

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

March 8, 2010

1:58 p.m.

MEMBERS PRESENT

Senator Hollis French, Chair
Senator Bill Wielechowski, Vice Chair
Senator Dennis Egan
Senator Lesil McGuire
Senator John Coghill

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 209

"An Act providing the Alaska State Council on the Arts the authority to adopt regulations relating to its statutory powers and duties; and providing for an effective date."

- MOVED SB 209 OUT OF COMMITTEE

SENATE BILL NO. 260

"An Act relating to electronic voting procedures for electric and telephone cooperatives; and providing for an effective date."

- MOVED CSSB 260(JUD) OUT OF COMMITTEE

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."

- MOVED SCS CSHB 6(JUD)

SENATE BILL NO. 202

"An Act relating to the commission of a crime when the defendant directed the conduct constituting the crime at the victim based

on the victim's race, sex, color, creed, physical or mental disability, sexual orientation, ancestry, or national origin."

- HEARD AND HELD

SENATE BILL NO. 284

"An Act relating to state election campaigns, the duties of the Alaska Public Offices Commission, the reporting and disclosure of expenditures and independent expenditures, the filing of reports, and the identification of certain communications in state election campaigns; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 209

SHORT TITLE: STATE COUNCIL ON THE ARTS; REGULATIONS

SPONSOR(s): SENATOR(s) MENARD

01/19/10	(S)	PREFILE RELEASED 1/8/10
01/19/10	(S)	READ THE FIRST TIME - REFERRALS
01/19/10	(S)	EDC, JUD
02/12/10	(S)	EDC AT 8:00 AM BELTZ 105 (TSBldg)
02/12/10	(S)	Moved SB 209 Out of Committee
02/12/10	(S)	MINUTE(EDC)
02/17/10	(S)	EDC RPT 5DP
02/17/10	(S)	DP: THOMAS, MEYER, DAVIS, STEVENS, HUGGINS
02/24/10	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/24/10	(S)	<Bill Hearing Postponed>
03/01/10	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/01/10	(S)	Heard & Held
03/01/10	(S)	MINUTE(JUD)
03/08/10	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 260

SHORT TITLE: ELECTRIC & TELEPHONE COOPERATIVES' VOTING

SPONSOR(s): STATE AFFAIRS

02/05/10	(S)	READ THE FIRST TIME - REFERRALS
02/05/10	(S)	STA, JUD
02/18/10	(S)	STA RPT 3DP
02/18/10	(S)	DP: MENARD, FRENCH, MEYER
02/18/10	(S)	STA AT 9:00 AM BELTZ 105 (TSBldg)
02/18/10	(S)	Moved SB 260 Out of Committee
02/18/10	(S)	MINUTE(STA)

03/01/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/01/10 (S) Heard & Held
03/01/10 (S) MINUTE(JUD)
03/08/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 214

SHORT TITLE: CRUELTY TO ANIMALS

SPONSOR(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)
02/12/10 (S) Heard & Held
02/12/10 (S) MINUTE(JUD)

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)
02/12/10 (S) Heard & Held
02/12/10 (S) MINUTE(JUD)

BILL: SB 202

SHORT TITLE: HATE CRIMES

SPONSOR(s): DAVIS

01/19/10 (S) PREFILE RELEASED 1/8/10
01/19/10 (S) READ THE FIRST TIME - REFERRALS
01/19/10 (S) JUD, FIN
03/08/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 284

SHORT TITLE: CAMPAIGN EXPENDITURES

SPONSOR(s): JUDICIARY

02/19/10 (S) READ THE FIRST TIME - REFERRALS
02/19/10 (S) STA, JUD
03/02/10 (S) STA RPT 5DP
03/02/10 (S) DP: MENARD, FRENCH, MEYER, PASKVAN,
KOOKESH
03/02/10 (S) FIN REFERRAL ADDED
03/02/10 (S) STA AT 9:00 AM BELTZ 105 (TSBldg)
03/02/10 (S) Moved SB 284 Out of Committee
03/02/10 (S) MINUTE(STA)
03/08/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

SENATOR BETTYE DAVIS
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of SB 202.

