

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

February 10, 2012

1:05 p.m.

**MEMBERS PRESENT**

Representative Carl Gatto, Chair  
Representative Wes Keller  
Representative Bob Lynn  
Representative Lance Pruitt  
Representative Max Gruenberg  
Representative Lindsey Holmes

**MEMBERS ABSENT**

Representative Steve Thompson, Vice Chair  
Representative Mike Chenault (alternate)

**COMMITTEE CALENDAR**

HOUSE BILL NO. 255

"An Act prohibiting the driver of a motor vehicle from reading or typing a text message or other nonvoice message or communication on a cellular telephone, computer, or personal data assistant while driving a motor vehicle."

- MOVED CSHB 255(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 299

"An Act allowing appropriations to the civil legal services fund from court filing fees."

- MOVED CSHB 299(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 303

"An Act relating to suspended imposition of sentence for certain criminal offences."

- HEARD & HELD

HOUSE BILL NO. 216

"An Act relating to deadlines in bills directing the adoption of regulations and to the informative summary required for the proposed adoption, amendment, or repeal of a regulation."

- HEARD & HELD

HOUSE BILL NO. 296

"An Act relating to service of process on prisoners; relating to the crime of escape; relating to the definition of 'correctional facility'; amending Rule 4, Alaska Rules of Civil Procedure; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 255

SHORT TITLE: READING OR TYPING MESSAGE WHILE DRIVING

SPONSOR(S): REPRESENTATIVE(S) GARA, THOMAS, GATTO, P.WILSON, GRUENBERG, TUCK

01/17/12	(H)	PREFILE RELEASED 1/6/12
01/17/12	(H)	READ THE FIRST TIME - REFERRALS
01/17/12	(H)	TRA, JUD, FIN
01/26/12	(H)	TRA AT 1:00 PM CAPITOL 17
01/26/12	(H)	Moved Out of Committee
01/26/12	(H)	MINUTE(TRA)
01/27/12	(H)	TRA RPT 5DP
01/27/12	(H)	DP: FEIGE, PRUITT, PETERSEN, GRUENBERG, P.WILSON
02/08/12	(H)	JUD AT 1:00 PM CAPITOL 120
02/08/12	(H)	Heard & Held
02/08/12	(H)	MINUTE(JUD)
02/10/12	(H)	JUD AT 1:00 PM CAPITOL 120

BILL: HB 299

SHORT TITLE: CIVIL LEGAL SERVICES FUND

SPONSOR(S): REPRESENTATIVE(S) THOMPSON

01/27/12	(H)	READ THE FIRST TIME - REFERRALS
01/27/12	(H)	JUD, FIN
02/08/12	(H)	JUD AT 1:00 PM CAPITOL 120
02/08/12	(H)	<Bill Held Over to 2/10/12>
02/10/12	(H)	JUD AT 1:00 PM CAPITOL 120

BILL: HB 303

SHORT TITLE: SUSPENDED IMPOSITION OF SENTENCE

SPONSOR(S): REPRESENTATIVE(S) GARA

01/27/12	(H)	READ THE FIRST TIME - REFERRALS
01/27/12	(H)	JUD
02/08/12	(H)	JUD AT 1:00 PM CAPITOL 120

02/08/12 (H) <Bill Held Over to 2/10/12>  
02/10/12 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 216

SHORT TITLE: REGULATIONS: INFORMATIVE SUMMARY/BILLS

SPONSOR(S): REPRESENTATIVE(S) P.WILSON

03/30/11 (H) READ THE FIRST TIME - REFERRALS  
03/30/11 (H) STA, JUD  
04/12/11 (H) STA AT 8:00 AM CAPITOL 106  
04/12/11 (H) Heard & Held  
04/12/11 (H) MINUTE(STA)  
01/19/12 (H) STA AT 8:00 AM CAPITOL 106  
01/19/12 (H) Moved CSHB 216(STA) Out of Committee  
01/19/12 (H) MINUTE(STA)  
01/20/12 (H) STA RPT CS(STA) 2DP 4AM  
01/20/12 (H) DP: P.WILSON, LYNN  
01/20/12 (H) AM: KELLER, GRUENBERG, SEATON, PETERSEN  
01/23/12 (H) FIN REFERRAL ADDED AFTER JUD  
01/30/12 (H) JUD AT 1:00 PM CAPITOL 120  
01/30/12 (H) Heard & Held  
01/30/12 (H) MINUTE(JUD)  
02/03/12 (H) JUD AT 1:00 PM CAPITOL 120  
02/03/12 (H) Heard & Held  
02/03/12 (H) MINUTE(JUD)  
02/10/12 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 296

