

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

April 12, 2010

1:35 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Hollis French, Chair

COMMITTEE CALENDAR

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 287(JUD)

"An Act relating to the adoption of the Uniform Disclaimer of Property Interests Act, and to the disclaimer of property rights under the Uniform Probate Code."

- MOVED CSHB 287(JUD) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 355(JUD)

"An Act relating to criminal fines for organizations."

- MOVED CSSB 355(JUD) OUT OF COMMITTEE

SENATE BILL NO. 46

"An Act relating to child support awards made by a court; and repealing Rule 90.3, Alaska Rules of Civil Procedure."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 287

SHORT TITLE: UNIFORM ACT: PROPERTY INTEREST DISCLAIMER

SPONSOR(S): REPRESENTATIVE(S) RAMRAS, GRUENBERG

01/15/10	(H)	PREFILE RELEASED 1/15/10
01/19/10	(H)	READ THE FIRST TIME - REFERRALS
01/19/10	(H)	L&C, JUD
03/01/10	(H)	L&C AT 3:15 PM BARNES 124
03/01/10	(H)	Moved Out of Committee

03/01/10 (H) MINUTE(L&C)
 03/04/10 (H) L&C RPT 1DP 4NR
 03/04/10 (H) DP: LYNN
 03/04/10 (H) NR: BUCH, CHENAULT, T.WILSON, OLSON
 03/11/10 (H) JUD AT 1:00 PM CAPITOL 120
 03/11/10 (H) <Bill Hearing Canceled>
 03/17/10 (H) JUD AT 1:00 PM CAPITOL 120
 03/17/10 (H) Moved CSHB 287(JUD) Out of Committee
 03/17/10 (H) MINUTE(JUD)
 03/19/10 (H) JUD RPT CS(JUD) 7DP
 03/19/10 (H) DP: LYNN, GRUENBERG, HERRON, DAHLSTROM,
 HOLMES, GATTO, RAMRAS
 03/23/10 (H) TRANSMITTED TO (S)
 03/23/10 (H) VERSION: CSHB 287(JUD)
 03/24/10 (S) READ THE FIRST TIME - REFERRALS
 03/24/10 (S) L&C, JUD
 04/06/10 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
 04/06/10 (S) Moved HB 287 Out of Committee
 04/06/10 (S) MINUTE(L&C)
 04/07/10 (S) L&C RPT 4DP
 04/07/10 (S) DP: PASKVAN, BUNDE, THOMAS, MEYER
 04/09/10 (S) JUD AT 8:30 AM BUTROVICH 205
 04/09/10 (S) Heard & Held
 04/09/10 (S) MINUTE(JUD)

BILL: HB 355

SHORT TITLE: CRIMINAL FINES FOR ORGANIZATIONS

SPONSOR(s): REPRESENTATIVE(s) GRUENBERG

02/19/10 (H) READ THE FIRST TIME - REFERRALS
 02/19/10 (H) JUD, FIN
 03/10/10 (H) JUD AT 1:00 PM CAPITOL 120
 03/10/10 (H) Heard & Held
 03/10/10 (H) MINUTE(JUD)
 03/11/10 (H) JUD AT 1:00 PM CAPITOL 120
 03/11/10 (H) Heard & Held
 03/11/10 (H) MINUTE(JUD)
 03/15/10 (H) JUD AT 1:00 PM CAPITOL 120
 03/15/10 (H) Moved CSHB 355(JUD) Out of Committee
 03/15/10 (H) MINUTE(JUD)
 03/17/10 (H) JUD RPT CS(JUD) 6DP
 03/17/10 (H) DP: LYNN, GRUENBERG, DAHLSTROM, HOLMES,
 GATTO, RAMRAS
 04/02/10 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 04/02/10 (H) Moved CSHB 355(JUD) Out of Committee
 04/02/10 (H) MINUTE(FIN)
 04/05/10 (H) FIN RPT CS(JUD) 4DP 3NR

04/05/10 (H) DP: THOMAS, GARA, DOOGAN, N.FOSTER
 04/05/10 (H) NR: KELLY, FAIRCLOUGH, STOLTZE
 04/07/10 (H) TRANSMITTED TO (S)
 04/07/10 (H) VERSION: CSHB 355(JUD)
 04/08/10 (S) READ THE FIRST TIME - REFERRALS
 04/08/10 (S) JUD
 04/09/10 (S) JUD AT 8:30 AM BUTROVICH 205
 04/09/10 (S) Heard & Held
 04/09/10 (S) MINUTE(JUD)