THOMAS OBERMEYER, Staff
to Senator Davis
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Introduced SB 202 on behalf of the sponsor.

J. KATE BURKHART, Executive Director
Alaska Mental Health Board
Juneau, AK

POSITION STATEMENT: Testified in support of SB 202.

MARSHA BUCK, board member
Alaskans Together for Equality, Inc.
Juneau, AK

POSITION STATEMENT: Testified in support of SB 202.

KELLI BURKINSHAW, representing herself and
Alaskans Together for Equality, Inc

Juneau, AK

POSITION STATEMENT: Testified in support of SB 202.

JEFF JESSEE, CEO
Alaska Mental Health Trust Authority
Department of Revenue (DOR)
Anchorage, AK

POSITION STATEMENT: Testified in support of SB 202.

DAVID EASTMAN, representing himself

POSITION STATEMENT: Testified in opposition to SB 202.

QUINLAN STEINER, Public Defender
Public Defender Agency
Department of Administration
Anchorage, AK

POSITION STATEMENT: Pointed out drafting concerns related to SB 202.

JEFFERY MITTMAN, Executive Director
ACLU of Alaska
Anchorage, AK

POSITION STATEMENT: Testified in support of SB 202.

MATT WALLACE, Executive Director
Alaska Public Interest Research Group (AKPIRG)
Anchorage, AK

POSITION STATEMENT: Testified in support of SB 284.

MARILYN RUSSELL, President
League of Women Voters of Alaska
Fairbanks, AK

POSITION STATEMENT: Testified in support of SB 284.

SHELLY MORGAN, staff
to Senator Wielechowski
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Explained the conjoining of HB 6 and SB 214.

MICHAEL SICA, staff
to Representative Bob Lynn
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Testified that Representative Lynn supports the Senate CS for HB 6.

REPRESENTATIVE BOB LYNN,
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of HB 6.

ACTION NARRATIVE

[1:58:29 PM](#)

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

SB 209-STATE COUNCIL ON THE ARTS; REGULATIONS

[1:58:45 PM](#)

CHAIR FRENCH announced the consideration of SB 209. It was heard previously and public testimony was taken.

[1:59:13 PM](#)

SENATOR WIELECHOWSKI joined the committee.

SENATOR EGAN moved to report SB 209 from committee with individual recommendations and attached fiscal note(s). There being no objection, SB 209 moved from the Senate Judiciary Standing Committee.

At ease from 1:59 p.m. to 2:00 p.m.

SB 260-ELECTRIC & TELEPHONE COOPERATIVES' VOTING

[2:00:26 PM](#)

CHAIR FRENCH announced the consideration of SB 260. It was heard previously. He informed the committee that he prepared an amendment, which would ensure that co-ops that choose to do electronic voting also offer some other method. This is to accommodate members who do not have access to computers.

CHAIR FRENCH moved Amendment 1, labeled 26-LS1359\R.1.

A M E N D M E N T 1

OFFERED IN THE SENATE
TO: SB 260

BY SENATOR FRENCH

Page 1, line 9, following "cooperative":

Insert ", except that electronic transmission may not be the only allowed option for voting"

Page 2, line 18, following "cooperative":

Insert ", except that electronic transmission may not be the only allowed option for voting"

Page 3, line 3, following "cooperative":

Insert ", except that electronic transmission may not be the only allowed option for voting"

CHAIR FRENCH found no objection and announced that Amendment 1 is adopted.

[2:01:36 PM](#)

SENATOR WIELECHOWSKI moved to report SB 260, as amended, from committee with individual recommendations and attached fiscal note(s). There being no objection, CSSB 260(JUD) moved from the Senate Judiciary Standing Committee.

At ease from 2:01 p.m. to 2:02 p.m.

HB 6-CRUELTY TO ANIMALS
SB 214-CRUELTY TO ANIMALS

[2:02:46 PM](#)

CHAIR FRENCH announced the consideration of HB 6 and SB 214. He relayed that the prime sponsors have been in discussion and have agreed on a Senate committee substitute for HB 6.

[2:03:40 PM](#)

SENATOR MCGUIRE joined the committee.

