

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

March 21, 2012

1:30 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Lesil McGuire

COMMITTEE CALENDAR

BOARD AND COMMISSION CONFIRMATIONS

Parole Board

Michael Stark, Juneau, AK

- CONFIRMATION ADVANCED

Violent Crimes Compensation Board

Dr. Regina Chennault, Anchorage, AK

- CONFIRMATION ADVANCED

Police Standards Council

Gustaf Sandahl, Kenai, AK
Sheldon Schmitt, Sitka, AK
Ronald Taylor, Anchorage, AK (

- CONFIRMATIONS ADVANCED

HOUSE BILL NO. 80

"An Act relating to self defense in any place where a person has a right to be."

- MOVED HB 80 OUT OF COMMITTEE

SENATE BILL NO. 7

"An Act relating to the civil rights of felons."

- MOVED SB 7 OUT OF COMMITTEE

SENATE BILL NO. 110

"An Act relating to human trafficking; and relating to sentencing and conditions of probation in criminal cases involving sex offenses."

- MOVED CSSB 110(JUD) OUT OF COMMITTEE

SENATE BILL NO. 151

"An Act relating to mitigation at sentencing in a criminal case for a defendant found by the court to have been affected by a fetal alcohol spectrum disorder."

- MOVED CSSB 151(JUD) OUT OF COMMITTEE

SENATE BILL NO. 198

"An Act establishing procedures relating to issuance, suspension, or revocation of certification of police officers by the police standards council; making certain court service officers subject to certification by the police standards council; making confidential certain information that personally identifies a police officer; relating to requesting or requiring police officers to submit to lie detector tests; repealing a provision exempting certain police officers from a prohibition against requiring certain employees to submit to lie detector tests; and providing for an effective date."

- HEARD & HELD

CS FOR HOUSE BILL NO. 6(JUD) am

"An Act authorizing the governor to remove or suspend a member of the Board of Regents of the University of Alaska for good cause; and establishing a procedure for the removal or suspension of a regent."

- SCHEDULED BUT NOT HEARD

SENATE BILL NO. 200

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

- SCHEDULED BUT NOT HEARD

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."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 80

SHORT TITLE: SELF DEFENSE

SPONSOR(S): REPRESENTATIVE(S) NEUMAN, FEIGE, LYNN, COSTELLO

01/18/11	(H)	PREFILE RELEASED 1/14/11
01/18/11	(H)	READ THE FIRST TIME - REFERRALS
01/18/11	(H)	JUD, FIN
02/09/11	(H)	JUD AT 1:00 PM CAPITOL 120
02/09/11	(H)	Heard & Held
02/09/11	(H)	MINUTE(JUD)
02/11/11	(H)	JUD AT 1:00 PM CAPITOL 120
02/11/11	(H)	Moved Out of Committee
02/11/11	(H)	MINUTE(JUD)
02/14/11	(H)	JUD RPT 4DP 1DNP 1NR
02/14/11	(H)	DP: KELLER, THOMPSON, LYNN, GATTO
02/14/11	(H)	DNP: HOLMES
02/14/11	(H)	NR: GRUENBERG
03/08/11	(H)	FIN AT 9:00 AM HOUSE FINANCE 519
03/08/11	(H)	Heard & Held
03/08/11	(H)	MINUTE(FIN)
03/30/11	(H)	FIN AT 5:00 PM HOUSE FINANCE 519
03/30/11	(H)	-- MEETING CANCELED --
04/04/11	(H)	FIN AT 6:00 PM HOUSE FINANCE 519
04/04/11	(H)	Moved Out of Committee
04/04/11	(H)	MINUTE(FIN)
04/05/11	(H)	FIN RPT 5DP 3NR
04/05/11	(H)	DP: FAIRCLOUGH, T.WILSON, COSTELLO, STOLTZE, THOMAS
04/05/11	(H)	NR: GUTTENBERG, JOULE, DOOGAN
04/09/11	(H)	TRANSMITTED TO (S)
04/09/11	(H)	VERSION: HB 80
04/11/11	(S)	READ THE FIRST TIME - REFERRALS
04/11/11	(S)	JUD, FIN
03/07/12	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/07/12	(S)	Heard & Held

03/07/12 (S) MINUTE(JUD)
 03/16/12 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/16/12 (S) Heard & Held
 03/16/12 (S) MINUTE(JUD)
 03/21/12 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 7

SHORT TITLE: FELONS' RIGHT TO VOTE OR BE JURORS

SPONSOR(s): SENATOR(s) DAVIS

01/19/11 (S) PREFILE RELEASED 1/7/11
 01/19/11 (S) READ THE FIRST TIME - REFERRALS
 01/19/11 (S) STA, JUD
 02/03/11 (S) STA AT 9:00 AM BUTROVICH 205
 02/03/11 (S) Heard & Held
 02/03/11 (S) MINUTE(STA)
 03/08/11 (S) STA AT 9:00 AM BUTROVICH 205
 03/08/11 (S) Moved SB 7 Out of Committee
 03/08/11 (S) MINUTE(STA)
 03/09/11 (S) STA RPT 1DNP 4NR
 03/09/11 (S) DNP: GIESSEL
 03/09/11 (S) NR: WIELECHOWSKI, KOOKESH, PASKVAN,
 MEYER
 03/09/11 (S) FIN REFERRAL ADDED AFTER JUD
 03/10/11 (S) STA AT 9:30 AM BUTROVICH 205
 03/10/11 (S) <Moved Out 3/8/11>
 03/10/11 (S) MINUTE(STA)
 03/21/11 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/21/11 (S) Heard & Held
 03/21/11 (S) MINUTE(JUD)
 03/21/12 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 110

