

HOUSE FINANCE COMMITTEE
April 2, 2013
9:04 a.m.

9:04:52 AM

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 9:04 a.m.

MEMBERS PRESENT

Representative Alan Austerman, Co-Chair
Representative Bill Stoltze, Co-Chair
Representative Mark Neuman, Vice-Chair
Representative Mia Costello
Representative Bryce Edgmon
Representative Lindsey Holmes
Representative Scott Kawasaki, Alternate
Representative Cathy Munoz
Representative Steve Thompson
Representative Tammie Wilson

MEMBERS ABSENT

Representative Les Gara
Representative David Guttenberg

ALSO PRESENT

Anne Carpeneti, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law;
Richard Svobodny, Deputy Attorney General, Criminal Division, Department of Law.

SUMMARY

HB 73 CRIMES; VICTIMS; CHILD ABUSE AND NEGLECT

HB 73 was SCHEDULED but not HEARD.

CSSB 21(FIN am(efd fld)
OIL AND GAS PRODUCTION TAX

CSSB 21(FIN am(efd fld)was SCHEDULED but not HEARD.

CSSB 22(FIN)

CRIMES; VICTIMS; CHILD ABUSE AND NEGLECT

SB 22 was HEARD and HELD in committee for further consideration.

#sb22

CS FOR SENATE BILL NO. 22(FIN)

"An Act relating to the commencement of actions for felony sex trafficking and felony human trafficking; relating to the crime of sexual assault; relating to the crime of unlawful contact; relating to forfeiture for certain crimes involving prostitution; relating to the time in which to commence certain prosecutions; relating to release in a prosecution for stalking or a crime involving domestic violence or for violation of a condition of release in connection with a crime involving domestic violence; relating to interception of private communications for certain sex trafficking or human trafficking offenses; relating to use of evidence of sexual conduct concerning victims of certain crimes; relating to consideration at sentencing of the effect of a crime on the victim; relating to the time to make an application for credit for time served in a treatment program or while in other custody; relating to suspending imposition of sentence for sex trafficking; relating to consecutive sentences for convictions of certain crimes involving child pornography or indecent materials to minors; relating to the referral of sexual felonies to a three-judge panel; relating to the definition of 'sexual felony' for sentencing and probation for conviction of certain crimes; relating to the definition of 'sex offense' regarding sex offender registration; relating to the definition of 'victim counseling centers' for disclosure of certain communications concerning sexual assault or domestic violence; relating to violent crimes compensation; relating to certain information in retention election of judges concerning sentencing of persons convicted of felonies; relating to remission of sentences for certain sexual felony offenders; relating to forms for sexual assault, stalking, and domestic violence

protective orders; relating to the subpoena power of the attorney general in cases involving the use of an Internet service account; relating to reasonable efforts in child-in-need-of-aid cases involving sexual abuse or sex offender registration; relating to mandatory reporting by athletic coaches of child abuse or neglect; making conforming amendments; amending Rules 16, 32.1(b)(1), and 32.2(a), Alaska Rules of Criminal Procedure, and Rules 404(a) and (b), Alaska Rules of Evidence; and providing for an effective date."

[9:05:27 AM](#)

Co-Chair Stoltze announced that the companion bill for HB 73, SB 22, would be the legislative vehicle used by the house going forward.

MICHAEL GERAGHTY, ATTORNEY GENERAL, DEPARTMENT OF LAW, provided an overview of SB 22. He stated that the important intent of the legislation was the reduction of sexual assault, domestic violence, and sexual abuse of children in the state. Senate Bill 22 would reverse the effect of a recent decision by the Alaska Court of Appeals that had misinterpreted the legislative intent in adopting increased ranges of sentences for persons convicted of sex felonies. The decision by the court of appeals had allowed for more latitude for judges to refer the defense to a three judge sentencing review panel, which the department believed was inconsistent with what the legislature had intended when it amended the law in 2006. The bill also addressed gaps in sexual assault statutes to prohibit probation and parole officers from having sexual relations with people on probation and parole. The legislation would make changes in criminal procedures to protect victims of sexual assault, sexual abuse and domestic violence; for example, a hearing before a judicial officer would be required before a person arrested for a bail violation for domestic violence crime could be released. Additionally, the bill broadened the protection for victims from the use of evidence of past and future sexual conduct. The bill would give protection of confidential communications between victims of sexual assault and domestic violence, and counselors who worked on United States military bases or were contracted by the U.S. military.

