

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

February 27, 2012

1:33 p.m.

**MEMBERS PRESENT**

Senator Hollis French, Chair  
Senator Bill Wielechowski, Vice Chair  
Senator Joe Paskvan  
Senator Lesil McGuire  
Senator John Coghill

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 165

"An Act relating to property exemptions for retirement plans; relating to pleadings, orders, liability, and notices under the Uniform Probate Code; relating to the Alaska Principal and Income Act; relating to the Alaska Uniform Transfers to Minors Act; relating to the disposition of human remains; relating to insurable interests for life insurance policies; relating to transfers of individual retirement plans; relating to the community property of married persons; and amending Rule 301(a), Alaska Rules of Evidence."

- MOVED CSSB 165(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 291

"An Act relating to the posting of notices at United States post offices; and providing for an effective date."

- MOVED HB 291 OUT OF COMMITTEE

SENATE BILL NO. 200

"An Act establishing certain procedures related to the identification of suspects by eyewitnesses to criminal offenses."

- HEARD & HELD

SENATE BILL NO. 210

"An Act relating to crimes against children; establishing a new aggravating factor at sentencing in certain crimes against children; relating to criminal nonsupport; adding to the list of crimes against children that bar the Department of Public Safety from issuing to a person a license to drive a school bus; adding an exception to a provision that requires the Department of Health and Social Services to make timely, reasonable efforts to provide family support services to prevent out-of-home placement of a child; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 165

SHORT TITLE: PRINCIP.& INC/PROBATE/UTMA/RETIREMT/ETC.

SPONSOR(s): JUDICIARY

01/17/12	(S)	READ THE FIRST TIME - REFERRALS
01/17/12	(S)	JUD, FIN
02/01/12	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/01/12	(S)	Heard & Held
02/01/12	(S)	MINUTE(JUD)
02/15/12	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/15/12	(S)	Heard & Held
02/15/12	(S)	MINUTE(JUD)
02/27/12	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 291

SHORT TITLE: PUBLIC NOTICES POSTED AT POST OFFICES

SPONSOR(s): RULES BY REQUEST OF LEGISLATIVE COUNCIL

01/20/12	(H)	READ THE FIRST TIME - REFERRALS
01/20/12	(H)	JUD
02/01/12	(H)	JUD AT 1:00 PM CAPITOL 120
02/01/12	(H)	Moved Out of Committee
02/01/12	(H)	MINUTE(JUD)
02/03/12	(H)	JUD RPT 7DP
02/03/12	(H)	DP: HOLMES, PRUITT, KELLER, LYNN, GRUENBERG, THOMPSON, GATTO
02/06/12	(H)	TRANSMITTED TO (S)
02/06/12	(H)	VERSION: HB 291
02/08/12	(S)	READ THE FIRST TIME - REFERRALS
02/08/12	(S)	JUD
02/27/12	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 200

SHORT TITLE: EYEWITNESSES AND LINEUPS

SPONSOR(s): FRENCH

02/17/12 (S) READ THE FIRST TIME - REFERRALS  
02/17/12 (S) JUD, FIN  
02/27/12 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 210

SHORT TITLE: CRIMES AGAINST CHILDREN

SPONSOR(s): MCGUIRE

02/21/12 (S) READ THE FIRST TIME - REFERRALS  
02/21/12 (S) JUD, FIN  
02/27/12 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

PAMELA FINLEY, Revisor of Statutes  
Legislative Legal Services  
Legislative Affairs Agency  
Juneau, AK

**POSITION STATEMENT:** Introduced HB 291.

STEPHEN SMITH, Deputy Chief of Police  
Anchorage Police Department (APD)  
Anchorage, AK,

**POSITION STATEMENT:** Testified on SB 200 to caution against placing the new eyewitness identification proceedings in statute.

QUINLAN STEINER, Director  
Public Defender Agency  
Department of Administration (DOA)  
Anchorage AK

**POSITION STATEMENT:** Testified on SB 200 and stated that there was a growing body of evidence that eyewitness testimony was not as reliable as previously thought.