SHORT TITLE: HUMAN TRAFFICKING/SEX OFFENSES

SPONSOR(s): SENATOR(s) WIELECHOWSKI

03/21/11 (S) READ THE FIRST TIME - REFERRALS
 03/21/11 (S) JUD, FIN
 03/30/11 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/30/11 (S) Heard & Held
 03/30/11 (S) MINUTE(JUD)
 02/17/12 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 02/17/12 (S) Heard & Held
 02/17/12 (S) MINUTE(JUD)
 03/16/12 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/16/12 (S) Scheduled But Not Heard
 03/21/12 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 151

SHORT TITLE: FETAL ALCOHOL SPEC. DISORDER AS MITIGATOR

SPONSOR(s): SENATOR(s) MEYER

01/17/12 (S) PREFILE RELEASED 1/13/12
01/17/12 (S) READ THE FIRST TIME - REFERRALS
01/17/12 (S) HSS, JUD
03/05/12 (S) HSS AT 1:30 PM BUTROVICH 205
03/05/12 (S) Moved CSSB 151(HSS) Out of Committee
03/05/12 (S) MINUTE(HSS)
03/06/12 (S) HSS RPT CS 4DP NEW TITLE
03/06/12 (S) DP: DAVIS, DYSON, MEYER, EGAN
03/12/12 (S) JUD AT 12:30 AM BELTZ 105 (TSBldg)
03/12/12 (S) Heard & Held
03/12/12 (S) MINUTE(JUD)
03/21/12 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 198

SHORT TITLE: POLICE OFFICER PROTECTIONS/CERTIFICATION

SPONSOR(s): STATE AFFAIRS

02/17/12 (S) READ THE FIRST TIME - REFERRALS
02/17/12 (S) STA, JUD
03/01/12 (S) STA AT 9:00 AM BUTROVICH 205
03/01/12 (S) Heard & Held
03/01/12 (S) MINUTE(STA)
03/06/12 (S) STA AT 9:00 AM BUTROVICH 205
03/06/12 (S) Moved CSSB 198(STA) Out of Committee
03/06/12 (S) MINUTE(STA)
03/07/12 (S) STA RPT CS 1DP 2NR 1AM NEW TITLE
03/07/12 (S) DP: WIELECHOWSKI
03/07/12 (S) NR: MEYER, GIESSEL
03/07/12 (S) AM: PASKVAN
03/19/12 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/19/12 (S) Heard & Held
03/19/12 (S) MINUTE(JUD)
03/21/12 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

MICHAEL STARK, Appointee
State Board of Parole
Juneau, AK

POSITION STATEMENT: Testified as appointee to the State Board of Parole.

DOCTOR REGINA CHENNAULT, Appointee
Violent Crimes Compensation Board
Anchorage, AK

POSITION STATEMENT: Testified as appointee to the Violent Crimes Compensation Board.

RONALD TAYLOR, Appointee
Alaska Police Standards Council
Anchorage, AK

POSITION STATEMENT: Testified as appointee to the Alaska Police Standards Council.

SHELDON SCHMITT, Appointee
Alaska Police Standards Council
Sitka, AK

POSITION STATEMENT: Testified as appointee to the Alaska Police Standards Council.

ROBERT SHELDON, Appointee
Commission on Judicial Conduct
Anchorage, AK

POSITION STATEMENT: Testified as appointee to the Commission on Judicial Conduct.

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

POSITION STATEMENT: Answered questions on HB 80 and delivered a sectional analysis on SB 110.

KENDRA KLOSTER
Staff to Senator Bill Wielechowski
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Delivered a sectional analysis on SB 110.

CHRISTINE MARASIGAN
Staff to Senator Kevin Meyer
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Explained the changes in the CS for SB 151, version U.

DAVE SEXTON, Executive Director
Alaska Police Standards Council (APSC)
Juneau, AK

POSITION STATEMENT: Testified in opposition to SB 198.

JOHN SKIDMORE, Director
Criminal Division
Department of Law (DOL)
Anchorage, AK

POSITION STATEMENT: Raised two concerns with SB 198.

JAKE METCALFE, Executive Director
Public Safety Employees Association (PSEA), Local 803
Anchorage, AK

POSITION STATEMENT: Testified in support of SB 198.

ACTION NARRATIVE

[1:30:02 PM](#)

CHAIR HOLLIS FRENCH called the Senate Judiciary Standing Committee meeting to order at 1:30 p.m. Present at the call to order were Senators Paskvan, Wielechowski, and Chair French. Senator Coghill arrived soon thereafter.