SHORT TITLE: CRIME OF ESCAPE/DEF. OF CORRECT. FACILITY

SPONSOR(S): JUDICIARY

01/25/12 (H) READ THE FIRST TIME - REFERRALS  
01/25/12 (H) JUD, FIN  
02/01/12 (H) JUD AT 1:00 PM CAPITOL 120  
02/01/12 (H) Heard & Held  
02/01/12 (H) MINUTE(JUD)  
02/10/12 (H) JUD AT 1:00 PM CAPITOL 120

**WITNESS REGISTER**

MARY MILLER, Director  
Tribal Transportation Department  
Central Council of the Tlingit and Haida Indian Tribes of Alaska  
(CCTHITA)  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 255.

RICHARD SVOBODNY, Deputy Attorney General  
Central Office  
Criminal Division  
Department of Law (DOL)  
Juneau, Alaska

**POSITION STATEMENT:** Responded to a question during discussion of HB 255.

THOMAS STUDLER, Staff  
Representative Steve Thompson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 299 on behalf of the sponsor, Representative Thompson.

NIKOLE M. NELSON, Executive Director  
Alaska Legal Services Corporation (ALSC)  
Anchorage, Alaska

**POSITION STATEMENT:** Responded to questions and provided comments during discussion of HB 299.

RICHARD ALLEN, Director  
Anchorage Office  
Office of Public Advocacy (OPA)  
Department of Administration (DOA)  
Anchorage, Alaska

**POSITION STATEMENT:** Provided comments during discussion of HB 299.

QUINLAN STEINER, Director  
Central Office  
Public Defender Agency (PDA)  
Department of Administration (DOA)  
Anchorage, Alaska

**POSITION STATEMENT:** Provided a comment during discussion of HB 299.

MONICA LOONEY  
Anchorage, Alaska

**POSITION STATEMENT:** Provided comments during discussion of HB 299.

MICHELE SHARPE  
(No address provided)

**POSITION STATEMENT:** Provided comments during discussion of HB 299.

J. KATE BURKHART, Executive Director  
Alaska Mental Health Board  
Division of Behavioral Health (DBH)  
Department of Health and Social Services (DHSS)  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of the passage of HB 299.

MARIE DARLIN, Coordinator  
AARP Capital City Task Force  
Juneau, Alaska

**POSITION STATEMENT:** During discussion of HB 299, provided comments, and asked the committee to support the bill's proposal.

REPRESENTATIVE LES GARA  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of HB 303.

REPRESENTATIVE PEGGY WILSON  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of HB 216.

DOUGLAS GARDNER, Director  
Legal Services  
Legislative Legal and Research Services  
Legislative Affairs Agency (LAA)  
Juneau, Alaska

**POSITION STATEMENT:** As the drafter, responded to questions during discussion of HB 296.

#### **ACTION NARRATIVE**

[1:05:48 PM](#)

**CHAIR CARL GATTO** called the House Judiciary Standing Committee meeting to order at 1:05 p.m. Representatives Gatto, Holmes, Lynn, and Keller were present at the call to order. Representatives Pruitt and Gruenberg arrived as the meeting was in progress.

#### **HB 255 - READING OR TYPING MESSAGE WHILE DRIVING**

[1:06:28 PM](#)

CHAIR GATTO announced that the first order of business would be HOUSE BILL NO. 255, "An Act prohibiting the driver of a motor vehicle from reading or typing a text message or other nonvoice message or communication on a cellular telephone, computer, or personal data assistant while driving a motor vehicle." [Before the committee was a proposed committee substitute (CS) for HB 255, Version 27-LS1165\D, Gardner, 2/2/12, which had been adopted as the work draft and amended on 2/8/12; included in members' packets was a new proposed CS for HB 255, Version 27-LS1165\X, Gardner, 2/8/12.]

CHAIR GATTO mentioned that a forthcoming amendment in members' packets addresses a definition in the bill.