BILL OBERLY, Executive Director  
Alaska Innocence Project  
Anchorage, AK

**POSITION STATEMENT:** Offered supporting testimony on SB 200.

JOE AUSTIN, Board Member  
Alaska Innocence Project  
Anchorage, AK

**POSITION STATEMENT:** Testified in support of SB 200.

BARB BRINK, President  
Board of Directors  
Alaska Innocence Project  
Anchorage, AK

**POSITION STATEMENT:** Echoed Mr. Oberly's statements regarding SB 200.

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

**POSITION STATEMENT:** Offered suggestions on SB 200.

WALLY TETLOW, President  
Alaska Association of Criminal Defense Lawyers  
Anchorage, AK

**POSITION STATEMENT:** Stated strong support for SB 200.

AMY SALTZMAN, staff  
Senator Lesil McGuire  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Reviewed the changes that appear in SB 210, version M.

CINDI STANTON, Sergeant  
Anchorage Police Department (APD)  
Anchorage, AK

**POSITION STATEMENT:** Testified in support of SB 210.

DR. KATHLEEN BALDWIN-JOHNSON, MD.  
Alaska Children's Justice Act Task Force  
Wasilla, AK

**POSITION STATEMENT:** Testified in support of SB 210.

#### **ACTION NARRATIVE**

[1:33:56 PM](#)

**CHAIR HOLLIS FRENCH** called the Senate Judiciary Standing Committee meeting to order at 1:33 p.m. Present at the call to order were Senators Wielechowski, Coghill, Paskvan and Chair French. Senator McGuire arrived during the course of the meeting.

**SB 165-PRINCIP.& INC/PROBATE/UTMA/RETIREMT/ETC.**

[1:34:00 PM](#)

CHAIR FRENCH announced the consideration of SB 165, and asked for a motion to adopt the version E committee substitute (CS).

SENATOR WIELECHOWSKI moved to adopt the work draft CS for SB 165, labeled 27-LS0819\E, as the working document.

SENATOR COGHILL objected to ask if the CS was drafted to address the issues that were discussed during the last hearing.

[1:34:44 PM](#)

At ease to locate paperwork.

[1:34:53 PM](#)

CHAIR FRENCH reconvened the hearing and confirmed that the CS contained the three amendments that were adopted during the previous hearing.

Amendment 1, labeled 27-LS0819\D.1, inserted the definition for "settlor" in Sec.30 AS 21.42.020(e)(2) on page 31, lines 18-19. Amendment 2, labeled 27-LS0819\D.2, revised the language regarding custodial accounts for minors in Sec. 26-28 on pages 22-24.

Amendment 3, labeled 27-LS0819\D.3, added Sec. 6-8 on pages 7-14 to clarify provisions dealing with modification of existing trusts.

SENATOR COGHILL removed his objection and version E was before the committee.

[1:35:59 PM](#)

CHAIR FRENCH moved to adopt Amendment 4 and objected to explain that it cleared up the conflict between the date of a transfer and the effective date of the Act.

**AMENDMENT 4**

OFFERED IN THE SENATE BY SENATOR FRENCH  
TO: SB 165(JUD), Draft Version "E"

Page 35, following line 23:

Insert a new subsection to read:

"(c) AS 13.46.190, as amended by sec. 26 of this Act, AS 13.46.197, enacted by sec. 27 of this Act, and AS 13.46.990(11), as amended by sec. 28 of this Act, apply to a transfer that is made before, on, or after

the effective date of this Act. In this subsection, "transfer" has the meaning given in AS 13.46.990."

Reletter the following subsection accordingly.

CHAIR FRENCH removed his objection and announced that without further objection, Amendment 4 was adopted.

He noted that the bill was well vetted by attorneys in both Juneau and Anchorage. Although Linda Hall with the Department of Revenue indicated that she may testify at a future hearing, her concerns were minor. He asked for a motion.

[1:37:53 PM](#)

SENATOR WIELECHOWSKI moved to report CS for SB 165, as amended, from committee with individual recommendations and attached fiscal note(s).

CHAIR FRENCH announced that without objection, CSSB 165(JUD) moved from the Senate Judiciary Standing Committee.

[1:38:15 PM](#)

At ease.

