

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

January 27, 2012

1:37 p.m.

MEMBERS PRESENT

Senator Hollis French, Chair
Senator Joe Paskvan
Senator John Coghill

MEMBERS ABSENT

Senator Bill Wielechowski, Vice Chair
Senator Lesil McGuire

COMMITTEE CALENDAR

SENATE BILL NO. 89

"An Act clarifying that a legislator or legislative employee is allowed to accept certain charity events; amending disclosure deadlines under the Legislative Ethics Act; relating compassionate gifts; allowing legislators and legislative employees to use legislative to requests to refrain from disclosure under the Legislative Ethics Act; and establishing mailing lists for campaign purposes and nonlegislative purposes; allowing legislators a seat for an alternate public member on the Select Committee on Legislative Ethics and legislative employees who are representing persons in an administrative hearing to clarifying the requirements related to participation by alternate members in the contact hearing officers and attempt to influence the outcome of the hearing if they are proceedings of the committee."

- MOVED CSSB 89(JUD) OUT OF COMMITTEE

SENATE BILL NO. 135

"An Act relating to the rights of crime victims; relating to the duties of prosecuting attorneys; and amending Rule 45, Alaska Rules of Criminal Procedure."

- HEARD & HELD

SENATE BILL NO. 140

"An Act classifying certain substances as schedule IIA controlled substances; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 89

SHORT TITLE: LEGISLATIVE ETHICS ACT

SPONSOR(s): SENATOR(s) COGHILL

02/16/11 (S) READ THE FIRST TIME - REFERRALS
02/16/11 (S) STA, JUD
03/15/11 (S) STA AT 9:00 AM BUTROVICH 205
03/15/11 (S) Heard & Held
03/15/11 (S) MINUTE(STA)
03/31/11 (S) STA AT 9:00 AM BUTROVICH 205
03/31/11 (S) Moved CSSB 89(STA) Out of Committee
03/31/11 (S) MINUTE(STA)
04/01/11 (S) STA RPT CS 1DP 4NR NEW TITLE
04/01/11 (S) DP: MEYER
04/01/11 (S) NR: WIELECHOWSKI, KOOKESH, PASKVAN,
GIESSEL
04/11/11 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/11/11 (S) Scheduled But Not Heard
04/13/11 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/13/11 (S) Scheduled But Not Heard
04/15/11 (S) JUD AT 1:30 PM BUTROVICH 205
04/15/11 (S) Heard & Held
04/15/11 (S) MINUTE(JUD)
01/18/12 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
01/18/12 (S) Heard & Held
01/18/12 (S) MINUTE(JUD)
01/27/12 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 135

SHORT TITLE: CONTINUANCES IN CRIMINAL TRIALS; VICTIMS

SPONSOR(s): SENATOR(s) FRENCH

01/17/12 (S) PREFILE RELEASED 1/6/12
01/17/12 (S) READ THE FIRST TIME - REFERRALS
01/17/12 (S) JUD, FIN
01/27/12 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 140

SHORT TITLE: CATHINONE BATH SALTS

SPONSOR(s): SENATOR(s) MEYER, GIESSEL, OLSON

01/17/12 (S) PREFILE RELEASED 1/6/12
01/17/12 (S) READ THE FIRST TIME - REFERRALS

01/17/12 (S) JUD, FIN
01/27/12 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

LILA HOBBS, Staff to Senator French
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Introduced SB 135 on behalf of the sponsor.

LISA MARIOTTI, Policy Director
Alaska Network on Domestic Violence and Sexual Assault
Juneau, AK

POSITION STATEMENT: Testified in support of SB 135.

VICTOR KESTER, Executive Director
Alaska Office Victims' Rights
Anchorage, AK

POSITION STATEMENT: Testified in support of SB 135.

SUSAN SULLIVAN, Executive Director
Victims for Justice
Anchorage, AK

POSITION STATEMENT: Testified in support of SB 135.

NANCY HAAG, Executive Director
Standing Together Against Rape
Anchorage, AK

POSITION STATEMENT: Testified in support of SB 135.

TRACEY WOLLENBERG, Deputy Director
Appellate Division
Public Defender Agency
Department of Administration
Anchorage, AK

POSITION STATEMENT: Expressed concern with the compulsory language in SB 135, particularly in sections 3 and 4 regarding Criminal Rule 45.

KAREN FOSTER, victim advocate
Anchorage, AK

POSITION STATEMENT: Testified in support of SB 135.