BILL: SB 46

SHORT TITLE: CHILD SUPPORT AWARDS

SPONSOR(s): SENATOR(s) KOOKESH

01/21/09 (S) PREFILE RELEASED 1/9/09
 01/21/09 (S) READ THE FIRST TIME - REFERRALS
 01/21/09 (S) HSS, JUD, FIN
 03/01/10 (S) HSS AT 1:30 PM BUTROVICH 205
 03/01/10 (S) Heard & Held
 03/01/10 (S) MINUTE(HSS)
 03/10/10 (S) HSS AT 1:30 PM BELTZ 105 (TSBldg)
 03/10/10 (S) Moved CSSB 46(HSS) Out of Committee
 03/10/10 (S) MINUTE(HSS)
 03/12/10 (S) HSS RPT CS 5DP NEW TITLE
 03/12/10 (S) DP: DAVIS, THOMAS, ELLIS, PASKVAN,
 DYSON
 03/24/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/24/10 (S) Heard & Held
 03/24/10 (S) MINUTE(JUD)
 04/12/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

GRETCHEN STAFT, staff

to Representative Max Gruenberg
 Alaska State Legislature
 Juneau, AK

POSITION STATEMENT: Was available to respond to questions on HB 287 and HB 355.

DOROTHY SHOCKLEY, staff

to Senator Albert Kookesh
 Alaska State Legislature
 Juneau, AK

POSITION STATEMENT: Explained the changes in the CS for SB 46.

ALLEN BAILEY, Attorney

Anchorage, AK

POSITION STATEMENT: Testified in opposition to SB 46.

ACTION NARRATIVE

[1:35:35 PM](#)

VICE-CHAIR BILL WIELECHOWSKI called the Senate Judiciary Standing Committee meeting to order at 1:35 p.m. Present at the call to order were Senators Egan, Coghill and Wielechowski.

HB 287-UNIFORM ACT: PROPERTY INTEREST DISCLAIMER

VICE-CHAIR WIELECHOWSKI announced the consideration of HB 287. It was heard previously. [CSHB 287(JUD) was before the committee.]

[1:36:10 PM](#)

GRETCHEN STAFT, staff to Representative Max Gruenberg, offered to answer questions related to HB 287.

SENATOR EGAN moved to report CSHB 287(JUD) from committee with individual recommendations and attached fiscal note(s). There being no objection, it was so ordered.

HB 355-CRIMINAL FINES FOR ORGANIZATIONS

VICE-CHAIR WIELECHOWSKI announced the consideration of HB 355. [CSHB 355(JUD) was before the committee.]

[1:37:24 PM](#)

GRETCEHN STAFT, staff to Representative Max Gruenberg, offered to answer questions related to HB 355.

SENATOR COGHILL asked how often the court had imposed the maximum fine.

MS. STAFT replied the Department of Law (DOL) doesn't keep that data, but Ms. Carpeneti provided several examples when the statute was used. The first was a Green Peace case where the charge was criminal trespass and the fine was \$10,000. Another case involved liquor importation by Ambler Air. That fine was \$85,000. The third case involved Strategica Import-Export.

[1:39:41 PM](#)

SENATOR COGHILL asked if the sentence in the Ambler Air case was a class A misdemeanor.

MS. STAFF replied it was a misdemeanor, but she didn't know the level.

SENATOR COGHILL said he didn't expect answers now, but before the bill reached the floor he'd like: 1) examples when the fines for B misdemeanor and A felony offenses that were close to the maximum; 2) to know if anyone had looked at how this might impact the charging mechanism; and 3) information on the correlation between this and civil liability.

SENATOR MCGUIRE joined the committee.

MS. STAFF recalled that the Ambler Air offense was a class A misdemeanor and said it's her understanding that the statute isn't used very often because many of these cases are negotiated. The main function of this bill would be to let corporations know what the bottom line would be when they're negotiating, she said.

[1:43:20 PM](#)

SENATOR COGHILL said he just wanted to know what affect this will have on bargaining and the fallout in civil liability.

VICE-CHAIR WIELECHOWSKI asked if he would object to moving the bill from committee.