#### **HB 291-PUBLIC NOTICES POSTED AT POST OFFICES**

[1:39:24 PM](#)

CHAIR FRENCH announced the consideration of HB 291.

PAMELA FINLEY, Revisor of Statutes, Legislative Legal and Research Services, Legislative Affairs Agency, explained that HB 291 would delete four statutory references that require posting certain notices at U.S. post offices. This would address the issue that since 2007, the federal government has not allowed any postings other than government notices. The specific statutes that HB 291 would amend are AS 03.35.030 pertaining to controlled livestock districts; AS 34.35.175(d) pertaining to personal property lien sales; AS 34.45.050(b) pertaining to consignee and bailee lien sales; and AS 43.20.270(d)(2) pertaining to state tax lien sales. These notices are still required, but do not have to be posted at a U.S. post office.

CHAIR FRENCH asked how the bill came about.

MS. FINLEY said this problem came to light last year in a bill dealing with execution sales. Although the reference to post

offices was deleted from that bill, it makes sense to remove it from the books.

[1:41:23 PM](#)

SENATOR WIELECHOWSKI noted that it was a substantive change and questioned it as a revisor's bill.

MS. FINLEY explained that she made it a separate revisor's bill to give the Legislature the opportunity to decide what it wanted to do with the provision. She agreed that was a substantive change.

CHAIR FRENCH asked what would constitute a conspicuous public place for the purpose of posting these notices.

MS. FINLEY said it would depend on the district, but it might be a public library, or fire hall, for example.

SENATOR WIELECHOWSKI observed that Section 1 appeared to remove more than just the reference to the post office.

MS. FINLEY said the language that was removed was redundant.

CHAIR FRENCH asked who makes the decision where to post these notices.

MS. FINLEY replied the district judge would issue the order, but the exact location would probably depend on the situation. For example, in Section 2 it would probably be the person who was holding the sale.

CHAIR FRENCH mused about how long these statutes might last, given the Internet.

SENATOR WIELECHOWSKI questioned why nobody knew that posting in post offices was prohibited when these statutes were enacted.

MS. FINLEY replied these statutes all predate 2007 when the federal prohibition was issued.

[1:46:13 PM](#)

CHAIR FRENCH closed public testimony on HB 291.

SENATOR WIELECHOWSKI raised the question of amending the bill to require online postings. Some discussion ensued and it was agreed that it was a good suggestion for some time in the future.

CHAIR FRENCH asked for a motion.

[1:48:10 PM](#)

SENATOR WIELECHOWSKI moved to report HB 291 from committee with individual recommendations and attached fiscal note(s).

CHAIR FRENCH announced that without objection, HB 291 moved from the Senate Judiciary Standing Committee.

[1:48:29 PM](#)

At ease

### **SB 200-EYEWITNESSES AND LINEUPS**

[1:49:31 PM](#)

CHAIR FRENCH announced the consideration of SB 200, "An Act establishing certain procedures related to the identification of suspects by eyewitnesses to criminal offenses." Speaking as the sponsor, he said this addresses the way eyewitness evidence is handled in the state. He paraphrased the following sponsor statement:

Evidence provided by eyewitnesses is a vital part of many criminal investigations. According to the International Association of Chiefs of Police, some 77,000 people nationwide go to trial each year because eyewitness testimony is arguably some of the most powerful evidence presented at a trial.

Since 1989, however, DNA technology has resulted in over 230 exonerations of people who, on average, had served 12 years in prison, and 75 percent of those convictions involved misidentifications by eyewitnesses. When innocent people are convicted, not only do they suffer an enormous injustice, but the real perpetrator is never caught and taken off the street.

Organizations such as the American Bar Association, The Police Foundation and the National Institute of Justice have identified procedures that improve the accuracy of eyewitness identifications. Senate Bill 200 will require law enforcement agencies to adopt specific procedures for conducting photo and live lineups. It will require the Department of Public Safety to create and administer a training program for

law enforcement officers on scientific findings and the use of appropriate methods when interviewing eyewitnesses to crimes. I urge your support for this important step toward ensuring that perpetrators are caught, and innocent people are screened out during eyewitness processes.