[1:07:44 PM](#)

REPRESENTATIVE HOLMES moved to adopt the proposed committee substitute (CS) for HB 255, Version 27-LS1165\X, Gardner, 2/8/12, as the working document.

REPRESENTATIVE KELLER objected for the purpose of discussion.

REPRESENTATIVE HOLMES explained that Version X incorporates the amendments that were adopted during the bill's previous hearing.

REPRESENTATIVE KELLER removed his objection.

CHAIR GATTO, remarking that there were no further objections, announced that Version X was before the committee.

[1:08:39 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 1, labeled 27-LS1165\X.1, Finley/Gardner, 2/9/12, which read:

Page 3, line 13, following "vehicle":

Insert ", whether removable or permanently installed,"

Page 3, line 17:

Delete "(1)"

Page 3, lines 18 - 20:

Delete ";  
(2) "installed" means equipment in an emergency vehicle, whether permanent or removable"

REPRESENTATIVE HOLMES objected for the purpose of discussion.

REPRESENTATIVE GRUENBERG referred to an accompanying memorandum in members' packets from Legislative Legal and Research Services dated February 9, 2012, and indicated that Amendment 1 would clarify the language [of Version X's proposed AS 28.35.161(d)]. Representative Gruenberg offered his understanding that Representative Gara, [one of HB 255's joint prime sponsors,] is amenable to the adoption of Amendment 1.

CHAIR GATTO indicated that Amendment 1 would clarify that proposed AS 28.35.161(d)'s exemption for equipment in emergency vehicles applies to all [authorized] equipment regardless of whether it is permanently installed.

REPRESENTATIVE HOLMES removed her objection.

CHAIR GATTO, after ascertaining that there were no further objections, announced that Amendment 1 was adopted.

[1:11:42 PM](#)

MARY MILLER, Director, Tribal Transportation Department, Central Council of the Tlingit and Haida Indian Tribes of Alaska (CCTHITA), relayed simply that the CCTHITA supports HB 255 and the intent to provide greater safety for the public with regard to driving and driver attention, supporting those things that will improve public safety on Alaska's roadways.

CHAIR GATTO closed public testimony on HB 255.

REPRESENTATIVE KELLER said he objects to moving HB 255 from committee, expressing a reluctance to have reading a text message while driving be a crime.

REPRESENTATIVE LYNN, expressing agreement, questioned whether enforcement would even be possible.

REPRESENTATIVE PRUITT mentioned possibly having the bill apply only when a person who is texting while driving causes an accident.

[1:18:05 PM](#)

RICHARD SVOBODNY, Deputy Attorney General, Central Office, Criminal Division, Department of Law (DOL), in response to a question, clarified that in discussions he's had with the Public

Defender Agency (PDA), he had indicated that there were communities in Alaska in which the crime of texting while driving is not being prosecuted. Further research by him, he relayed, has indicated that in some instances that is the case, and that in other instances, different judges in the same community are making differing rulings - with some treating the behavior as illegal and others not. Therefore, it's not correct to say that the existing law isn't being enforced, because law enforcement officers are still charging people with the crime, but rather that the crime isn't always being prosecuted depending on who the judge is in a particular case. In response to comments and a question, he indicated that the state has no right to appeal a dismissal by the court except in extraordinary circumstances, and what occurred in State v. Adams wasn't such a circumstance.

REPRESENTATIVE GRUENBERG posited that passage of Section 1 - which would add a statement of purpose in uncodified law - would clarify for the court that it is and has been the legislature's intent all along that the conduct of texting while driving be illegal.

CHAIR GATTO, noting that the bill now has an immediate effective date, surmised that once the bill is passed it will clarify the law immediately for everyone.

[1:22:57 PM](#)

REPRESENTATIVE HOLMES moved to report the proposed CS for HB 255, Version 27-LS1165\X, Gardner, 2/8/12, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE KELLER objected.

A roll call vote was taken. Representatives Pruitt, Gruenberg, Holmes, Lynn, and Gatto voted in favor of reporting the proposed CS for HB 255, Version 27-LS1165\X, Gardner, 2/8/12, as amended, from committee. Representative Keller voted against it. Therefore, CSHB 255(JUD) was reported from the House Judiciary Standing Committee by a vote of 5-1.

The committee took an at-ease from 1:23 p.m. to 1:25 p.m.