CONFIRMATION HEARING(S): **Parole Board**

[1:30:22 PM](#)

CHAIR FRENCH announced the first order of business would be the confirmation of the reappointment of Michael Stark to the Parole Board.

[1:31:08 PM](#)

MICHAEL STARK, Appointee, State Board of Parole, stated that following a 27-year career with the Department of Law (DOL) he served two five-year terms on the Parole Board, and was looking forward to serving a third term.

CHAIR FRENCH asked what more he had to learn and why the Legislature should send him back to serve another term.

MR. STARK replied he had more to learn about what makes people who commit crimes tick. He noted that about one-third of the board's work is devoted to entertaining applications for discretionary parole and two-thirds is revocation hearings, most of which is mandatory parole.

[1:33:30 PM](#)

CHAIR FRENCH asked what is most difficult about deciding to revoke someone's parole or not.

MR. STARK replied it is the balance between public safety and doing what will most likely help someone succeed upon release.

SENATOR COGHILL asked if anything could be done to make "good time" [time off the sentence for good behavior] more significant.

MR. STARK replied the current system acts as an incentive to stay out of trouble, and he wouldn't recommend any changes at this point.

SENATOR PASKVAN asked how the concept of "smart justice" fit with his job on the Parole Board.

MR. STARK explained that the Parole Board and staff recently attended training that touched on evidence-based practices. More training is necessary, but the approach holds great promise, he said.

[1:36:51 PM](#)

CHAIR FRENCH thanked Mr. Stark.

Violent Crimes Compensation Board

CHAIR FRENCH announced the next order of business would be the confirmation of the reappointment of Dr. Regina Chennault to the Violent Crimes Compensation Board. He asked her to tell the committee why she wanted to continue to serve.

[1:37:00 PM](#)

DOCTOR REGINA CHENNAULT, Appointee, Violent Crimes Compensation Board, said she was a trauma surgeon in Anchorage and had served as the physician member of the board for several terms. She values the service the board provides and would like to continue to serve and take care of Alaskans in need.

CHAIR FRENCH thanked Dr. Chennault for her continued service and stated that Alaska was lucky to have someone with her skills in that position.

DR. CHENNAULT responded that the Legislature was always very helpful and responsive to the board.

SENATOR WIELECHOWSKI expressed appreciation for Dr. Chennault's advocacy.

[1:38:38 PM](#)

SENATOR COGHILL thanked Dr. Chennault for her service and asked what the board could do to serve victims better.

DR. CHENNAULT said the board held one meeting in a Fairbanks shelter, and it would probably be helpful to do more outreach like that.

[1:40:23 PM](#)

CHAIR FRENCH thanked Dr. Chennault.

Police Standards Council

[1:41:47 PM](#)

CHAIR FRENCH announced the next order of business would be the confirmation of the appointment of Ronald Taylor to the Police Standards Council. He asked Mr. Taylor to tell the committee why he wanted to serve on the Alaska Police Standards Council.

RONALD TAYLOR, Appointee, Alaska Police Standards Council, said he was the current division director for probation and parole, and was eager to serve and represent corrections on the Alaska Police Standards Council. He had not attended any meetings in the past.

CHAIR FRENCH asked what he knew about what the Alaska Police Standards Council does.

MR. TAYLOR said part of the council's role is to ensure consistency and the equal application of standards throughout the law enforcement community.

CHAIR FRENCH said he had known Mr. Taylor for over a decade and was confident he was right for this position. He asked if the members had any questions for Mr. Taylor.

[1:43:44 PM](#)

SENATOR WIELECHOWSKI said he did not want the public to think that the lack of questions meant that the committee was not exercising due diligence. Many of the appointees had previously appeared before the committee and had done a good job.

CHAIR FRENCH agreed that when you know a person and trust their judgment, you trust that they will make a fair decision.

SENATOR PASKVAN opined that Mr. Taylor's extensive resume and impressive experience spoke volumes.

CHAIR FRENCH thanked Mr. Taylor.

1:45:20 PM

CHAIR FRENCH announced the next order of business would be the confirmation of the reappointment of Sheldon Schmitt to the Alaska Police Standards Council.

SHELDON SCHMITT, Appointee, Alaska Police Standards Council, said he was the Chief of Police for Sitka and currently served as chair of the Alaska Police Standards Council. He said he believed in the mission statement of the council and was interested in continuing to serve.

CHAIR FRENCH reviewed Mr. Schmidt's resume and noted that he graduated Magna Cum Laude from the University of Minnesota with a Bachelor of Science degree in criminal justice, and received a master's degree from the University of Alaska, Fairbanks in criminal justice. He spent 12 years in law enforcement, and was currently the Chief of Police in Sitka. He thanked Mr. Schmitt..

CHAIR FRENCH announced the next order of business would be the confirmation of the appointment of Gustaf Sandahl to the Alaska Police Standards Council. He asked Chief Sandahl to tell the committee why he wanted to serve on the council.