CHAIR FRENCH said the bill compels a law enforcement agency that conducts eyewitness identification to adopt specific procedures that meet specific minimum requirements. This is to provide flexibility to accommodate the broad range of agencies around the state. The idea is that before there is a photo or live lineup, the law enforcement officer shall record a detailed description of the perpetrator, provided in the eyewitness's own words. The statement must include information regarding the conditions under which he or she observed the perpetrator, including location, time, distance, obstructions, lighting, weather conditions, visual and other impairments. When possible, an independent administrator shall conduct the lineup, but when that is not practical the administrator shall use neutral procedures. Ideally, the lineup is conducted by an officer who does not know the identity of the suspect.

CHAIR FRENCH noted that Anchorage attorney John Murtagh sent a letter to suggest the committee review the eyewitness case of Tegoseak v. State. It was a felony DWI case where the driver and passenger switched places. The eyewitness identification procedures were upheld on appeal but in discussing the case, the court of appeals described another case that clearly illustrated the problems of eyewitness identification. He related the details of a rape case that was aired in a "60 Minutes" story.

The victim identified her rapist in a photograph lineup, a live lineup and during two separate trials. He was convicted both times. Ten years after the rape, DNA testing proved that he was innocent.

The court of appeals commented that it was particularly troubling that the victim's false memory persisted even after she knew intellectually that it was inaccurate. The court said her false memory was clearly the result of the identification procedures employed during the investigation, and that the legal tests for establishing the validity of eyewitness identification procedures needed to be reconsidered.

[1:57:23 PM](#)

SENATOR COGHILL asked if there were Alaska statistics regarding eyewitness identifications that were overturned by DNA testing.

CHAIR FRENCH said the professionals who would testify may have numbers to offer.

SENATOR PASKVAN commented on the interesting dynamic of human error in eyewitness identification as well as false confession.

[1:59:04 PM](#)

SENATOR MCGUIRE joined the committee.

SENATOR WIELECHOWSKI asked what would happen if the law enforcement officer didn't record all the relevant information that was called for in Section 1. For example, what would happen if the officer neglected to record the weather conditions?

CHAIR FRENCH said he did not believe that would automatically exclude the evidence.

SENATOR WIELECHOWSKI asked two questions; how was independent administrator defined and what would the procedure be in rural settings.

CHAIR FRENCH said the term was defined on page 2, lines 19-21, and it basically means an officer who was involved in the case. Page 2, lines 3-6, give guidance when that is impracticable, stating that a neutral procedure is to be used.

[2:02:09 PM](#)

STEPHEN SMITH, Deputy Chief of Police, Anchorage Police Department (APD), Anchorage, AK, cautioned against placing the new eyewitness identification proceedings in statute. He said that APD's procedures were not unlike what was suggested in the bill, but Sec. 12.50.300(a)(1) gives more detailed guidance than the APD procedures for a photo lineup. He agreed with Senator Wielechowski's point and expressed appreciation that the sponsor said that leaving out some of the information wouldn't automatically nullify the identification. Rather, it would create opportunity for attack by the defense. He continued that the requirement of an independent administrator would impose a minor burden. He concluded that APD could make this work, but had reservations about rooting reform of this nature in state law at this point.

SENATOR PASKVAN asked if departments across the state used different identification procedures for photo lineups.

DEPUTY CHIEF SMITH replied he wasn't aware of an articulated statewide standard, so there was the potential for photo lineups to be administered in different ways.

CHAIR FRENCH asked if APD had written procedures for how to conduct field sobriety tests.

DEPUTY CHIEF SMITH said yes.

CHAIR FRENCH asked if an officer sometimes forgets one of the steps in conducting a field sobriety test.

DEPUTY CHIEF SMITH agreed that did happen.

CHAIR FRENCH asked if the test is admitted and cross examined at trial.

DEPUTY CHIEF SMITH said yes and it would probably work the same way for photo lineups.

CHAIR FRENCH said that was his belief, but he'd check with DOL.

[2:06:46 PM](#)

SENATOR WIELECHOWSKI asked if field sobriety tests were in statute or policies enacted by the police department.