**HB 299 - CIVIL LEGAL SERVICES FUND**

[1:25:51 PM](#)

CHAIR GATTO announced that the next order of business would be HOUSE BILL NO. 299, "An Act allowing appropriations to the civil legal services fund from court filing fees."

[1:26:07 PM](#)

THOMAS STUDLER, Staff, Representative Steve Thompson, Alaska State Legislature, on behalf of the sponsor, Representative Thompson, explained that HB 299 [which is proposing to alter AS 37.05.590] would provide a statutory funding mechanism by which the legislature may appropriate to the state's civil legal services fund up to 25 percent of the filing fees received by the Alaska Court System (ACS) during the previous fiscal year. Appropriations from the civil legal services fund may then go to organizations that provide civil legal services to low-income Alaskans, organizations such as the Alaska Legal Services Corporation (ALSC), which was established in 1966 to address the civil-legal-aid needs of low-income Alaskans. The ALSC, specifically, is a U.S.C. 501(c)(3) non-profit corporation that obtains its funding from a variety of state, federal, and private sources. Such funding, however, has dwindled over the years - from \$4.2 million in 1987, to less than \$3.1 million as of 2010, with state appropriations decreasing from \$1.2 million in fiscal year 1984 (FY 84), to less than \$350,000 [in FY 12] - and what has not decreased, and has instead even grown, has been the number of qualified applicants seeking ALSC services.

MR. STUDLER explained that HB 299 aims to correct the resultant funding shortfall being experienced by the ALSC, thereby helping to ensure civil legal representation for Alaska's most needy population. Yearly, of those people the ALSC provides services to: over 600 are seniors, over 40 percent reside in rural communities, and over 550 deal with domestic violence (DV). Last year alone, 2,541 qualified Alaskans received services from the ALSC, which, due to funding limitations, was only able to meet the needs of 81 percent of its qualified applicants.

MR. STUDLER, in response to questions, indicated that each year, it would be up to the legislature, during the budget process, to determine what percent of received filing fees, if any, to appropriate to the civil legal services fund, though in no instance shall it exceed 25 percent. The bill only addresses funding and services related to civil cases, not criminal cases, and all funding provided for by AS 37.05.590 - whether existing or as proposed by HB 299 - comes from the general fund to begin with. House Bill 299 was introduced to address the funding

shortages [experienced by organizations that provide civil legal services to low-income Alaskans, such as the ALSC], and it's estimated that 25 percent of the filing fees received [by the ACS during the previous fiscal year] would amount to [approximately] \$666,000.

[1:34:44 PM](#)

NIKOLE M. NELSON, Executive Director, Alaska Legal Services Corporation (ALSC), in response to questions, explained that if the ALSC were to receive the maximum amount provided for under HB 299, it would represent only a 20 percent increase in the ALSC's overall budget; that such an increase, if all other funding sources stayed flat, would allow the ALSC to serve an additional 500 families - last year the ALSC was forced to turn away [approximately 2,500] families because of a lack of resources; that the intent of HB 299 is to increase the availability of funds in order to meet the civil legal services needs of Alaska's low-income population; that even with the additional funding provided for via HB 299, the ALSC would still be underfunded and thus would still be unable to meet all those needs; and that the hope is that even with passage of HB 299, the ALSC would still receive its "regular" legislative appropriation, with the legislature then being able to give consideration each year during the budget process to possibly providing additional funding as outlined under HB 299.

MS. NELSON added that in 2001, the Alaska Supreme Court's Access to Justice Task Force recommended that the ALSC budget be what would now - after adjusting for inflation - amount to approximately \$7.5 million, but the ALSC's current budget - from all sources - amounts to only about \$3.5 million. Again, even with the maximum amount of additional funding that HB 299 could provide for, the ALSC would still be extremely underfunded - with a budget far below the aforementioned recommendation - and thus would still be unable to meet all of the civil legal services needs of Alaska's low-income population. She then provided the committee with further information about the services the ALSC provides to low-income Alaskans and about its staff, along with some recent statistics, and recounted that over the last five years, in terms of domestic relations cases, the ALSC had a 96 percent success rate in helping clients obtain the results they needed, and that last year the ALSC was on the forefront of fighting the epidemic of domestic violence that plagues Alaska. However, and again, last year the ALSC also had to turn away hundreds of qualified people seeking assistance simply because it lacked the necessary resources to help; the

ALSC's client base continues to increase every year, but funding levels have simply not kept pace regardless that the ALSC enjoys widespread, bipartisan community support throughout Alaska. In conclusion, she relayed that in terms of enabling access to the civil justice system regardless of one's financial situation, the ALSC believes that HB 299 would be part of the solution.