ANNIE CARPENETTI, Attorney V
Criminal Division
Department of Law
Juneau, AK

POSITION STATEMENT: Raised practical questions about SB 135, particularly Section 1.

KEVIN MEYER
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of SB 140,

DR. MICHAEL COOPER, Deputy State Epidemiologist
Division of Public Health
Department of Health and Social Services
Anchorage, AK

POSITION STATEMENT: Testified in support of SB 140.

ORIN DYM, Forensic Laboratory Manager
State Crime Laboratory
Anchorage, AK

POSITION STATEMENT: Responded to questions regarding SB 140

QUINLAN STEINER, Public Defender
Public Defender Agency
Anchorage, AK

POSITION STATEMENT: Expressed concern about the level of offense in SB 140.

KATE BURKHART, Executive Director
Advisory Board on Alcoholism and Drug Abuse
Department of Health and Social Services
Juneau, AK

POSITION STATEMENT: Testified on behalf of the ABADA in support of SB 140

ACTION NARRATIVE

[1:37:58 PM](#)

CHAIR HOLLIS FRENCH called the Senate Judiciary Standing Committee meeting to order at 1:37 p.m. Present at the call to order were Senators Paskvan, Coghill, and Chair French.

SB 89-LEGISLATIVE ETHICS ACT

[1:38:31 PM](#)

CHAIR FRENCH announced the consideration of SB 89, and asked Senator Coghill his intention with regard to the amendment he introduced during the 4/15/11 hearing. [CSSB 89, labeled 27-LS0452\T, was before the committee.]

SENATOR COGHILL moved to withdraw Amendment T.1 [27-LS0452\T.1].

CHAIR FRENCH announced that without objection, Amendment T.1 was withdrawn.

CHAIR FRENCH moved Amendment T.3, labeled 27-LS0452\T.3, and explained that it was an attempt to clarify the intent of subsection (f) on page 13, lines 2-4.

AMENDMENT T.3

OFFERED IN THE SENATE
TO: CSSB 89(STA)

BY SENATOR FRENCH

Page 13, lines 2 - 4:

Delete all material and insert:

"(f) A designation under (c) - (e) of this section shall be treated as confidential to the same extent that the identity of the subject of a complaint is required to be kept confidential."

[1:40:57 PM](#)

SENATOR COGHILL stated that he had no objection.

CHAIR FRENCH announced without objection, Amendment T.3 was adopted.

SENATOR COGHILL thanked everyone who helped make this a better ethics bill, and noted that the biggest policy call related to the alternate public member. This improves the process for working with ethics issues.

SENATOR PASKVAN thanked the sponsor for wading into what is always a sticky subject.

[1:42:56 PM](#)

SENATOR COGHILL moved to report CS for SB 89(STA), as amended, from committee with individual recommendations and attached fiscal note(s).

CHAIR FRENCH announced that without objection, CSSB 89(JUD) moved from the Senate Judiciary Standing Committee.

At ease from 1:43 p.m. to 1:4

SB 135-CONTINUANCES IN CRIMINAL TRIALS; VICTIMS

1:44:26 PM

CHAIR FRENCH announced the consideration of SB 135.

LILA HOBBS, Staff to Senator French, introduced SB 135 as follows:

When Alaska's Constitution was amended in 1994 to add section 24 to article 1, entitled the "Rights of Crime Victims," the state established important groundwork to provide greater equity within our judicial system. I would like to read two of the eight provisions that are enumerated in section 24.

Crime victims, as defined by law, shall have the following rights as provided by law: the right to be treated with dignity, respect, and fairness during all phases of the criminal and juvenile justice process; in addition, crime victims shall have the right to timely disposition of the case following the arrest of the accused.

While both of these provisions are vital steps for strengthening victims' rights, there are currently no statutes in place requiring their implementation. The minor changes to statutes and court rules in SB 135 would provide a means to enforce these critical rights.

Repeated delays prevent victims from reaching emotional, physical, and financial closure from the trauma that they suffered as a result of the crime perpetrated against them. Delays in prosecution can also affect the availability of witnesses, a victim's ability to recall important details, and they can create other impediments to a successful trial.

What is particularly important about SB 135 is that it gives victims the right to be notified of any substantial delays, and also allows them to voice their position on a motion for the delay. Before the motion has been ruled on, the judge must consider the victims' position and how they would be affected. Therefore, this bill addresses the fair and respectful treatment of crime victims while ensuring a more timely disposition of their case. Clearly, these

additions will enhance the accountability, transparency, and equity of our judicial system.