[9:09:47 AM](#)

Co-Chair Stoltze requested for a moment of silence for the sacrifice made by law enforcement public servants.

Attorney General Geraghty read a statement from Joseph Masters, Commissioner, Department of Public Safety:

I regret that I am not able to personally address the House Finance Committee today to introduce this very important legislation. The Department of Public Safety and indeed the State of Alaska experienced a tragic loss over the weekend with the crash of Helo-1, and the resulting loss of three lives. Our thoughts and prayers are with the families of pilot Mel Nading, trooper Tage Toll and their rescued passenger Carl Ober.

Attorney General Geraghty requested on behalf of Commissioner Masters a moment of silence for the victims of the crash.

[9:13:51 AM](#)

Vice-Chair Neuman asked about the court case decision that had resulted in the optional transfer of sentencing to a three-judge panel.

Attorney General Geraghty deferred the question to Anne Carpeneti, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law. He believed that the courts had misinterpreted the intent of the initial legislation.

Representative Wilson asked if there were statistics available regarding the problem that the bill was trying to fix.

Attorney General Geraghty said that the statistics indicated that sexual assault and domestic violence were rampant in the state and that the statistics in the state far exceeded the national average in alarming respects. He understood that the problem would not be eradicated by the passage of one law but the process was evolving; the legislation was to supplement and complement existing law.

[9:17:50 AM](#)

Representative Wilson thought that the issue relating to probation officers should be included in the employee contract. She was interested in more statistics that illustrated how the legislation would be effective.

Attorney General Geraghty would be happy to provide more detail in writing. He shared that a probation officer could be fired for misconduct, but that criminal charges should also be filed, which was the gap was in the criminal statute. He deferred further questions to Anne Carpeneti.

9:20:09 AM

ANNE CARPENETI, ASSISTANT ATTORNEY GENERAL, LEGAL SERVICES SECTION-JUNEAU, CRIMINAL DIVISION, DEPARTMENT OF LAW, provided differences between HB 73 and SB 22:

CSHB 73(JUD) and CSSB 22(FIN) are essentially the same, but with two exceptions:

- CSHB 73(JUD) added two sections (30 and 31) which make conforming amendments to the law that provides a savings clause in our adoption code. In that code, a victim of sexual abuse or incest that becomes pregnant as a result of the crime may initiate proceedings to terminate the parental rights of the perpetrator. If they do so, the law "saves" other remedies for them against the perpetrator. The legislature neglected to specifically include victims of sexual abuse in the savings clause. The additions specify that victims of sexual assault are protected, too.
- Both bills amend Rule 16(b), Alaska Rules of Criminal Procedure, by limiting the copying and distribution of child pornography that is attendant on the discovery process in a criminal prosecution. CSHB 73(JUD) allows the court to make arrangements to send the materials to experts both in and outside the state for examination. CSSB 22(FIN) would only allow the material to be sent to an expert out of state.

Ms. Carpeneti stated that SB 22 differed from prior bills related to similar topics because it maintained a focus on criminal procedure changes in the law, rather than substantive changes, with the exception of making it a crime for a probation or parole officer to engage in sexual conduct with a person on probation or parole. It would be a

Class C felony for a probation or parole officer to engage in sexual penetration with a person on probation or parole, and a Class A misdemeanor for that person to engage in sexual contact with a person on probation or parole.

Co-Chair Stoltze asked if consent was an issue.

Ms. Carpeneti replied in the negative; it was the act itself that was a crime.

[9:23:45 AM](#)

Representative Wilson asked why the bill related specifically to parole officers.

Ms. Carpeneti replied that the section applied to adult victims as well as minors. She explained that the current law provided that consent was a non-issue in relation to sexual abuse of a minor, because children are unable to consent to sexual relationships. The current law only prohibits consensual sexual relations in certain circumstances; one if it was a police officer, another if it was a correctional officer. The bill addressed the position of control that a probation officer has over adult parolees.

Co-Chair Stoltze remarked that the people singled out in the legislation were chosen because they were in positions of trust.

Ms. Carpeneti referred to the Satch Carlson case. Gordon "Satch" Carlson, an English, journalism and film teacher, and columnist for the Anchorage Daily News and AutoWeek in the 1980s faced three felony criminal charges in August 1989 involving his sexual relationship with a 17-year-old Bartlett senior that could have sent him to prison for eight years. At least four female students made allegations about Carlson, but only one student's allegations resulted in charges. The charges were dismissed in January 1990 because the student was above the age of 16, the age of legal consent in Alaska; the judge also found that a law raising the age of consent to 18 in cases in which a child is entrusted to an adult's care "by authority of law" applied to court-ordered guardians, but not to teachers. The student sued Carlson in civil court in 1991. In reaction to the Satch Carlson case, the Alaska Legislature passed the so-called "Satch Carlson law," making sex

between an adult and any person under age 18 illegal if the adult occupied a position of authority over the minor.