SENATOR COGHILL said he didn't mind, but he wants clarification before he casts his vote on the floor.

VICE-CHAIR WIELECHOWSKI asked Ms. Staff to facilitate the work between the two offices and the Department of Law.

MS. STAFF agreed to do so.

[1:45:00 PM](#)

SENATOR EGAN moved to report CSHB 355(JUD) from committee with individual recommendations and attached fiscal note(s). There being no objection, CSHB 355(JUD) moved from the Senate Judiciary Standing Committee.

SB 46-CHILD SUPPORT AWARDS

VICE-CHAIR WIELECHOWSKI announced the consideration of SB 46. The bill was heard previously. [CSSB 46(HSS) was before the committee.

[1:45:20 PM](#)

DOROTHY SHOCKLEY, staff to Senator Albert Kookesh, introduced herself and noted there was a new committee substitute (CS) for the committee to consider.

VICE-CHAIR WIELECHOWSKI said he'd take public testimony while the CS was copied and distributed.

ALLEN BAILEY, Attorney, Anchorage, said he's been a family attorney for about 26 years. He is chair of the child custody committee of the American Bar Association (ABA) family law section, and a former member of the ABA Commission on Domestic Violence. He said he is representing himself as a family lawyer whose practice consists primarily of child custody cases most of which are related to violent relationships. He told the committee that before getting Civil Rule 90.3, the practice of family law frequently consisted of primary parents effectively agreeing to receive lower child support in order to continue to provide care for their children. At the same time, there were parents who were willing to sell their time with their children in exchange for lower amounts of child support. That is not good public policy, he said.

[1:48:58 PM](#)

He related that his experience in 36 years of drafting legislation is that some people for selfish purposes attempt to modify state laws to benefit themselves and others like them in a manner that is a disadvantage to others. The problem with making a statute of what now embodies Alaska Civil Rule 90.3 is that the rule would be subject to the vagaries of the political process.

VICE-CHAIR WIELECHOWSKI assured him that that was not the sponsor's intent.

SENATOR COGHILL asked him to tell the committee about the rule-making process in the court.

MR. BAILY said his understanding is that the Alaska Supreme Court justices appoint a committee to make recommendations as to prospective changes in the court's rule. Most of the appointees are attorneys who are expert in the area of child custody and child support litigation. He said it's been his experience that the change process in the Alaska Civil Rules is much more finely tuned than the change process in some legislation.

[1:53:56 PM](#)

SENATOR COGHILL said he agrees that they are two very different bodies that both make policy so there will always be a tension, but the Constitution gives primary authority of making laws to the Legislature. He appreciates that the court sees how the law interacts at the practical level, but the court also has its own internal politics.

VICE-CHAIR WIELECHOWSKI asked for a motion to adopt the new committee substitute (CS).

[1:55:49 PM](#)

SENATOR COGHILL moved to adopt CS for SB 46, labeled 26-LS0279\T, as the working document.

VICE-CHAIR WIELECHOWSKI objected for discussion purposes and asked Ms. Shockley to explain the changes.

MS. SHOCKLEY said on page 6, lines 24-25 and again on line 27, the phrase "and cash medical support" was deleted. On page 7, line 20, the phrase "For purpose of establishing a monthly support obligation for healthcare expenses," was inserted. The rest of subsection (e) remains the same. On page 7, line [29], "medical cost" was deleted and "health care expenses" was inserted.

Page 8, line [4], following "oath" the phrase "accompanied by documentation verifying the statement" was inserted; page 8, line 6, following "This statement" the phrase "and documentation" was inserted; and page 8, line 9, a period was placed after the word "modify" and the phrase "and must be accompanied by documentation verifying the income." was deleted.

[1:58:25 PM](#)

Page 9, line [2], "court" was deleted and "tribunal" was inserted. Page 10, line 15, "tribunal." was deleted and "court." was inserted. Page 10, line 13, following the word "all" the word "court" was inserted.

VICE-CHAIR WIELECHOWSKI asked if these are technical changes.

MS. SHOCKLEY answered yes.

VICE-CHAIR WIELECHOWSKI closed public testimony and announced he would hold SB 48 in committee.

[2:02:24 PM](#)

There being no further business to come before the committee,
Vice-Chair Wielechowski adjourned the meeting at 2:02 p.m.