MS HOBBS provided the following sectional analysis:

Section 1 amends AS 12.61.010(a)(2) by adding a provision to the rights of crime victims, providing that a victim has a right to be notified by the appropriate law enforcement agency or the prosecuting attorney of any request for a continuance that may substantially delay the prosecution.

Section 2 amends AS 12.61.015(a) by modifying the duties of a prosecuting attorney to include the duty to inform the victim of a pending motion that may substantially delay the prosecution, and inform the court of the victim's position on the motion to continue.

Section 3 amends Criminal Rule 45(d)(2), relating to the authority to grant a continuance in a criminal case. This section adds a provision that requires that a court, when considering a motion to grant a continuance, may do so only after considering the victim's interest in a ruling by the court on the motion to continue. This section references the new section of Criminal Rule 45 added in Section 4.

Section 4 amends Criminal Rule 45, by adding a new subsection (h) entitled "Victim's Interest in Ruling on Motion to Continue." It provides that before ruling on a motion to continue in a case involving a victim of crime, the court must consider the victim's position on the motion to continue, and the effect that a continuance would have on the victim

[1:49:55 PM](#)

SENATOR COGHILL asked for the practical meaning of "consider the victim's position."

CHAIR FRENCH said he would defer to the court representative, but his expectation was that the judge will pause to formally consider the effect on a victim.

SENATOR COGHILL said he'd also like to hear about the protocol for notification.

CHAIR FRENCH responded that the folks who work in this area can address the question, but the process does not come to a halt when a victim cannot be notified.

[1:51:37 PM](#)

LISA MARIOTTI, Policy Director, Alaska Network on Domestic Violence and Sexual Assault (ANDVSA), stated that the saying, "Justice delayed is justice denied." is especially true for victims of domestic violence and sexual assault. It takes tremendous courage, faith, and belief for a survivor to prepare to confront their perpetrator in court, and all too often their courage and hopes are dashed by endless delays in seeking justice. This can lead to a loss of hope and disappointment in the criminal justice process.

SB 135 will ensure that victims' voices are heard, and that the impact of substantial delays in seeking justice will be considered. Equally important, it will give full force and effect to the constitutional rights of all crime victims to a speedy trial.

[1:53:48 PM](#)

VICTOR KESTER, Executive Director, Alaska Office Victims' Rights (OVR), stated that SB 135 furthers the spirit of the Alaska State Constitution, which mandates crime victims be treated with dignity, respect, and fairness. It also clarifies the constitutional right to a timely disposition of a case. Fundamentally, SB 135 amplifies the crime victim's voice before the court regarding a delay in the criminal justice process. This will improve the administration of justice and help victims realize dignity, respect, and fairness in the criminal justice system. It stands to eliminate unnecessary delay that often results in undue hardship or injury to crime victims trying to cope with the lengthy prosecution of a criminal case.

MR. KESTER said the OVR stands ready to work with the Legislature and criminal justice agencies to promote the interests of justice and further the principles of dignity, respect, and fairness for Alaska crime victims.

CHAIR FRENCH stated that before moving the bill he'd like the committee to hear from Nancy Meade who was reviewing the average period of time it takes to get a felony case to trial in Anchorage.

[1:57:50 PM](#)

SUSAN SULLIVAN, Executive Director, Victims for Justice, stated that SB 135 improves the standards of notification to crime victims in requests for continuance, and reinforces their constitutional rights to be present at proceedings to address the court and see timely disposition of their case. By requiring

the court to consider the victim's perspective, the bill creates a mechanism through which these rights can be more consistently realized.

She explained that Victims for Justice advocates for victims of violent crimes, including surviving family members of homicide victims. In this role they've seen continuances provided to defendants in criminal cases for insufficient and sometimes disingenuous reasons, with no consideration given to the victims. Some cases have taken more than a decade to go to trial because of the number of continuances that were granted. Such long delays can work to the unjust benefit of the accused and the serious disadvantage of victims. These are clearly cases of "Justice delayed is justice denied."

For many victims the end of the trial is a landmark after which they can begin to recover, and unnecessary continuances only delay the healing process. It's appropriate for the court to extend the benefit of the doubt to defendants because it is their liberty that is at stake. However, the court often fails to take into consideration the constitutional rights of victims in these situations. SB 135 puts the victim in the picture and supports the judge who considers the victim when deciding whether or not to grant a continuance. SB 135 is a modest change to existing statutes and court rules, but in a very important way it brings balance to the justice system.