1:47:46 PM

Gustaf Sandahl, Appointee, Alaska Police Standards Council, said he was the Chief of Police for Kenai, and had been a Kenai police officer since 1995. He wanted to serve on the Alaska Police Standards Council to do his part, as many other Kenai chiefs of police had done. He said he had attended public council meetings for the last several years. He listed 17 years in law enforcement, 10 years as a police supervisor, experience as a polygraph examiner, and personal integrity as an indication of what he had would bring to the council.

CHAIR FRENCH asked if he was taking one of the four police chief positions on the council.

MR. SANDAHL said that was correct.

CHAIR FRENCH asked if board appointees served as functioning members prior to legislative confirmation.

MR. SANDAHL replied that was his understanding and experience.

CHAIR FRENCH reviewed Chief Sandahl's resume that included commercial fisherman, construction laborer, associate board member of the FBI national academy, sex assault response team training, Crime Stoppers International training, and a host of criminal justice related trainings. He found no further questions and thanked Chief Sandahl.

Commission on Judicial Conduct

CHAIR FRENCH announced the next order of business would be the confirmation of the reappointment of Robert Sheldon to the Commission on Judicial Conduct. He asked Mr. Sheldon to tell the committee why he was interested in continuing to serve on the commission.

[1:51:42 PM](#)

ROBERT SHELDON, Appointee, Public Member, Commission on Judicial Conduct, said he was currently the vice chair of the commission. He relayed that he was a third-generation Alaskan who followed a family example of civil service volunteering. He explained that his education, work, and interest in finance and economics extend to understanding the interconnections with the judiciary. The commission stands for the rule of law and by serving on the commission he was doing his part to ensure recourse for anyone who believed that a judge exhibited impaired conduct.

CHAIR FRENCH noted that he was a public member who was not a judge, retired judge, or member of the state bar.

MR. SHELDON confirmed that was correct.

CHAIR FRENCH said it is important for the public to know that the commission is an impartial body that looks at the behavior of judges, and its actions could have a powerful effect on the career of a judge.

MR. SHELDON agreed.

[1:56:37 PM](#)

SENATOR WIELECHOWSKI asked if he believed that there should be a discussion about how Alaska selects its judges.

MR. SHELDON replied he did not have an opinion about whether the current process was right or wrong, but it was structured thoughtfully and it worked.

CHAIR FRENCH found no further questions and thanked Mr. Sheldon.

CHAIR FRENCH noted that Brad Reich, appointee to the Police Standards Council, was not available, and that the committee would consider his name at a later hearing.

[1:58:50 PM](#)

SENATOR WIELECHOWSKI moved to report the names Robert Sheldon, Gustaf Sandahl, Sheldon Schmitt, Ronald Taylor, Regina Chennault, and Michael Stark to a joint session of the Alaska State Legislature for consideration.

CHAIR FRENCH announced that without objection the names would be forwarded to the joint body for consideration.

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

HB 80-SELF DEFENSE

[2:00:35 PM](#)

CHAIR FRENCH reconvened the hearing and announced the consideration of HB 80. He asked Ms. Carpeneti to come forward to answer a question.

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

SENATOR WIELECHOWSKI asked if the testimony Mr. Fayette presented during the previous hearing in any way changed DOL's position on HB 80.

[2:01:35 PM](#)

MS. CARPENETI replied it was her understanding that the administration of the State of Alaska supported HB 80.

SENATOR WIELECHOWSKI asked if that meant that DOL did not share the concerns that Mr. Fayette raised.

MS. CARPENETI replied the Department of Law supported HB 80, although individual people may feel differently.

SENATOR WIELECHOWSKI asked for confirmation that the department assessed the concerns raised by Mr. Fayette and continued to support the bill.

MS. CARPENETI confirmed that DOL continued to support the bill.

[2:02:08 PM](#)

SENATOR WIELECHOWSKI moved to report HB 80 from committee with individual recommendations and attached fiscal note(s).

CHAIR FRENCH stated that he was not a huge fan of the bill, but was honoring his pledge to allow it to move through the process. Finding no objection, he announced that HB 80 moved from the Senate Judiciary Standing Committee.

At ease from 2:02 p.m. to 2:03 p.m. to sign paperwork.

SB 7-FELONS' RIGHT TO VOTE OR BE JURORS

[2:03:47 PM](#)

CHAIR FRENCH reconvened the hearing and announced the consideration of SB 7. He summarized that the bill had been in the possession of the committee for about a year and had not changed since it was heard last. He asked if there was any discussion.

SENATOR COGHILL said he would not object to the bill because he did not have a solution, but he continued to have the reservations he expressed a year ago.

CHAIR FRENCH said he, too, had questions but the committee worked on the bill and it was unfair to hold it further.

[2:05:02 PM](#)

SENATOR WIELECHOWSKI moved to report SB 7 from committee with individual recommendations and attached fiscal note(s).

CHAIR FRENCH announced that without objection, SB 7 moved from Senate Judiciary Standing Committee.

SB 110-HUMAN TRAFFICKING/SEX OFFENSES

[2:05:47 PM](#)

CHAIR FRENCH announced the consideration of SB 110 and asked for a motion to adopt the proposed committee substitute (CS).