SENATOR WIELECHOWSKI moved to adopt work draft Senate CS for CS for HB 6, labeled 26-LS0022\S, as the working document.

SENATOR COGHILL objected for an explanation.

SHELLY MORGAN, staff to Senator Wielechowski, explained that the Senate CS amends HB 6 to also include the language from SB 214. Both bills contain language pertaining to acts of animal cruelty and both propose to amend the same statute. The combined bills would strengthen the punishment for animal cruelty while ensuring that violent acts of bestiality are punishable by law.

MS. MORGAN noted there is an amendment for the committee to consider, which would make violent crimes against both people and animals aggravating factors at sentencing. This will provide

an additional tool to make it more difficult for repeat offenders of violent crimes to plea down their punishment.

CHAIR FRENCH asked Mr. Sica if he agrees with the representations Ms. Morgan made with respect to the conjoining of the bills.

MICHAEL SICA, staff to Representative Bob Lynn, sponsor of HB 6, said Representative Lynn supports this.

2:06:03 PM

SENATOR COGHILL asked for a more extensive explanation of the new language and statutory references in Section 3, AS 11.61.140(g).

MS. MORGAN explained that with the exception of paragraphs 6 and 7 they come from SB 214, which creates an animal cruelty provision for knowingly inflicting severe and prolonged pain or suffering on an animal and for killing or injuring an animal by use of a decompression chamber or poison. In comparison, the penalty for the serious injury of a person is typically a class A or class B felony. The penalty for poisoning a person to death 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 and knowingly killing or injuring an animal with the intent to intimidate, threaten, or terrorize another person.

These penalties have been merged into HB 6 with the added provision creating a class A misdemeanor for the first offense and a class C felony for the second offense within ten years for knowingly engaging in sexual conduct with an animal. In comparison, negligent child endangerment would be a class C felony, stalking is a class A misdemeanor on the first offense and a class C felony on the second offense. There are varying arrays of sexual abuse of a minor. Sexual abuse of a minor in the fourth degree is a class A misdemeanor, in the third degree it's a class C felony, and if you go up to a first degree offense it would be an unclassified felony.

In nearly all of these provisions, the penalties for crimes inflicted on humans are much greater than the penalties for crimes inflicted on animals, she said. However, the penalties for stalking are the same as that for knowingly killing or injuring an animal with the intent to intimidate, threaten or terrorize another person because this provision of animal

cruelty is essentially one component of stalking or terrorizing another person.

2:09:19 PM

CHAIR FRENCH clarified that Section 1, pertaining to AS 11.61.140(a), has the different forms of animal cruelty in subsections (a)(1), (a)(3), and (a)(4). They are automatically a class C felony on the first offense. Subsections (a)(2), (a)(5), (a)(6), and (a)(7) list crimes that are an A misdemeanor unless a person has been convicted once before ten years previously.

SENATOR COGHILL said he assumes that a fourth degree assault would be a misdemeanor.

CHAIR FRENCH explained that a fourth degree assault is to recklessly cause physical injury. The misdemeanor assault statute defines physical injury as pain so it's a misdemeanor to causes any kind of pain recklessly.

SENATOR COGHILL said he's just trying to get his feet on the ground on equivalency.

MR. SICA said the animal cruelty statute doesn't talk about any amount of pain; it talks about prolonged pain. A similar offense against a human would bring a much greater penalty.

CHAIR FRENCH agreed; subsection (a)(1) looks like the only analog and would probably be in the higher felony range, he said. He asked Senator Coghill if he maintained his objection to the adoption of the CS.

SENATOR COGHILL said no, but he's concerned that someone could be charged with felonious behavior on an animal while the same behavior on a human might be pled out.

2:12:57 PM

SENATOR WIELECHOWSKI said the penalty for knowingly inflicting severe and prolonged physical pain or suffering on an animal would be the lowest felony possible, whereas it would be at least a class A felony to do the same thing to a human. It would be a class C felony to kill or injure an animal by use of a decompression chamber, whereas it would be an unclassified felony to do that to a human. It would be a class C felony to intentionally kill or injure livestock using poison, whereas it would be an unclassified felony to do the same to a human.

SENATOR COGHILL asked the significance of the decompression chamber.