CHAIR FRENCH thanked Ms. Sullivan for talking about the tension between this bill and the defendant's presumption of innocence and right to a speedy trial.

[2:02:01 PM](#)

NANCY HAAG, Executive Director, Standing Together Against Rape (STAR), stated strong support for SB 135 as it recognizes the rights of crime victims. She explained that STAR works with victims of sexual assault, and has a front-row seat to the anguish a victim feels as they prepare to testify in court against the person who assaulted them. Many victims do not feel as though they are a survivor until the trial is over and the person who assaulted them is sentenced. The build-up to trial is emotionally traumatizing, and the victim pays the toll each time a hearing is continued.

SB 135 may help shorten the time between arrest, conviction, and sentencing, but more importantly it will place the victim at the center of the criminal justice effort. Victims call on their civic duty when they report, and the favor must be returned by

offering a timely disposition of the case. This will help victims to finally put the assault behind them, knowing justice has been achieved. At that point, a deeper depth of healing may finally begin.

[2:04:50 PM](#)

TRACEY WOLLENBERG, Deputy Director, Appellate Division, Public Defender Agency, Department of Administration (DOA) expressed concern with the compulsory language in SB 135, particularly in sections 3 and 4 regarding Criminal Rule 45. If the language is strictly construed and the victim is unavailable, the court may be required to grant the very continuance that the bill is designed to prohibit so it can ascertain the victim's position. As has been noted, the courts are already constitutionally required to take into account the victim's interest, the victim's right to be treated with dignity, and to a timely disposition. The language compelling the courts to ascertain the victim's position will potentially undermine these concerns.

SENATOR PASKVAN asked if this could back the court into a procedural corner; if the judge can't grant a continuance, it would increase the likelihood that he or she would have to grant a dismissal.

MS. WOLLENBERG replied that was one potential unintended consequence, and another was increased post-conviction relief litigation if the defendant wasn't given sufficient opportunity to litigate issues.

CHAIR FRENCH suggested she keep in mind that the procedural posture is that defendant is trying to push the trial date back. The provision would go into effect after the defendant has asked for a continuance, after which the judge would decide whether or not to grant the continuance. He added that a provision would probably be added to the bill to address the problem of what to do when a victim can't be contacted.

[2:10:49 PM](#)

KAREN FOSTER, victim advocate, described the tragedy of having her 18-year-old daughter, Bonnie Craig, brutally raped and murdered. The family waited 12 years for the killer to be identified, and was then re-victimized by the State of Alaska. The killer was identified by a DNA match in November 2006, and was convicted and sentenced almost 5 years later on October 31, 2011. The first trial date was set for September 2008 to ensure adequate time to prepare, and to eliminate any reason for a continuance. Very late in the process the defense requested a

continuance, and the judge set a new date for January 5, 2009. The defense couldn't meet that date either, and the judge again granted a continuance to May 11, 2009. Before the case came to trial a new defense attorney was appointed causing further delay. The judge knew the first defense attorney was incapable of handling the case, but had no effective means to control the case.

SB 135 will help identify problems earlier and help judges determine if a continuance is actually unavoidable. Alaska law needs to be changed so that the constitutional rights of crime victims are respected and there is timely disposition of the case. Delays re-victimize the victims. It's time to balance the scales of justice, she stated.

[2:18:50 PM](#)

ANNIE CARPENETTI, Attorney V, Criminal Division, Department of Law (DOL), said it's hard to disagree with what's been said today but criminal prosecutions can be problematic and take a long time. Judges generally take into account the victim's point of view in granting continuances, but they have to balance that against the possibility of sending somebody to trial who isn't ready. A conviction under that circumstance would be subject to appeal, and that isn't good for anybody.

MS. CARPENETTI said she had practical concerns with Section 1. It gives crime victims the right to notice of a continuance in appeals [that may substantially delay the prosecution]. On average a brief on appeal takes 270 days, so nearly every appeal would be considered a substantial delay. Crime victims are not currently notified when there's a request for a continuance in an appellate matter, and the Office of Special Prosecution and Appeals does not have paralegals to do notifications. This provision would mean giving notice when it is not currently given, by an office that doesn't have people who give notice in the appellate arena.

She stated agreement with the defense bar that there should be an escape valve to accommodate those victims who do not want to be notified. She offered to work with the committee to develop solutions to make the bill more practical. "On the whole though, we've always agreed that victims have the right to be treated with dignity," Ms. Carpeneti concluded.