SENATOR WIELECHOWSKI moved to adopt the CS for SB 110, labeled 27-LS0646\X, as the working document.

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

[2:07:05 PM](#)

KENDRA KLOSTER, staff to Senator Bill Wielechowski, explained that version X combined provisions of SB 110 and SB 218. She said that sections 1, 2, 11-15, 17, 20-29 were conforming amendments to change the term "prohibiting prostitution" to "sex trafficking." The change in terminology was part of SB 218.

Section 3 was part of SB 218. It adds the crime of human trafficking in the first degree and sex trafficking in the first degree to felonies described under "most serious felony offenses."

CHAIR FRENCH asked Ms. Carpeneti the meaning of "serious felony offense."

ANNE CARPENETI, Assistant Attorney General, Criminal Division, Department of Law (DOL), explained that the crimes described as serious felony offense are the ones that are subject to conspiracy prosecution.

MS. KLOSTER said sections 4-8 were part of SB 110. [Section 4 adds new Sec. 11.41.355. Human trafficking in the first degree would be an unclassified felony and apply to persons under age 18.] Section 5 [amends AS 11.41.360(a)] and would apply to persons over age 18. It removes the phrase "come to this state to" so that it addresses human trafficking both across state lines and within the state.

[2:09:49 PM](#)

CHAIR FRENCH said the committee struggled to define movement and finally decided that the idea of geography did not play in as strongly as the act of forcing someone to engage in sexual conduct, adult entertainment, or labor by force, threat of force, or deception. Compelling someone to cross the street to engage in sexual conduct is trafficking.

SENATOR COGHILL asked if, because of kidnapping, there would still be some application in Section 3 under AS 11.31.120.

MS. CARPENETI explained that the bill provides that human trafficking in the first degree, an unclassified felony, would be subject to conspiracy prosecution. It would depend on the facts whether it would also be a kidnapping offense, but kidnapping is an offense under the conspiracy law.

SENATOR COGHILL said he wanted to make sure that Section 5 would apply to someone lured from a village under false pretense.

CHAIR FRENCH responded that that was the intention, and asked Ms. Carpeneti if that would be covered by Section 5.

MS. CARPENETI answered yes, but the current draft did not require movement of a person from a village to Anchorage, for example, as an element of the offense. It does require the other elements of the offense, which is to compel or induce another person to engage in the conduct by use of force, threat of force, or deception.

SENATOR PASKVAN pointed out that conspiracy takes two or more persons, and asked if it would still be a violation of human trafficking if one person were to induce or coerce another person.

MS. CARPENETI replied it could be a violation of human trafficking, but it would not be conspiracy because that takes two or more people agreeing and one person acting.

SENATOR PASKVAN said he did not want to create an exception if a person acted alone.

CHAIR FRENCH clarified that Section 3 said the listed offenses could be conspiracy.

[2:13:32 PM](#)

MS. CARPENETI added that the crimes listed were all very serious offenses that could be subject to the conspiracy law.

SENATOR PASKVAN said he understood, but wanted the record to be clear.

CHAIR FRENCH said it's worth taking time to articulate the intent.

[2:14:05 PM](#)

MS. KLOSTER said Section 6 was part of the original SB 110. [It amends AS 11.41.360(c)] to make human trafficking in the second degree a class A felony.

Section 7 was from SB 110. [It amends AS 11.41.365 to make human trafficking in the third degree a class B felony.]

Section 8 [amends AS 11.41.370] and defines "adult entertainment" and "sexual conduct."

Section 9 was in the original SB 218. It raises the penalty for a patron of prostitution from a class B misdemeanor to a class C felony. Sections 9 and 10 also add an affirmative defense, which was not in the original bill.

MS. CARPENETI added that it raises the penalty for being a patron of a prostitute to a class C felony if the prostitute is under age 18, or the patron is age 18 or older and at least three years older than the prostitute is. Under other circumstances, the offense is still a class B misdemeanor. The affirmative defense of reasonable mistake of age would apply if the defendant took reasonable steps to verify the age of the prostitute.

CHAIR FRENCH asked the reasoning behind the age differential in Section 10. Prostitution is a class B misdemeanor unless the defendant is over age 18 and at least three years older than the prostitute.

MS. CARPENETI related that the reason for the age differential is the same as in the sexual abuse of a minor statute. An older person generally has more influence and power over a teen, making it easier to induce the teen to engage in certain conduct.

[2:17:04 PM](#)

SENATOR COGHILL asked if it was previously a crime to be a patron of prostitution.

MS. CARPENETI replied it became a crime to be a patron of a prostitute in 2007. This is an improvement because the age differential makes a big difference for a young victim.

MS. KLOSTER said sections 11-15 change the term "promoting prostitution" to "sex trafficking."

Section 16 adds the crime of sex trafficking in the fourth degree to those crimes that do not require corroboration of testimony.

Section 17 amends AS 11.81.250(a) changing the term "promoting prostitution" to "sex trafficking," and adding the crime of "human trafficking in the first degree under AS 11.41.355."

Section 18 adds the crime of "sex trafficking in the first degree under AS 11.66.110(a)(2)" to AS 11.81.250(b). This provision was previously in SB 218.