SENATOR WIELECHOWSKI replied it is language that's been in the statutes for a long time and it's a particularly heinous way to kill an animal. AS 11.61.140(a)(4), which relates to intentionally killing an animal by poison, is similarly old statutory language.

SENATOR COGHILL removed his objection.

CHAIR FRENCH announced that without objection version S Senate CS for HB 6 is before the committee.

[2:14:46 PM](#)

SENATOR WIELECHOWSKI moved Amendment 1, labeled 26-LS0022\S.1. He explained that this is an amendment that was adopted in the House Judiciary Committee. Including it in the conjoined bills maintains parity.

A M E N D M E N T 1

OFFERED IN THE SENATE

TO: SCS CSHB 6(), Draft Version "S"

Page 1, line 1, following "animals":

Insert "**; and relating to aggravating factors at sentencing involving assaultive behavior and cruelty to animals;**"

Page 3, following line 16:

Insert a new bill section to read:

"* **Sec. 5.** AS 12.55.155(c)(8) is amended to read:

(8) the defendant's prior criminal history includes conduct involving aggravated assaultive behavior, [OR] repeated instances of assaultive behavior, repeated instances of cruelty to animals proscribed under AS 11.61.140(a)(1) and (3) - (5), or a combination of assaultive behavior and cruelty to animals proscribed under AS 11.61.140(a)(1) and (3) - (5); in this paragraph, "aggravated assaultive behavior" means assault that is a felony under AS 11.41, or a similar provision in another jurisdiction;

Renumber the following bill section accordingly.

Page 3, line 20, following the first occurrence of
"Act":

Insert ", and to aggravating factors at sentencing
under AS 12.55.155(c)(8) made by sec. 5 of this Act"

CHAIR FRENCH said the amendment is appropriate; inflicting pain and suffering on animals is a highly accurate predictor of people who will be assaultive toward humans.

[2:15:43 PM](#)

REPRESENTATIVE BOB LYNN, sponsor of HB 6, opined that the bills were good individually and he wholeheartedly supports putting them together. It's a good example of the House and Senate working together to craft good legislation that protects both animals and humans.

CHAIR FRENCH thanked Representative Lynn for generously opening his bill to amendments.

REPRESENTATIVE LYNN replied his main concern is to protect the community; animal cruelty is a stair step to crimes against humans.

SENATOR WIELECHOWSKI said he'd like to associate himself with Senator French's comments. He is most appreciative.

SENATOR COGHILL said he agrees that cruelty to animals and the way people sometimes treat one another is egregious. However, this could be misused, he said. For example, we ask soldiers to do things that look cruel and unusual, but there is a purpose. Likewise, we train animals to do specific and noble things that may cause prolonged pain. I would hate for that to be called into question, he cautioned.

[2:18:52 PM](#)

SENATOR WIELECHOWSKI moved to report CS for HB 6, as amended, from committee with individual recommendations and attached fiscal note(s).

At ease

[2:19:31 PM](#)

CHAIR FRENCH reconvened the meeting and noted that a Senate Concurrent Resolution for a title change will move with the bill.

There being no objection, SCS CSHB 6(JUD) moved from the Senate Judiciary Standing Committee.

At ease from 2:19:45 p.m. to 2:21:00 p.m.

SB 202-HATE CRIMES

2:21:11 PM

CHAIR FRENCH announced the consideration of SB 202.

SENATOR BETTYE DAVIS, sponsor of SB 202, said she's not the first to introduce a bill about hate crimes, but she hopes to be the last.

2:22:45 PM

THOMAS OBERMEYER, Staff to Senator Davis, read the following sponsor statement into the record:

SB 202 makes any crime against a person a more serious or aggravated crime if it is motivated by race, sex, color, creed, physical or mental disability, sexual orientation, ancestry, or national origin. Such crimes are referred to as "Hate Crimes." Hate crimes are inchoate offenses which are crimes of preparing for or seeking to commit another crime. Absent a specific law, an inchoate offense requires that the defendant have the specific intent to commit the underlying crime. For example, for a defendant to be guilty of the crime of assault in the third degree, the defendant must place another person in fear of imminent serious physical injury or intentionally or recklessly cause serious injury to another person by means of a dangerous instrument. If this crime was motivated by hatred, bias, or prejudice, under SB 202 it merges into a more serious hate crime and is punished at a higher level than normally would be afforded the underlying offense.