CHAIR FRENCH said there's generally some period of time between when the defense attorney is ready and the case actually goes to trial, and this measure ratchets down on that leeway. He said he

recognizes that there have to be some escape hatches and he's sensitive that it will fall on the prosecutor to notify the victim and find their position.

MS. CARPENETI responded that DOL does notify the victim when the trial date is set and when it's changed.

CHAIR FRENCH commented that this is just one more message, although continuances tend to happen more frequently than a sentencing or trial date.

MS. CARPENETI reiterated concern with the practical matter of giving notice on appeals.

CHAIR FRENCH said there may be a way to exempt it altogether or express it differently.

[2:24:40 PM](#)

{KEVIN HIGGINS, Attorney, Juneau, AK, expressed concern with the unintended consequences of the compulsory language in SB 135, { and the potential for an ineffective assistance of counsel claim if a request for continuance was denied. He opined that continuances increase the pain tenfold to the victim and the increase costs as well, particularly to the indigent defense bar. He said Court Rule 45(d)(2) has language that allows the victim to be heard and takes into account the public interest in prompt disposition of criminal offenses, and he had never heard a judge say he or she didn't want to hear from a victim that was in the courtroom, or deny a continuance in a bail hearing if the prosecution wanted more time to notify a victim.

[2:28:26 PM](#)

CHAIR FRENCH closed public testimony and held SB 135 in committee.

SB 140-CATHINONE BATH SALTS

[2:28:46 PM](#)

CHAIR FRENCH announced the consideration of SB 140.

[2:29:02 PM](#)

KEVIN MEYER, sponsor of SB 140, stated that SB 140 will classify certain synthetic cathinones as a schedule IIA controlled substance. This street drug is marketed as bath salts with names that target kids, and it has become a problem in Anchorage.

The USDEA classified synthetic cathinones as a schedule I drug, and the Municipality of Anchorage, the U.S. military and 33 states have banned its use. Because the drug is not illegal, kids and parents may not know the harmful effects. He deferred to the committee to determine the correct penalty, and stated that his intent was to focus on the manufacturers and distributors rather than the casual user.

[2:33:07 PM](#)

CHAIR FRENCH said that when he first heard about bath salts he thought it was a compound that was sold in retail outlets, but that's incorrect. Bath salts is just a name for the compound and it's actually being marketed through head shops.

SENATOR MEYER said that's correct; bath salts are legal and not regulated, just as synthetic cannabinoids were marketed as incense.

CHAIR FRENCH observed that it isn't sold at a grocery store and it's not like Sudafed, which can be used to make something else. This is a special product that has a common sounding name.

SENATOR MEYER agreed and added that it might also be sold in some convenience stores.

CHAIR FRENCH said he'd like to know how it compares to the drug known as "Spice."

[2:34:44 PM](#)

DR. MICHAEL COOPER, Deputy State Epidemiologist, Division of Public Health, Department of Health and Social Services (DHSS), stated that synthetic cathinones known as bath salts are an important public health problem. The affects from using bath salts appear to be more significant than for the synthetic drug "Spice."

Synthetic cathinones are the active compounds and the prepackaged powders are usually made in China or India. They are for sale online and in stores in Alaska and are usually deceitfully labeled. To avoid regulation they are almost always labeled "not for human consumption," even though their purpose is for recreational abuse by snorting, smoking, intravenous injection, or being rectally administered.

These synthetic cathinones are derived from the parent compound cathinone, a schedule I substance under the U.S. Controlled Substances Act and both are similar to amphetamines. They

increase the level of certain neurotransmitters in the brain and create an adrenalin rush, a sense of euphoria, increased arousal, and alertness. The desired affects are similar to those found with amphetamines, cocaine and ecstasy, but there are also a host of unpredictable and undesirable effects. These include agitation, aggression, hallucinations, paranoia, and seizures.

There are widespread reports of crimes and bizarre behavior attributed to abuse of these compounds. Patient high on bath salts can be a real danger to themselves and others. The Journal of Orthopedics described a life-threatening skin infection thought to be related to bath salt injection, resulting in amputation of the patient's arm and a radical mastectomy.

There is no quick way to detect synthetic cathinones in a patient in Alaska at this time. These drugs do not show up on routine drug tests. There's a lab in California that can be used to screen patients for confirmation of these synthetic cathinones in their urine. There is also no antidote and no specific treatment.