[2:20:08 PM](#)

MS. CARPENETI suggested the committee add human trafficking in the first degree to Section 18, because it is an unclassified felony under this bill.

[2:20:53 PM](#)

CHAIR FRENCH moved Conceptual Amendment 1.

Conceptual Amendment 1

Page 8, line 24:

Following "AS 11.66.110(a)(2),"

Insert "human trafficking in the first degree,"

SENATOR WIELECHOWSKI questioned the wisdom of stating the exact location of the phrase.

CHAIR FRENCH said he was open to reasonable accommodation if the drafter wanted to place it elsewhere within Section 18. Finding no objection, he announced that Conceptual Amendment 1 was adopted.

[2:23:00 PM](#)

MS. KLOSTER said Section 19 amends AS 12.55.035(b) changing the term "promoting prostitution" to "sex trafficking," and adding the crime of "human trafficking in the first degree under AS 11.41.355" to subsection (b)(1).

[Section 20 amends AS 12.55.085(f) adding AS 11.41.355 - AS 11.41.365 to the list of violations in subsection (f)(1).]

MS. CARPENETI clarified that this adds human trafficking to those crimes that do not qualify for a suspended imposition of sentence (SIS).

MS. KLOSTER said Section 21 [amends AS 12.55.125] changing the term "promoting prostitution" to "sex trafficking," and adding the crime of "human trafficking in the first degree under AS 11.41.355."

CHAIR FRENCH directed attention to page 10, line 23, and questioned why in this section human trafficking was modified by the phrase "involving sexual conduct or adult entertainment."

[2:24:12 PM](#)

MS. CARPENETI explained that AS 12.55.125(i) deals with heightened sentencing ranges for certain serious sex offenses. Sexual conduct or adult entertainment probably was specified so as to not import labor into these higher ranges, because it is not really a sex offense.

CHAIR FRENCH summarized that while there is a law against bringing someone to a fish plant, for example, to perform simple labor, it is not a sex crime.

MS. CARPENETI said that is correct, and it should not be subject to the sentencing ranges for serious sex offense.

[2:25:24 PM](#)

CHAIR FRENCH asked for an explanation of the provision in Section 21 on page 11, lines 22-24.

MS. CARPENETI explained that the idea was the same as paragraph (2). It adds "attempt, conspiracy, or solicitation to commit human trafficking in the second degree" so as to not include labor in the heightened ranges for sex offenses.

SENATOR COGHILL asked if conspiracy or solicitation becomes the key element.

MS. CARPENETI explained that human trafficking under AS 11.41.360 is the target offense and a class A felony, but subsection (i)(3) deals generally with class B felonies. "Attempt, conspiracy, or solicitation to commit human trafficking in the second degree under AS 11.41.360 involving sexual conduct or adult entertainment," was added to the other class B felonies in paragraph (3) within the larger group of sex offenses, which are subject to a higher range under the law.

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MS. KLOSTER said Section 22 changes the term "promoting prostitution" to "sex trafficking," and adds "online enticement of a minor under AS 11.41.452(e)" as a most serious felony.

MS. CARPENETI explained that Section 23 corrects omissions made when the sentencing law was changed several years ago. The crimes of "human trafficking in the first degree, sex trafficking in the first degree under AS 11.66.110(a)(2)," "online enticement of a minor," and "human trafficking in the second degree involving sexual conduct or adult entertainment" were added to the definition of "sexual felony" under AS 12.55.185(16).

MS. KLOSTER said Section 24 adds "human trafficking in the first degree under AS 11.41.355" and "sex trafficking in the first degree under AS 11.66.110(a)(2) to the definition of "sex offense" under AS 12.63.100(6).

Section 25 changes the term "promoting prostitution" to "sex trafficking," and adds "human trafficking" to AS 15.80.010(9).

Section 26 changes the term "promoting prostitution" to "sex trafficking," and adds "human trafficking in the first degree under AS 11.41.355 and human trafficking in the second degree involving sexual conduct or adult entertainment" to AS 28.15.046(c)

MS. CARPENETI noted that the provisions added to AS 28.15.046 included those offenses that preclude a person from being a school bus driver.

MS. KLOSTER said Section 27 changes the term "promoting prostitution" to "sex trafficking," and adds "human trafficking in the first degree under AS 11.41.355" to AS 47.12.110(d).

MS. CARPENETI added that, in part, this section deals with the public release of information about a delinquent minor.

Section 28 is a similar conforming amendment that deals with public release of agency records for juveniles.

[2:31:06 PM](#)

SENATOR WIELECHOWSKI, speaking as the sponsor of SB 110, explained that Section 29 repeals AS 11.41.360(b)(1) and AS 11.41.360(b)(3) because the definitions of "adult entertainment" and "sexual conduct" are included elsewhere in the bill.

CHAIR FRENCH noted that both definitions were included in Section 8.

MS. CARPENETI said Section 30 is the applicability section. The bill is generally applicable to crimes committed before, on or after the effective date, but to avoid constitutional concerns with ex post facto laws, the bill applies on or after the effective date for the new crimes.