Without creating a new list of "hate crimes" under AS 11.76, new Sec. 11.76.150 simply reclassifies the level of any crime up one notch if motivated by prejudice, bias, or hatred. For example, a class B misdemeanor becomes a class A misdemeanor; a class A misdemeanor becomes a C felony; a class C felony becomes a B felony, etc. Such reclassification, of course, increases the penalties appropriate to the classification in sentencing under AS 12.55.

The need for SB 202 is apparent as incidences of prejudice and crimes against persons regularly continue to occur in Alaska and across the country in our increasingly diverse society. While SB 202 alone cannot eliminate prejudice, bias, or hatred, it will send a message that Alaskans will not tolerate hate crimes in any form, the consequences of which are very severe. When crimes are committed because of our differences, the effects reverberate beyond a single person or group into an entire community, city, state, and society as a whole.

[2:25:10 PM](#)

MR. OBERMEYER pointed out that the bill is targeted at increasing the punishments. He noted that the drafter was available to explain his position as to the concerns raised by the ACLU regarding rights of association, gender identity, and mandatory minimum sentencing.

CHAIR FRENCH asked if the bill is modeled after other hate crime legislation.

MR. OBERMEYER replied the bill uses different language than the federal Mathew Shepherd legislation. It doesn't include the term "gender identity," which may be part of the impetus for the ACLU giving the language in this bill particular scrutiny. Current Alaska statutes and the Alaska Constitution use the words "sex, color, and creed" and there was concern that using language that is different than that might have unintended consequences.

SENATOR WIELECHOWSKI asked if a person could be prosecuted under both state and federal law if this bill were to pass.

MR. OBERMEYER replied his experience is that state law can do more but not less than federal law.

CHAIR FRENCH added that it's not double jeopardy if you're prosecuted by the federal government or the state, even for the same act.

[2:28:15 PM](#)

J. KATE BURKHART, Executive Director, Alaska Mental Health Board (AMHB), explained that AMHB was established in statute to serve in an advisory role for Alaskans who are affected by mental illness. She said she is speaking only for the board members and in favor of SB 202, particularly the provisions that protect

people with physical and mental disabilities. Available research indicates that people with serious mental illness are at great risk of victimization whether it's violent crime upon their person or their property. A 2005 study from Northwestern University found they were 11 times more likely to be the victim of violent crime.

While SB 202 targets those crimes committed because of the victim's disability and not all crimes inflicted on people with disabilities, it goes a long way to help protect the most vulnerable members of the community. It sends a message that crimes committed against people because of their disability are unacceptable and it changes policy by heightening the penalty for these crimes.

[2:31:31 PM](#)

MARSHA BUCK, Board of Directors, Alaskans Together for Equality, Inc., said this is a statewide advocacy organization that was formed to advance civil equality for Alaska's gay, lesbian, bisexual, and transgendered citizens. She related that she serves on the board as a proud mother and grandmother. Her oldest daughter is in a lifelong relationship with another woman and that relationship has given her two grandchildren. She is testifying because she cares deeply about the personal safety of her daughter, her daughter-in-law, and her grandchildren.

MS. BUCK said Alaskans Together for Equality supports SB 202 and its coverage of crimes motivated by prejudice, bias, and hatred based on inherent characteristics with which people are born, like sexual orientation. She said they recognize that hate crimes aren't limited to the gay and lesbian population. Rather, they occur throughout the minority community. The bill emphasizes that Alaska has no tolerance for these acts.

MS. BUCK stated that Alaskans Together for Equality supports SB 202 conditioned on an amendment to include "gender identity and expression" in Sec. 11.76.150(a). Some people may see others as "too masculine" or "too feminine" and that perception may evoke a violent response that results in harm. It doesn't matter that the person who is perceived as different is heterosexual or gay to be a recipient of such a response. We contend that many Alaskans are in jeopardy of gender expression hate crimes, she said. In particular, youths are often subject to bullying based on expression that is different from the fluctuating norm. The term "gender identity" also includes those who are transgender, she said.