These drugs are relatively new on the recreational drug scene. They were created in the 1950s as a possible treatment for chronic fatigue, but were found to have a high abuse and addiction potential so they fell out of favor. They started getting popular in Europe about six years ago and widespread use started in the U.S. just a couple of years ago. The number of calls to poison control centers nationwide increased from about 300 in 2010 to over 6,000 in 2011. Over 30 states have already enacted legislation banning the sale and possession of compounds containing certain synthetic cathinones. The Drug Enforcement Agency used its emergency scheduling authority to make certain synthetic cathinones temporarily controlled while formulating a long-term policy. Most states have controlled one or more of the most common synthetic cathinones, but they can easily be made a little different and still have powerful affects. Washington is one state that has enacted broader legislation and Pennsylvania incorporated some amendments to address this problem.

The Alaska section of epidemiology published a bulletin in October 2011 documenting a few case reports of bath salts abuse in Alaska, and emergency room doctors have detailed encounters with patients under the influence of these drugs. There have reportedly been about 15 calls from Alaska to the poison control centers, which is an indicator that they're around and being abused.

Public health considers the abuse of these synthetic cathinones to be a growing threat. They're widely available and may contain different potent psychoactive compounds. They may create different and dangerous side effects, and by all accounts they are gaining in popularity. An increasingly younger cohort is abusing these drugs, in part because they are widely available and appealing.

[2:42:40 PM](#)

ORIN DYM, Forensic Laboratory Manager, State Crime Laboratory, said he was available to answer questions.

CHAIR FRENCH asked if Alaska law enforcement officers had sent any of this material to the lab for analysis.

MR. DYM answered yes; the most common is 3,4-methylenedioxypropylone (MVPV) followed by Methylone, both of which are an ecstasy equivalent. The lab has received various other compounds, primarily from Anchorage, Kenai and the MatSu Valley. Samples have come in from the rest of Alaska as well.

CHAIR FRENCH asked if it's possible to tell if the compound was bought online and mailed to Alaska or sold in Alaskan establishments.

MR. DYM replied there was no way of knowing, but they are available both ways, and typically sold in half gram quantities for about \$40.

[2:44:47 PM](#)

SENATOR COGHILL asked if there was an established protocol for testing for these compounds.

MR. DYM replied the crime lab is already capable of identifying them.

SENATOR COGHILL asked if it's a blood test.

MR. DYM explained that the lab does bulk drug identification, but it does not perform toxicology and analysis of drugs in blood. Those methods are still in the development stage.

CHAIR FRENCH summarized that the lab can identify the powder but can't detect it in someone's blood.

MR. DYM said that's correct, but a lot of private toxicology labs are working on a test protocol to make that determination.

[2:46:02 PM](#)

QUINLAN STEINER, Public Defender, Public Defender Agency, expressed concern about the level of offense and asked if there was any consideration given to dropping it to schedule III. That would be similar to what was done last year with the synthetic cannabinoids bill. He noted that schedule IIa offenses have some of the most severe penalties available under the state criminal code.

CHAIR FRENCH said the sponsor indicated an interest in that inquiry, and the committee would be mindful about where it set the penalties.

[2:48:17 PM](#)

KATE BURKHART, Executive Director, Advisory Board on Alcoholism and Drug Abuse (ABADA), clarified that she was speaking only on behalf of the board, and noted the formal letter of support for SB 140 in the packets. Responding to an earlier comment from the Chair about whether these substances were used for other legitimate purposes, she said the board initially had that same concern, but that is not the case. She said that to her knowledge these substances have no legitimate medical or food-based purpose. They are created to stimulate the user and are deceptively marketed to circumvent regulations. With regard to Mr. Steiner's comments about the appropriate level of offense, she said the effect of synthetic cathinones on the user is at least if not more serious than synthetic THC and cannabinoids. They are the equivalent of methamphetamines and amphetamines, which are schedule IIa substances. The penalty for possession of a IIa substance is very severe, but if the intent is to focus on those that manufacture and distribute the substance then the higher penalty is appropriate. The effect on the user, who reportedly is a younger cohort and often less sophisticated, is very severe. Classifying these compounds as schedule IIa drugs is an appropriate use of the Legislature's power to regulate to protect the health and safety of Alaskans, she concluded.

[2:51:42 PM](#)

CHAIR FRENCH closed public testimony and announced he would hold SB 140 in committee. He commented that this brings up all the debates about drug sentencing and penalties. The point is to get people to stop using drugs when they're home working and living as free citizens. Putting them in prison for 24 months doesn't solve that problem, and prisons are expensive. The sponsor is sensitive to that, as is the committee.

2:52:34 PM

There being no further business to come before the committee,
Chair French adjourned the meeting at 2:52 p.m.