Section 31 has instruction to the revisor of statutes to change the catch lines and titles for certain crimes from "promoting prostitution" to "sex trafficking."

Section 32 has an effective date of July 1, 2012.

[2:34:18 PM](#)

CHAIR FRENCH opined that SB 110 was largely a revisor's bill that included a lot of what was in the Governor's sex trafficking bill, SB 218. Senator Wielechowski filed his bill last year.

SENATOR WIELECHOWSKI moved to report CS for SB 110, version X as amended, from committee with individual recommendations and attached fiscal note(s).

[2:35:14 PM](#)

SENATOR COGHILL objected to comment that the policy statement was good, but he had lingering questions about how it would land in process and whether it would work for people moved within the state. He removed his objection.

CHAIR FRENCH encouraged him to talk to DOL or come by his office for a chat about how this would work. He said not many people go to prison under these laws, but everyone recognizes that these are important tools to have available. It is wrong if even one girl is moved across town or across the state to engage in sex trafficking.

[2:36:41 PM](#)

SENATOR WIELECHOWSKI said the original intention was to change the statute to eliminate discrimination against Alaskans. Currently, it is a serious felony to move someone across state lines to engage in sex trafficking, but it is not a similar trafficking crime to move someone within the state for the same purpose. SB 110 attempts to address this disparity. He offered to work with the department or other committees as the bill moves forward.

CHAIR FRENCH announced that without objection CSSB 110(JUD) moved from the Senate Judiciary Standing Committee.

At ease from 2:38 p.m. to 2:39 p.m.

SB 151-FETAL ALCOHOL SPEC. DISORDER AS MITIGATOR

[2:39:08 PM](#)

CHAIR FRENCH announced the consideration of SB 151 and asked for a motion to adopt the proposed committee substitute (CS).

SENATOR WIELECHOWSKI moved to adopt the CS for SB 151, labeled 27-LS1132\U, as the working document.

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

[2:39:33 PM](#)

CHRISTINE MARASIGAN, Staff to Senator Kevin Meyer, explained that the version U makes two substantive changes. The phrases, "and except as provided by (20) of this subsection," and "as determined by a neuropsychological examination." were deleted from sections 18 and 20 respectively. The first change maintains the intent to apply the mitigator to lesser crimes, and the second change alleviates confusion about who diagnoses fetal alcohol spectrum disorder (FASD).

CHAIR FRENCH summarized that the idea was that it should apply to crimes not committed against a person, and that there was no need to place in statute how a judge should determine FASD.

SENATOR COGHILL expressed appreciation to the chair and sponsor for their work on the bill.

[2:42:44 PM](#)

SENATOR WIELECHOWSKI moved to report CS for SB 151, version U, from committee with individual recommendations and attached fiscal note(s).

CHAIR FRENCH announced that without objection, CSSB 151(JUD) moved from the Senate Judiciary Standing Committee.

SB 198-POLICE OFFICER PROTECTIONS/CERTIFICATION

[2:43:15 PM](#)

CHAIR FRENCH announced the consideration of SB 198.

SENATOR BILL WIELECHOWSKI, sponsor of SB 198, explained that the bill provides increased protections and basic due process rights for police officers faced with potential revocation of their certificates. Revocations would require a standard of clear and convincing evidence and follow the Administrative Procedure Act. The bill also allows the Alaska Police Standards Council to suspend rather than revoke a certificate when the situation warrants the lesser punishment. Additional provisions provide increased protection of personal information and address the issue of polygraph tests. He noted that the bill packet included

information on a U.S. Supreme Court decision on the unreliability of polygraph tests.

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DAVE SEXTON, Executive Director, Alaska Police Standards Council (APSC), said the mission statement of APSC is "To produce a highly trained and positively motivated professional officers, capable of meeting contemporary law enforcement standards of performance." He listed the core services provided by APSC and said SB 198 cuts to the heart of several of these. He articulated three primary concerns.

MR. SEXTON said the first concern is that SB 198 would inhibit APSC's ability to decertify an officer. This happens infrequently, just six times in the last five years. He explained that APSC staff investigates reported misconduct and gives the matter to the full council if it is appropriate. The full council reviews the facts before taking any action, and the officer has the option of appealing the APSC action through the court system. Requiring the council to give substantial weight to prior decisions and to adopt a standard of clear and convincing evidence singles out the APSC and holds it to a different standard than the 48 other boards and commissions, he said.

MR. SEXTON said the second area of concern relates to restricting the use of polygraphs during a disciplinary proceeding. Because polygraphs are allowed in both pre-employment and in investigative situations, the APSC questions lowering that standard. He said he was not aware of a single decertification decision that hinged on a polygraph test.

MR. SEXTON said the third area of concern relates to the requirement to stop providing photographs of officers in action. The bill would prohibit showing pictures of police officers in positive situations or hanging officers' pictures in city hall. This strips APSC of management rights to run progressive, community-oriented departments. Finally, he asked for a discussion about a longtime goal of the APSC to remove the words "full time" from the definition of "police officer." This would bring part time, seasonal, and reserve officers under APSC oversight, and protect cities and jurisdictions that try to do

the right thing by hiring additional help only to find that their employees are operating outside regulations.