[1:41:51 PM](#)

RICHARD ALLEN, Director, Anchorage Office, Office of Public Advocacy (OPA), Department of Administration (DOA), explained that the OPA's indeterminate fiscal note for HB 299 reflects that there is still a question about whether the OPA would be required to represent the opposing party in situations where someone is being represented by the ALSC. Regardless that that question has yet to be addressed, he opined, the ALSC does a lot of good for a lot of vulnerable Alaskans, and is the appropriate agency to handle the civil legal services needs of low-income Alaskans.

[1:43:27 PM](#)

QUINLAN STEINER, Director, Central Office, Public Defender Agency (PDA), Department of Administration (DOA), said simply that HB 299 would have no impact on the PDA.

[1:43:44 PM](#)

MONICA LOONEY recounted that she and her son, victims of domestic violence, sought and received civil legal assistance from the ALSC, allowing the two of them to once again feel safe and no longer in jeopardy from the perpetrator, at least for the time being. In conclusion, she expressed support [for the ALSC], adding that she felt lucky to have been chosen to receive civil legal services from the ALSC given its overwhelming caseload.

[1:47:58 PM](#)

MICHELE SHARPE recounted that she and her three children, victims of domestic violence, sought and received civil legal services from the ALSC, allowing the four of them to escape from the violence. In conclusion, she expressed her gratitude for the ALSC's assistance, adding that she wanted to stress the importance of that assistance, both to her family and the many others in desperate need of such assistance.

[1:51:39 PM](#)

J. KATE BURKHART, Executive Director, Alaska Mental Health Board, Division of Behavioral Health (DBH), Department of Health and Social Services (DHSS), explained that the Alaska Mental Health Board supports the passage of HB 299 because the ALSC is the civil legal services agency that most often represents the Alaska Mental Health Board's clients, who often live in poverty. Furthermore, the ALSC employs attorneys who have specialized training and experience in addressing the issues most often faced by those with mental illness. She then disclosed that in the past, she has worked for the ALSC as an attorney. In conclusion, she opined that it is very important for the clients of the Alaska Mental Health Board to have access to the services provided by the ALSC and to be represented by competent and compassionate attorneys, such as those working for the ALSC.

[1:54:56 PM](#)

MARIE DARLIN, Coordinator, AARP Capital City Task Force, said that the AARP receives many calls from older Alaskans with legal questions and problems who simply don't know where to turn for assistance, and the AARP can refer those who qualify to the ALSC, trusting that the ALSC can be relied upon to do a good job. The number of such calls is only going to increase as Alaska's population ages, she predicted, with more and more elderly Alaskans seeking assistance with all the various issues they face. In conclusion, she said the AARP urges the committee to support HB 299's proposal to provide additional funds to address the civil-legal-aid needs of Alaska's low-income population.

CHAIR GATTO, after ascertaining that no one else wished to testify, closed public testimony on HB 299.

[1:56:59 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Conceptual Amendment 1, to add an immediate effective date to HB 299. He ventured that adoption of Amendment 1 might enable the legislature to consider appropriating funds as allowed under the bill during the current legislative budget process. There being no objection, Conceptual Amendment 1 was adopted.

REPRESENTATIVE HOLMES, remarking upon how difficult, daunting, and terrifying it can be to try to navigate the legal system on

one's own, and how such efforts can complicate and slow down the civil justice system, characterized HB 299 as a good bill.

CHAIR GATTO mentioned that members' packets contain letters of support and two fiscal notes, and offered his understanding of some of the types of cases that the ALSA addresses, those it is prohibited from addressing, and the amount of filing fees the ACS received [during the previous fiscal year].

[2:02:02 PM](#)

REPRESENTATIVE HOLMES moved to report HB 299, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 299(JUD) was reported from the House Judiciary Standing Committee.

The committee took an at-ease from 2:02 p.m. to 2:04 p.m.