[2:35:20 PM](#)

KELLI BURKINSHAW, representing herself and Alaskans Together for Equality, Inc., stated support for SB 202, which is designed to protect the civil rights of individuals who may be targeted for violence or harassment based on who they inherently are due to their race or sexual orientation or membership in a group. She said she appreciates that the bill emphasizes that Alaska has no tolerance for hate crimes, but it leaves out transgender individuals. "It is essential that gender identity be included in this bill," she said. She offered to provide definitions.

[2:36:43 PM](#)

SENATOR MCGUIRE said it would be helpful to get the definitions.

MS. BURKINSHAW explained that "sexual orientation" is the personal and unique way a person perceives his or her sexual desires and expression toward others. It ranges from one of the opposite biological sex and runs along a continuum to someone of the same biological sex. "Gender" is the concept of femininity and masculinity. "Gender identity" is the sense of oneself as a male or a female or anywhere along or outside that continuum. "Sex" refers to biological characteristics a person has at birth so a transgender person is one who identifies their gender perhaps differently than their sex at birth. This bill will protect me as a lesbian and for that I'm happy; but the most painful wounds I carry are based on my gender perception, which is that I was perceived as too masculine as a child, she said. Those wounds last a long time.

"Gender identity is very important and I'm very saddened to know that close to 40 percent - and estimates up to 60 percent - of my transgender brothers and sisters in community have experienced violent reactions. I know what that feels like and I would strongly urge you to include gender identity," she concluded.

[2:40:08 PM](#)

JEFF JESSEE, CEO, Alaska Mental Health Trust Authority (AMHTA), said his testimony is focused on the parts of SB 202 that address hate crimes based on physical or mental disability. He related that many AMHTA beneficiaries are singled out for physical attacks resulting in harm and sometimes death. Clearly, these crimes are damaging to people. He told the committee that he was born with a cleft palate and because of that he was bullied and mocked and physically abused throughout his elementary school years. These bullies grow up and commit hate crimes and this is a time when society needs to stand up and say

hurting people based upon their differences will be an additional penalty. "Both personally and on behalf of the Trust, I urge you to pass this legislation," he said.

DAVID EASTMAN, representing himself, said that for the past six years he has served as a military police officer in Alaska and based on that experience he opposes SB 202. The motives for crime are bad, but the government doesn't need to insert itself; it isn't very effective when it tries to legislate morality. This bill attempts to make some people more equal than others and further politicizes our lives, he said.

[2:46:41 PM](#)

QUINLAN STEINER, Public Defender, Public Defender Agency, Department of Administration, said his comments will focus on practical drafting concerns. The first relates to the use of the phrase "knowingly directed" because use of the word "knowingly" is theoretically inconsistent with the mens rea scheme. You can knowingly have a motive and criminalize that. It's really more along the lines of specific intent but it's hard to distinguish because the concepts differ, he said. The knowing part of the conduct would be the crime itself and motive is more in line with specific intent. By using the word knowingly you'd be confusing the issues and it could be confused as downgrading something you can't theoretically downgrade to a lower mens rea.

A second concern relates to proof. Typically, motive is not a crime and by criminalizing motive, it broadens the proof of a criminal case beyond the act to the person. That creates a significant problem in conducting the trial. Essentially it puts the person's comments and speech and other things they've done throughout their life on trial as a way of proving a specific act. And it could go beyond the act itself and the comments that were made during the act. Together it creates a much broader trial than it usually is in criminal cases.

[2:49:41 PM](#)

CHAIR FRENCH asked Mr. Steiner to send his specific drafting suggestions to his office.

SENATOR COGHILL mentioned the relatively new aggravator in AS 12.55.155(c)(22) and said he'd be interested in knowing how often it's been applied because it seems that the same questions would apply. The language isn't exactly the same but the personal motive is more at issue than the act under that aggravator.

CHAIR FRENCH asked Ms. Carpeneti to respond to that question at a future hearing.