DEPUTY CHIEF SMITH replied he didn't believe they were in statute, but the National Highway Traffic Safety Administration (NHTSA) promulgated the standardized field sobriety test (SFST), and that federal model had been adopted by most states.

CHAIR FRENCH reiterated his intention to find out if procedures that were set in statute and not followed would automatically lead to exclusion of the evidence, or if it would be an area of cross examination.

SENATOR WIELECHOWSKI asked if the procedures laid out in Section 1 appeared to be reasonable.

DEPUTY CHIEF SMITH replied APD already asks different facets of the information that's listed so it was reasonable.

[2:09:22 PM](#)

QUINLAN STEINER, Director, Public Defender Agency, Department of Administration (DOA), stated that there was a growing body of evidence that eyewitness testimony was not as reliable as

previously thought. There are exonerations and also studies establishing the ease with which misidentification occurs. With regard to the concern that the requirements were too specific and might cause the identification to get thrown out, he pointed out that these types of things were subject to cross examination now. By following these procedures, it would be unlikely to get a finding that would cause an identification to be thrown out. That is the point of establishing a standard, he said.

[2:11:30 PM](#)

CHAIR FRENCH asked if he was aware of any eyewitness identification cases in Alaska that were overturned.

MR. STEINER said not specifically, but he was aware of cases where eyewitness identification was called into question and of cases of false confession. Anything that moves toward eliminating mistakes, improves the outcomes of the criminal justice system, he stated.

[2:12:25 PM](#)

BILL OBERLY, Executive Director, Alaska Innocence Project, stated that eyewitness reform was very important to the project, primarily because these identifications were the leading contributor to wrongful convictions. He agreed with the sponsor's statistics on DNA exonerations and added that social science research had demonstrated that the human mind is unlike a tape recorder. As with any crime scene evidence, eyewitness memory is subject to contamination and can lead to wrongful conviction. Although the court of appeals in 2009 recognized the need to institute best practices in identification procedures when it ruled on the Tegoseak case, an informal review - and later a freedom of information request - indicated that in 2011 most law enforcement agencies in the state had no procedures at all for eyewitness identification.

Extensive social research established six procedures that are being instituted nationwide to make eyewitness identification an effective tool for law enforcement: 1) a proper lineup composition; 2) instructions to the witness; 3) double blind administration of the test; 4) sequential presentation; 5) confidence statements; and 6) recording the procedure.

MR. OBERLY highlighted a potential error on page 2, line 5. It indicates that simultaneous presentation is the most neutral administration of a lineup, when it is actually sequential presentation that is the most effective presentation.

He said the Alaska Innocence Project views SB 200 as a starting point for bringing law enforcement practices in line with current research on eyewitness identifications. It will help in prosecutions of those who commit crimes and prevention of wrongful convictions. Anticipating a question, he mentioned the DNA testing law that was enacted two years ago, and estimated that in another year or so it would provide examples of wrongful eyewitness identifications.

[2:18:40 PM](#)

SENATOR COGHILL asked how eyewitness identifications were most typically prejudiced right now.

MR. OBERLY said the research shows that when the investigator knows the identity of the suspect, that information is intentionally or unintentionally signaled to the witness. He stressed the importance of eliminating the possibility of that type of situation.

SENATOR COGHILL asked if anything in the bill would make it less intimidating to a victim.

MR. OBERLY said the victim of a crime will probably always find the eyewitness identification intimidating. He added that because the procedure runs in the background, the eyewitness probably wouldn't know if the lineup was suggestive or had these improvements.

[2:22:06 PM](#)

JOE AUSTIN, member of the board of directors, Alaska Innocence Project, Anchorage, AK, said he was a retired law enforcement officer and had done lots of lineups during his career. He stated support the bill, but suggested that the minimum number of filler photographs should be five. The normal practice in his experience was to present six photographs that may or may not include the suspect.

CHAIR FRENCH observed that it was consistent with current practice and wouldn't be a burden.

[2:23:26 PM](#)

BARB BRINK, president of the board of directors, Alaska Innocence Project, said she was a public defender for the state for 23 years and was currently working for the federal public defender. She stated support for everything that Mr. Oberly said. She offered statistics to confirm the prevalence of

eyewitness misidentifications and to emphasize why these reforms are so critical.