### **HB 303 - SUSPENDED IMPOSITION OF SENTENCE**

[2:04:51 PM](#)

CHAIR GATTO announced that the next order of business would be HOUSE BILL NO. 303, "An Act relating to suspended imposition of sentence for certain criminal offences."

[2:05:14 PM](#)

REPRESENTATIVE LES GARA, Alaska State Legislature, sponsor, explained that HB 303 would allow people who have had the imposition of their sentence suspended - known as suspended imposition of sentence (SIS) - [and have been issued a certificate by the court to the effect that the court has set aside] the conviction, to state when questioned that they have never been convicted [of the crime they were sentenced for], with that statement then being considered to be true. The bill is intended to address situations in which a person - when applying for something - is asked whether he/she has ever been convicted of a crime. Some other states will expunge a conviction from a person's criminal record, but expungement of record is not available in Alaska, and the Alaska Supreme Court has indicated that under the wording of existing statute, when a person granted an SIS [and issued a certificate] is responding to the question of whether he/she has ever been convicted of a crime, he/she must answer "yes," [because he/she actually was convicted and the conviction was merely set aside]. He offered his understanding that under current law, an SIS is not

available when the underlying crime is a crime against a person; HB 303 would not change that.

REPRESENTATIVE GARA relayed that an amendment labeled 27-LS1192\M.1, Gardner, 2/8/12, in members' packets would limit HB 303's proposed change to AS 12.55.085(e) such that it would then only apply in situations involving a misdemeanor crime; that amendment read [original punctuation provided]:

Page 1, line 7, following "subsection":  
Insert "for a misdemeanor offense"

Page 1, line 8, following "the":  
Insert "misdemeanor"

REPRESENTATIVE GARA, in response to questions, offered some examples of the types of crimes for which a court might grant an SIS, noted that some felony crimes are also eligible for an SIS, and surmised, therefore, that limiting the bill via the aforementioned amendment would be the best approach.

[2:15:51 PM](#)

REPRESENTATIVE KELLER pointed out that a person can't be sentenced without first being convicted, and with an SIS, the court merely refrains from imposing the sentence; therefore, the change proposed by the bill would essentially allow a person to lie on applications, for example, with regard to whether he/she was ever convicted.

REPRESENTATIVE GARA - indicating a belief that setting aside a conviction was equivalent to removing it, that if it's been set aside, it doesn't exist anymore - opined that if a person has been granted an SIS [and been issued a certificate], then he/she should be allowed to state on applications that he/she has never been convicted.

REPRESENTATIVE PRUITT mentioned that he has concerns with HB 303's proposed change.

REPRESENTATIVE GRUENBERG suggested that HB 303 be amended such that the court - on a case-by-case basis - would have the discretionary authority to permit a person to state that he/she has not been convicted, or such that the person would then have the right to specify that the conviction had been set aside.

CHAIR GATTO relayed that HB 303 would be held over.

**HB 216 - REGULATIONS: INFORMATIVE SUMMARY/BILLS**

2:23:41 PM

CHAIR GATTO announced that the next order of business would be HOUSE BILL NO. 216, "An Act relating to deadlines in bills directing the adoption of regulations and to the informative summary required for the proposed adoption, amendment, or repeal of a regulation." [Before the committee was CSHB 216(STA); a proposed committee substitute (CS) for HB 216, Version 27-LS0701\T, Bannister, 2/2/12, was adopted as the work draft and amended on 2/3/12.]

2:24:05 PM

REPRESENTATIVE HOLMES moved to adopt a new proposed committee substitute (CS) for HB 216, Version 27-LS0701\R, Bannister, 2/9/12, as the working document.

REPRESENTATIVE PRUITT objected for the purpose of discussion. [Although that objection was never formally removed, the committee treated Version R as the work draft before it.]

2:25:36 PM

REPRESENTATIVE PEGGY WILSON, Alaska State Legislature, sponsor - after briefly recapping that HB 216 is intended to ensure that proposed regulatory changes are completed in a timely manner, and that the associated notices are accompanied by a brief description of the proposed changes written in clear, easily-readable language - explained that in addition to incorporating Amendment 1 to Version T, Version R now also contains changes intended to address members' concerns and suggestions as expressed during the bill's last hearing. Specifically, under Version R, Section 1's proposed AS 24.08.035(f) now clarifies that it will be the affected department that shall include a deadline in its fiscal note; Section 1's proposed [AS 24.08.035(g) clarifies that as used in proposed subsection (f), the term, "agency" includes the Alaska Housing Finance Corporation (AHFC), the Alaska Industrial Development and Export Authority (AIDEA), the Alaska Public Offices Commission (APOC), and the Alaska Oil and Gas Conservation Commission (AOGCC)]; Section 2's proposed AS 44.62.200(d) no longer contains the words, "without cross-referencing the Alaska Administrative Code" at the end of its second sentence; and newly-added Section 4 provides for an effective date of July 1, 2012.

