO ANIMALS**

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CHAIR FRENCH announced the consideration of HB 6. [CSHB 6(JUD) am was before the committee.]

REPRESENTATIVE BOB LYNN, sponsor of HB 6, said this bill expands the animal cruelty statutes to include bestiality. Jokes on this

topic abound, but it's no laughing matter; it's linked to sexual abuse of a minor crimes. He reported that the impetus for the bill was an incident that arose in Klawock involving a convicted sex offender who tied a dog to a tree, taped its muzzle shut, and then sexually assaulted it. He was surprised to learn that there is no state law prohibiting this activity and that this was not an isolated incident.

He noted that the bill packet includes a list of frequently asked questions and answers about bestiality. For example:

- Is there a connection between animal sexual abuse and domestic violence, child abuse, and other violent crimes? - Yes, and it is worse than expected.
- Is animal sexual abuse illegal in other states? - Yes, at least 35 other states outlaw bestiality.
- Are there exemptions in the bill for accepted veterinary and animal husbandry procedures? - Yes.
- Is bestiality a problem in Alaska and the rest of the U.S.? - Yes, and that's why most states have laws against bestiality. Alaska should also have such a law.

REPRESENTATIVE LYNN noted that the packet also contains letters of support from the Alaska Department of Corrections; the Alaska Farm Bureau, Inc.; Alaska Peace Officers Association; the American Humane Association; and the Humane Society of the United States. In addition to addressing bestiality, the bill is also addressing public safety, particularly for children, he concluded.

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MIKE SICA, Staff to Representative Lynn, said HB 6 seeks to expand the current provision on animal cruelty to include offenses of sexual abuse of animals. Senator Wielechowski is asking for the tougher penalties in his bill and this bill is saying don't leave holes in the law.

Section 1 amends AS 11.61.140(a) adding paragraphs (6) and (7) that say that a person commits animal cruelty by knowingly engaging in sexual conduct with an animal, and by intentionally permitting sexual conduct with an animal to occur on any premises under their control. Section 2 adds a definition of what constitutes sexual conduct with an animal, and is lifted almost word for word from Washington statute.

MR. SICA said this bill is simple, but it is not trivial. The established link between animal cruelty and cruelty to humans extends to sexual behavior. He directed attention to the human

pet abuse section of petabase.com site and remarked that it's stunning to see the hundreds of cases, including the one in Klawock. When Washington State was considering similar legislation, the Seattle Post-Intelligencer headline simply said, "Welcome to No-Brainsville."

[3:01:51 PM](#)

DON MARVIN, Mayor, Klawock, stated strong support for HB 6. The previously mentioned case of animal sexual assault was a nightmare for the community to live through. The residents didn't feel safe, but the person could not be held or prosecuted under current law.

RONNIE ROSENBERG, Chair, Fairbanks North Star Borough Animal Control Commission, said she is also the founder and president of the Fairbanks Animal Shelter Fund. The commission unanimously supports HB 6. They have seen these cases and are mindful of the link between this and sexual abuse of a minor and the harm it causes a community. This is not a victimless crime; there isn't any good reason that this conduct shouldn't be criminalized, she concluded.

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LESLIE ISAACS, City Administrator, Klawock, stated support for HB 6. He related that when the sexual abuse of an animal incident came to light in Klawock the police visited the individual, but they couldn't press charges because there wasn't an applicable law. Some community members began to talk about vigilante justice, which caused another citizen to comment that it would be a miscarriage of justice if someone sought retribution and ended up in jail.

CHAIR FRENCH closed public testimony and held HB 6 in committee.

[3:07:41 PM](#)

There being no further business to come before the committee, Chair French adjourned the Senate Judiciary Standing Committee at 3:07 p.m.