She elaborated on the importance of the six procedures that Mr. Oberly mentioned earlier that make eyewitness identification a more effective tool for law enforcement. These were proper lineup composition, instructions to the witness, double blind administration of the test, sequential (not simultaneous) presentation, confidence statements, and recording the procedure.

[2:32:14 PM](#)

SENATOR WIELECHOWSKI asked if location was an issue in eyewitness identifications. He cited an example of an assault case in a small Alaskan town and eyewitness identification in the field that illustrated a weighted identification.

MS. BRINK confirmed the example was highly suggestible as opposed to the bill that suggests the procedure takes place in a quiet location outside the trauma of the moment. The latter is obviously a superior method, she said.

CHAIR FRENCH reviewed some of the supporting documents in the packet. One was a training key from the International Association of Chiefs of Police that quoted from the Supreme Court case United States v. Wade. It said the influence of improper suggestion on witnesses was perhaps responsible for more errors than all other factors combined. Another was from the Ramsey County district attorney's office that pointed out that nobody in law enforcement has any interest in convicting the innocent.

ANNE CARPENETI, Assistant Attorney General representing the Criminal Division, Department of Law (DOL), introduced herself.

[2:36:00 PM](#)

SENATOR WIELECHOWSKI asked if DOL thought that failure to follow the procedures would cause the identification to be thrown out or if it would go to the weight of the evidence. He also asked if the administration had a position on the bill.

MS. CARPENETI opined that it would go to the weight of the evidence, and said she was pleased that the committee was specifically discussing the point. She then suggested on page 2, lines 2-3, clarifying that the mandatory language was either or. Either a blinded administrator would conduct the lineup or the administrator would use a neutral procedure.

CHAIR FRENCH agreed with the suggestion, and added that he also intended to look into whether it was better to use "sequential" rather than "simultaneous" on page 2, line 5.

SENATOR PASKVAN commented that it would seem to be fertile ground for defense counsel if a police department didn't have a standard procedure for administering eyewitness identifications.

MS. CARPENETI agreed it would be brought into question and added that these things were also the subject of pretrial motions.

SENATOR PASKVAN commented on the likelihood of an ineffective assistance of counsel claim if the defense didn't inquire about the fact that their client was misidentified when the department didn't have a standard procedure.

MS. CARPENETI said the eyewitness testimony would probably be challenged if the defense was that it was a misidentification.

SENATOR WIELECHOWSKI expressed a desire for more certainty as to whether it would go to the weight of the evidence or get the identification thrown out if an officer forgot to record the weather, for example. He questioned how a court would interpret it.

CHAIR FRENCH said he would have legislative legal draft a memo on that point.

MS. CARPENETI suggested that it could also be addressed in the bill.

CHAIR FRENCH said he'd inquire as to the best approach.

[2:40:48 PM](#)

WALLY TETLOW, President, Alaska Association of Criminal Defense Lawyers, stated strong support for SB 200. The clear purpose of the bill is to strengthen identification procedures used by law enforcement agencies, thereby minimizing wrongful convictions. He highlighted that the statistics show that 75 percent of convictions that are reversed after DNA work is done, were the result of misidentifications. Improving identification procedures will not only minimize wrongful convictions, but also strengthen convictions of the responsible parties.

[2:42:48 PM](#)

CHAIR FRENCH announced he would hold SB 200 in committee.

**SB 210-CRIMES AGAINST CHILDREN**

[2:42:54 PM](#)

CHAIR FRENCH announced the consideration of SB 210.

SENATOR LESIL MCGUIRE, sponsor of SB 210, noted there was a new committee substitute (CS).

At ease from 2:43 p.m. to 2:45 p.m. to distribute the CS.

[2:45:28 PM](#)

CHAIR FRENCH reconvened the meeting and asked for a motion to adopt the proposed CS.

SENATOR WIELECHOWSKI moved to adopt CS for SB 210, labeled 27-LS1362\M, as the working document.

CHAIR FRENCH announced that without objection, version M was before the committee.