RICHARD SVOBODNY, DEPUTY ATTORNEY GENERAL, CRIMINAL DIVISION, DEPARTMENT OF LAW, affirmed the case had changed Alaska law.

Ms. Carpeneti relayed that generally, for adults, the law required lack of consent in order for sexual assault to be a crime. The bill would allow victims of sex-trafficking and human trafficking to bring a civil action for damages at any time regardless of the elapsed time from the commission of the crime. It allowed the state to prosecute a person for felony sex-trafficking, distribution of child pornography and felony human trafficking regardless of the time elapsed from the commission of the offense. The bill would make it a crime for an offender to contact a witness from prison provided non-contact had been ordered by a judge.

Ms. Carpeneti discussed Section 10:

Section 10 allows the state to request forfeiture of property of a patron of a prostitute or the prostitute if the property was used to institute, aid, or facilitate prostitution, or was received or derived from prostitution. It makes the forfeiture discretionary with the court and requires the defendant to be convicted before the property may be forfeited.

[9:29:56 AM](#)

Ms. Carpeneti moved to Sections 12 and 13:

Sections 12 and 13 allow the court the discretion, in releasing on bail a person in connection with a crime involving domestic violence or stalking, to require the defendant to participate in electronic monitoring by a global positioning device or similar technology if it meets guidelines adopted by the Department of Corrections in consultation with the Department of Public Safety.

Representative Holmes asked for verification that the section related to people out of jail.

Ms. Carpeneti replied the requirements would be related to bail conditions.

Representative Holmes wanted to ensure that the law would not be found unconstitutional.

Ms. Carpeneti replied that similar laws had not been found unconstitutional in any other state.

[9:32:37 AM](#)

Representative Thompson asked whether the limitations of where the offender could travel could inadvertently highlight the location of the victim.

Ms. Carpeneti replied that the bill would require DOC and DPS to work out and adopt guidelines.

Representative Thompson thought developing the guidelines would be difficult.

Ms. Carpeneti replied that it was a good idea to monitor offenders, but she agreed that the state did not want to put victims in increased danger.

Representative Thompson wondered if the guideline details would be included in regulation.

Ms. Carpeneti replied that the technology was changing so quickly that it would be prudent to leave some latitude for the court and the people that would administer the program to change according the developments in the field.

Representative Thompson though that the legislature would be addressing the issue in the future.

Co-Chair Stoltze noted that SB 22 had yet to go through the House Judiciary Committee, but that it was expected to do so.

[9:35:24 AM](#)

Representative Costello asked if the definition of stalking was different than the definition of harassment.

Ms. Carpeneti replied that stalking was when a person knowingly engaged in a course of conduct that recklessly

placed another person in fear of death or physical injury, or in fear of death or physical injury of a family member.

Representative Costello asked if the definition for harassment was different.

Ms. Carpeneti replied that harassment did not mean following a person and putting them in fear of death or physical injury.

Mr. Svobodny added that harassment included repeated telephone calls, offensive physical contact and disorderly conduct. He noted that harassment was a lesser misdemeanor offence defined by annoying behavior.

Representative Costello understood that a judicial officer could order counseling and an ankle bracelet prior to the resolution of a case.

Ms. Carpeneti replied in the affirmative. She stated that the judicial officer would have the authority to set various conditions of release in cases where a person had been charged with a crime and a probable cause determination had been made by the judicial officer. She continued to Section 14:

Section 14 requires that a person arrested for a violation of a condition of release in connection with a domestic violence crime appear before a judge in person or by telephone before release from custody.

Ms. Carpeneti read Section 15:

Section 15 authorizes the attorney general to make a written application to a court for an order allowing interception of the private communications of a person that may provide evidence that the person is committing or planning to commit sex trafficking in the first or second degree, or human trafficking in the first degree. Sex trafficking and human trafficking are crimes that would require cooperation among perpetrators. Interception of the communications of a person under these circumstances would facilitate the investigation of these crimes.

Representative Holmes noted that sex trafficking in the Second degree was a Class B felony, whereas everything else

on the list was a Class A or Unclassified Felony. She wondered the intention had been to include various levels of felonies in the legislation.