[2:51:12 PM](#)

JEFFERY MITTMAN, Executive Director, ACLU of Alaska, said the ACLU of Alaska thinks it's important for the State of Alaska to go on record stating that all its citizens should be protected from targeted acts of hatred and violence. He emphasized the importance of adding the phrase "gender identity" to the bill because there is statistical evidence that individuals are targeted for their race, gender, religion, sexual orientation and gender identity. Individuals are attacked for being different and it's important for them to understand that they are protected.

At the same time, there are protected associational and free speech rights that must be recognized. A person can be punished for the act of attacking a transgender or gay person, but they should not be prosecuted based on their association, their membership, or their past statements. A person has the right to hold their beliefs and they shouldn't be punished for them. Based on that, the ACLU asks that language be added to the bill that specifically states that at trial evidence should be introduced that directly relates to the crime, but not merely as associational or First Amendment rights.

[2:53:32 PM](#)

CHAIR FRENCH closed public testimony and announced he would hold SB 202 in committee.

SB 284-CAMPAIGN EXPENDITURES

[2:54:16 PM](#)

CHAIR FRENCH announced the consideration of SB 284. He related that it is a judiciary committee bill and is in response to the recent U.S. Supreme Court decision that opens what some feel are the floodgates with respect to independent expenditures for and against candidates. Because Alaska has had a complete ban on corporate spending in elections, the statutes are largely silent with respect to whether a corporation reports and how it discloses expenditures.

He described sections 2 and 4 as the meat of bill. Section 4 deals with disclosures to APOC about expenditures that have been made for and against a candidate. Section 11 deals with disclaimers or placing words in the advertisements to tell the public who is paying for the communication.

2:56:03 PM

SENATOR COGHILL said he likes many things in the bill, but he'd like to challenge some. He asked if the best way to do that is by an amendment.

CHAIR FRENCH said yes. He noted that Mr. Bullard, the drafter, Mr. Ptacin with the Department of Law, and Ms. Hill with the Alaska Public Offices Commission were available to answer questions. He opened public testimony.

2:56:39 PM

MATT WALLACE, Executive Director, Alaska Public Interest Research Group (AKPIRG), stated support for SB 284. He said that although the recent U.S. Supreme Court decision didn't invent the problem of big money influence in politics, it did make the problem worse by opening the floodgates for independent expenditures in elections. Ultimately, aggressive federal action may be needed to address the systemic problems in campaign finance and big money influence, he opined. We at AKPIRG certainly think there is a lot that can be done at the state and federal level to mitigate the influence of the decision, he said. SB 284 is a piece of much-needed legislation that would help to mitigate unlimited corporate and union spending in elections.

MR. WALLACE said AKPIRG is particularly pleased that the bill requires significant disclaimers for independent expenditures in campaign ads. Where many are familiar with the negative political ads that are paid for by an innocuous sounding front-group, the bill notably would require that the top five contributors for those front groups be disclosed. This is in addition to the very laudable reporting requirements that are also included in the legislation, he said.

2:59:15 PM

MARILYN RUSSELL, President, League of Women Voters (LWV) of Alaska, said the league supports SB 284 because it believes that the goals of the campaign system should be:

1. To ensure the public's right to know;
 2. To combat corruption and undue influence;
 3. To enable candidates to compete more equitably for public office; and
 4. To promote citizen participation in the political process.
- Polls show that 8 of 10 support disclosure and disclaimer.

MS. RUSSELL reported that the League of Women Voters filed a brief in support of the provisions in McCain Feingold to restrict corporate participation in elections and was disappointed in the recent court decision. In light of the decision, it is vital to amend Alaska's campaign laws to require full disclosure of campaign contributions by corporations and labor unions because they aren't covered under the state's existing disclosure and disclaimer laws. The league has long supported public disclosure of campaign contributions of money, goods, and services believing that citizens should know who is spending money supporting or opposing candidates and ballot issues. This information should be part of the communication itself like all other campaign communications. Alaska's reporting laws simply must be amended before the upcoming primary election, she concluded.

CHAIR FRENCH closed public testimony and announced he would hold SB 284 in committee for further work.

3:02:07 PM

There being no further business to come before the committee, Chair French adjourned the meeting at 3:02 p.m.