He concluded stating that APSC opposes much of SB 198.

[2:53:12 PM](#)

CHAIR FRENCH directed attention to Section 7, page 3, lines 28-29, and asked if he thought that a police officer would object to having his or her picture hung in city hall, and withhold authorization.

MR. SEXTON replied that was the concern. If an officer withheld his or her authorization there would not be a complete picture of the department.

CHAIR FRENCH asked if he really thought a police officer would object to having his or her picture displayed.

MR. SEXTON questioned why the provision was in the bill if that was not the purpose.

SENATOR WIELECHOWSKI asked if he would object to keeping a police officer's home address confidential.

MR. SEXTON said APSC believes that confidentiality is already covered, but did not objection to restating it in the bill.

[2:54:40 PM](#)

JOHN SKIDMORE, Director, Criminal Division, Department of Law (DOL), reviewed his professional credentials. Most recently, he was in charge of special prosecutions that included conflict cases dealing with peace officers. In his current position, he provides legal advice to the Alaska Police Standards Council.

MR. SKIDMORE asked the committee to reconsider two provisions. The first concern is that Section 3 would bind the APSC in an employment action taken with an officer. He said the APSC strives to set minimum standards across the state for all officers to meet initially and after they become officers. The APSC wants standards of conduct to be consistent, but this provision requires the council to give substantial weight to the significance of prior decisions by individual departments, their lawyers, and court decisions. He questioned why the committee would want to bind the council's decision-making about who is a good, quality officer.

[2:59:30 PM](#)

SENATOR WIELECHOWSKI asked if he believes that the council should give some weight to prior arbitrations and court appeals that found in favor of an officer if that officer is the subject of a subsequent termination case.

MR. SKIDMORE said it is not a problem if the intent is for the council to consider that something occurred in the past. The problem is that the legislative intent and meaning of "substantial weight" is not clear. If the council's decision has to mirror something that happened in the past, that interferes with the ability of the council to have consistency across the state. He said he gets nervous when he does not know the legislative intent.

SENATOR WIELECHOWSKI responded that this was establishing the legislative intent.

SENATOR PASKVAN opined that nothing in the language would bind the council. To the contrary, the council would simply have to explain why the appellate procedure or administrative hearing officer decision is or is not significant.

MR. SKIDMORE said he was comfortable with that reading. He was testifying to achieve the legislative intent to ensure that someone could not come back and argue the opposite. The council is capable of articulating a difference, he said.

SENATOR PASKVAN reiterated that he did not perceive the language to include a binding requirement.

[3:04:14 PM](#)

MR. SKIDMORE said a second concern relates to Section 2 that requires the council to use the clear and convincing evidence standard to prove the alleged conduct. He said he believes that people in public service and law enforcement ought to be held to a higher standard, because of their position of trust. This society trusts that people are not going to break the law. If they do, society trusts that law enforcement will help hold those people accountable. When someone breaks the law, there is a breakdown in some trust, and when it is a law enforcement officer or someone in that public service the violation of trust is twofold. The law was broken, and the person who was supposed to be upholding law is the one who broke it. That is significant and very offensive because it infringes upon the trust and credibility that society holds in those institutions that are supposed to provide protection.

He said he heard the sponsor say that some organizations have a higher standard of evidence than clear and convincing, but he did not know which ones.

SENATOR WIELECHOWSKI relayed that his staff asked Legislative Research to provide that information, but his understanding is that the Alaska Bar Association (ABA) uses the clear and convincing evidence standard. He offered to follow up with clarifying information.

MR. SKIDMORE pointed out that the ABA was not one of the organizations listed under AS 44.62.330-44.62.630, the governing Act set forth in the bill. To increase the burden of proof indicates that the Legislature does not trust the credibility and discretion of the council. That seems counterproductive, he said.

3:09:04 PM

JAKE METCALFE, Executive Director, Public Safety Employees Association (PSEA) Local 803, said he represents about 800 certified and non-certified police department employees. He briefly reviewed his legal career and said he wanted to talk specifically about the burden of proof, consideration of prior arbitration decisions, and why PSEA supports the bill.

He described three PSEA termination cases where the arbitrators ruled that the employees should get their jobs back. The state challenged each ruling in superior court and lost. Two of the cases went to the state supreme court that upheld both decisions. Two of the cases went to the Police Standards Council, and the council revoked one certificate. The hearing officer challenged the decision because there was not a preponderance of proof.

MR. METCALFE said that when the facts do not change between the arbitration hearing and council hearing, it is reasonable to ask the council to pay attention to those decisions and then require the same standard that has been followed through the employment procedure.

3:14:14 PM

SENATOR WIELECHOWSKI expressed a desire to hear different views on the display of photographs, and weighing the public trust against the employee's right to due process.

CHAIR FRENCH suggested that dialogs could happen in offices and over the telephone. He held SB 198 in committee.

3:15:38 PM

There being no further business to come before the committee, Chair French adjourned the Senate Judiciary Standing Committee meeting at 3:15 p.m.