Ms. Carpeneti replied that the rationale for including sex trafficking in the Second degree was because it generally included telephone calls and communication among people. She added that it was high standard to order wire-tapping; it was expensive to carry out and was not done often.

[9:40:37 AM](#)

Mr. Svobodny added that if a police officer could not get a search warrant for wire-tapping; the request would first have to be made to the attorney general who would review the need for the tap, then it would be sent before a judge for approval. Wire-tapping required a significant amount of resources because it had to be constantly monitored to stop the capture of non-criminal activity. The number of wire-taps were required to be reported to the federal government annually; the amount had been zero over the last 20 years.

Representative Edgmon asked if there was existing law that differentiated between human trafficking and sexual trafficking.

Ms. Carpeneti replied that there were separate statutes that addressed human and sex trafficking.

[9:42:33 AM](#)

Vice-Chair Neuman noted that under current statute parolees were required to submit to regular polygraph examinations. He asked whether the parolee could be forced to cover the cost of the exam.

Ms. Carpeneti stated that in crafting the legislation the department wanted to make sure that the responsibility for payment of the monitoring would be left up to the court.

Co-Chair Stoltze requested that his staff take note about marking it in the courts budget for the following year.

Vice-Chair Neuman asked if the issue could be addressed in the bill.

Co-Chair Stoltze replied in the affirmative.

Ms. Carpeneti agreed.

Ms. Carpeneti spoke to Section 16 of the legislation:

Section 16 expands the protection of a victim of sexual assault, sexual abuse of a minor, and unlawful exploitation of minor by excluding evidence of the victim's sexual conduct both before and after the person was victimized. Current law provides this protection for evidence of sexual conduct before the offense charged. This rule is commonly referred to as the rape shield law, and the purpose is to exclude evidence of the victim's private sexual conduct unless the proponent has a valid evidentiary reason for its admission. Section 16 also requires the defendant to make the request to admit this evidence at least five days before trial, unless the request is based on information learned after the deadline or otherwise for good cause.

Co-Chair Stoltze turned the gavel over to Co-Chair Austerman.

[9:45:22 AM](#)

Ms. Carpeneti moved to Sections 17 and 18:

Section 17 requires a defendant claiming credit for time spent in a treatment program as a condition of bail release to file written notice 10 days before the sentencing hearing on that offense. The notice must include the number of days the person is claiming. A court may not consider a request for credit made more than 90 days after the deadline except for good cause. Section 17 also requires a person to make a request for credit for time spent in a treatment program pending appeal within 90 days after the case is returned to the trial court following appeal. A court may not consider a request for credit after the deadline except for good cause.

Section 18 requires a defendant claiming credit for time spent in a treatment program as a condition of probation or a condition of bail release in connection with a petition to revoke probation to file notice of the request 10 days before the disposition hearing on the petition. The notice must include the number of

requested days of credit. A court may not consider a request for credit made more than 90 days after the deadline except for good cause.

Vice-Chair Neuman asked about Section 16 as it related to sexual conduct victimization. He asked if there was specific language in the section that prohibited an attorney from delving into the victim's prior sexual conduct.

Ms. Carpeneti replied that it was in current law. She stated that the procedure in the rape shield protection was that a defense attorney should raise the issue in the evidence that they wanted to have introduced, outside the presence of the jury, so that the judge could weigh the relevance of the evidence before it was introduced at trial. She noted that sometimes information was relevant and needed to be introduced.

[9:48:52 AM](#)

Vice-Chair Neuman queried where the changes were located in Section 16.

Ms. Carpeneti pointed to Line 18 of page 9 of the legislation which said:

evidence of the [COMPLAINING WITNESS'PREVIOUS] sexual conduct of the complaining witness, occurring either before or after the offense charged, may not be admitted nor may reference be made to it in the presence of the jury except as provided in this section.

Representative Wilson looked at Section 17. She wondered if there were statistics showing that the treatment programs worked.

Mr. Svobodny answered that through case law in the state people got credit for time in jail and if they were in a program that the court called the functional equivalent of incarceration. If a person was in an alcohol rehabilitation program, in a locked facility, they would get credit for the time there. The provision stated that 10 day notice had to be given to the court prior to sentencing that requested the credit. He stressed that the people who ran the

programs were striving for scientific based analysis related to the programs' success.

Representative Wilson wondered if it cost more to rehabilitate or incarcerate an offender. She wondered who was paying for the rehabilitation programs.