REPRESENTATIVE GRUENBERG questioned whether that's the correct effective date to provide for.

REPRESENTATIVE P. WILSON said she would research that issue further.

CHAIR GATTO announced that HB 216, Version R, would be held over.

**HB 296 - CRIME OF ESCAPE/DEF. OF CORRECT. FACILITY**

[2:30:49 PM](#)

CHAIR GATTO announced that the final order of business would be HOUSE BILL NO. 296, "An Act relating to service of process on prisoners; relating to the crime of escape; relating to the definition of 'correctional facility'; amending Rule 4, Alaska Rules of Civil Procedure; and providing for an effective date." [HB 296 had been amended on 2/1/12.]

REPRESENTATIVE GRUENBERG, on behalf of the committee, which sponsored HB 296, explained that after discussions with the administration, the committee is choosing not to include a legislative purposes section - which would have specified that the bill's intended purpose was to codify the court's decision in Bridge v. State, 258 P.3d 923 (Alaska App. 2011); not to amend the statutes pertaining to "good time" credit; to amend - as suggested by the administration - Section 3's proposed AS 11.56.310(c)'s definition of what constitutes a "secure correctional facility"; and to delete Section 4 - which would alter existing AS 11.81.900(b)(9)'s definition of what constitutes a "correctional facility". A proposed amendment included in members' packets is intended to effect those two changes, which, again, were suggested by the administration.

[2:33:46 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 2, labeled 27-LS1199\D.4, Gardner, 2/10/12, which read:

Page 1, line 2:

Delete **"'correctional facility'"**

Insert **"'secure correctional facility'"**

Page 2, lines 13 - 18:

Delete all material and insert:

"(1) has construction fixtures or security features that are designed to restrict the ability of a person under official detention from leaving the facility without lawful authority; or

(2) has correctional officers or other persons authorized to prevent a person under official detention from leaving without lawful authority."

Page 2, lines 19 - 23:

Delete all material.

Renumber the following bill sections accordingly.

Page 3, line 2, following "Act,":

Insert "and"

Page 3, lines 3 - 4:

Delete "and the definition of "correctional facility" in AS 11.81.900(b)(9), as amended by sec. 4 of this Act,"

REPRESENTATIVE HOLMES objected.

REPRESENTATIVE KELLER questioned whether Section 4's proposed change to the definition in AS 11.81.900(b)(9) regarding what constitutes a "correctional facility" would impact the reimbursement of Medicaid funds to the state for eligible prisoners.

REPRESENTATIVE GRUENBERG again relayed that Amendment 2 would delete Section 4; furthermore, HB 296 is only addressing the crime of escape in the second degree - AS 11.56.310 - in which the person would have had to have escaped from a "secure correctional facility," with that term then also being defined.

The committee took an at-ease from 2:38 p.m. to 2:49 p.m.

[2:52:04 PM](#)

DOUGLAS GARDNER, Director, Legal Services, Legislative Legal and Research Services, Legislative Affairs Agency (LAA), in response to questions, concurred with Representative Gruenberg's comments and explanations, and additionally noted that under Amendment 2, proposed AS 11.56.310(c)(2) would use the broader term, "other persons", whereas currently under the bill, it uses the more limited term, "other facility staff"; that retention of Section 4 could lead to conflicts with regard to the various statutory

definitions of the term, "correctional facility"; and that the bill addresses the statutes pertaining to the crime of escape in the second degree, not the statutes pertaining to Medicaid reimbursements.

REPRESENTATIVE GRUENBERG indicated a preference for removing Section 4, and for having HB 296 focus narrowly on the court's decision in Bridge.

CHAIR GATTO relayed that HB 296, as amended, would be held over, with the motion to adopt Amendment 2 left pending.

[3:05:02 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:05 p.m.