SENATOR MCGUIRE read the following sponsor statement into the record. [Original punctuation provided.]

On February 8, 2012 the Children's Justice Task Force (CJA) a federally-mandated, statewide multidisciplinary group presented their findings to the Joint Senate Judiciary and HESS Committees with their system recommendations for improvement through criminal legislation. I became aware through this presentation, research, and other important conversations that we have shortcomings in the current criminal laws regarding the prosecution of harm to children.

Those that suffer from these short comings are Alaska's children and the numbers are staggering. In 2008, approximately 12,400 children were likely victims of at least one incident of maltreatment, which breaks down to 34 children per day. In the instance of a child death, 1 out of every 5 was related to maltreatment.

SB 210 works with the recommendations from CJA to create tougher penalties on crimes committed against a child. The bill includes several different measures including modifying statutes to create increased

criminal liability for assaults to children, strengthens statutes regarding exposure of children to drugs, increases penalties when a parent intentionally withholds adequate food or liquids, and creates a criminal law that prohibits an incarcerated person from contacting a victim prior to trial and sentencing.

Together, the Legislature can assist our future generations by providing them with laws that protect their rights and create safer communities for their growth and development. I urge your support for this legislation.

She recapped several cases that were described during the task force presentation and said Section 2 addresses deprivation of food and water and Section 3 addresses torture and disfigurement, including strangulation.

[2:52:06 PM](#)

AMY SALTZMAN, staff to Senator Lesil McGuire, reviewed the changes that appear in SB 210, version M.

The title was changed to "An Act relating to crimes against children; and providing for an effective date."

Section 1 - On page 1, lines 11 and 15, age 10 was raised to age 12.

CHAIR FRENCH noted that assault in the third degree was a class C felony assault.

MS. SALTZMAN said the next change appears in Section 2, page 3, lines 9-10. A new paragraph (4) was added to [AS 11.51.100(a)] to address reckless failure to provide adequate food and liquid to a child such that it impairs the child's health.

She noted that the sponsor was still working on that language.

SENATOR MCGUIRE highlighted that it adds an additional reason for which a person can be convicted of the crime of endangering the welfare of a child in the first degree.

CHAIR FRENCH noted that would be a class C felony.

MS. SALTZMAN noted that the sponsor was referring to Section 3, page 3, lines 12-13. The next change appears in Section 4, page

3, lines 22-30. It adds a new paragraph (C) to the definitions section, [AS 11.81.900(56)], that talks about physical injury to a person under age 16 involving serious disfigurement or impairment. She noted that the discussion was still open about whether the term "bruising" was sufficiently specific.

CHAIR FRENCH confirmed that term appeared on page 3, line 25.

SENATOR MCGUIRE clarified that this modification raises the definition of physical abuse in this circumstance to assault in the first degree, a class C felony.

CHAIR FRENCH said it would depend on the means by which a person caused serious physical injury. Any place that "serious physical injury" is plugged into the statute it would be modified by this new paragraph (C).

[2:55:49 PM](#)

CINDI STANTON, Sergeant, Anchorage Police Department (APD), Anchorage, AK, said she was currently the supervisor of the Crimes Against Children Unit, and had worked on this new legislation for 18 months as a member of the Child Justice Act Task Force. She stated support for the changes in version M and emphasized that the bill will help get felony charges in cases where it is difficult now. She cited several cases.

[2:58:47 PM](#)

KATHLEEN BALDWIN-JOHNSON, MD, member, Alaska Children's Justice Act Task Force, spoke in support of SB 210. She said she was a family physician in Wasilla, but spends a majority of time on child abuse medicine. These children have been sexually or physically abused, neglected and endangered by exposure to drugs. The task force identified gaps in the current law and SB 210 addresses these omissions. Alaska is combatting an epidemic of interfamilial violence and sexual assault and children are commonly victims. A solution to this will ultimately lie in a cultural shift where children are valued and cherished members of society, but a necessary step for that to occur is for Alaskan law to clearly state that child abuse will not be tolerated, she stated.

[3:02:06 PM](#)

CHAIR FRENCH stated that public testimony would continue at a future meeting.

[SB 210 was held in committee.]

3:02:27 PM

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