Mr. Svobodny replied that the rehabilitation programs would cost less than incarceration.

Representative Wilson asserted that the state paid for the rehabilitation programs. She asked for more information on the cost to the state.

[9:53:19 AM](#)

Ms. Carpeneti turned to Section 19:

Section 19 makes a person convicted of sex trafficking ineligible for a suspended imposition of sentence.

Ms. Carpeneti continued to Section 20:

Sections 20 requires the court in sentencing a person convicted of two or more crimes of distribution of child pornography, possession of child pornography, or distribution of indecent material to minors to give some consecutive time for each crime or attempted or solicited crime for which the defendant is being sentenced.

Co-Chair Stoltze resumed control of the gavel.

Representative Thompson requested further explanation of the language in Section 21, line 28:

(2) a history free of unprosecuted, undocumented, or undetected sexual offenses.

Ms. Carpeneti replied that the court of appeals ruling on Collins v. State had created two non-statutory mitigating factors that would justify a person's sentence to be transferred from the court to a three-judge panel. Based on legislative intent in 2006, when the legislature had raised the sentencing ranges for most sexual felonies, the findings adopted by the Senate stated that people who committed sexual felonies were difficult to treat and

tended to reoffend at a high rate. Additionally, the finding stated that generally, people who committed sex felonies had victimized many people before they had been reported and prosecuted. Furthermore, many sexual offenders began crimes early in life and the harm that they caused their victims was devastating. The court had taken from the findings that the legislative intent was that a person with less than extraordinary prospects for rehabilitation should be transferred to a three-judge panel. The department did not believe the legislative intent from 2006 justified the court ruling. She noted that it would be difficult to disprove "a history free of unprosecuted, undocumented, or undetected sexual offenses" because the offense would have been undetected.

[9:58:14 AM](#)

Vice-Chair Neuman asserted that the legislative intent in 2006 was based on the fact that convicted sexual offenders had a 92 percent recidivism rate, only 22 to 24 percent of all sexual offenses were reported, and every sexual offender had 12 to 14 offenses before being caught. He stressed that the intent was to make sure that offenders went to jail for the safety of the rest of society.

Ms. Carpeneti continued to Section 23:

Section 23 corrects an error in the definition of sexual felony by including the crimes of sex trafficking in the first degree and online enticement of a minor in the definition. The term is used in AS 12.55.125(i), which adopts higher sentencing ranges for most sex felonies, including sex trafficking in the first degree and online enticement of a minor.

Ms. Carpeneti turned to Section 24:

Section 24 adds the felony of being a patron of a prostitute who is under 18 years of age in violation of AS 11.66.100 to those crimes that require registration as a sex offender, if the patron is 18 years or older and at least three years older than the prostitute. It also corrects a reference to the crime of sex trafficking in the first degree and the third degree in the sex offender law.

Ms. Carpeneti continued to Sections 25 and 26:

Sections 25 and 26 make conforming amendments to the warning on sexual assault, stalking, and domestic violence protective orders. Certain violations of these protective orders are a class A misdemeanor under AS 11.56.740. The maximum fine for a class A misdemeanor has been raised to \$10,000 under AS 12.55.035. Sections 25 and 26 update the warning to describe the maximum fine under current law.

Ms. Carpeneti moved to Section 27:

Section 27 adds to the definition of victim counseling centers to include victim counseling centers operated by or contracted by a branch of the armed forces of the United States. The effect of this change is to extend the privilege for confidential communications between a victim of sexual assault or domestic violence and their counselors to counseling organizations that provide services to victims connected with the military.

[10:02:02 AM](#)

Representative Thompson wondered what a military contract entailed.

Ms. Carpeneti understood that some military bases contracted out for base counselors.

Ms. Carpeneti resumed the sectional analysis:

Section 28 amends the law addressing persons who are eligible for violent crimes compensation to include victims of sex trafficking, human trafficking, and unlawful exploitation of a minor.

Sections 29, 39, and 40 strengthen and make more explicit statutes and court rules that require a court to consider the impact of the crime on the victim. Section 39 requires the presentence report to include a victim impact statement or an explanation of why the victim or victim's representative could not be interviewed. Section 40 requires the court to take the victim's impact statement into account when preparing the sentencing report and for other purposes. Section 29 requires the Alaska Judicial Council to include information about a judge's consideration of victims

when imposing sentence in a felony case with other information about the judge in connection with a retention election.

Ms. Carpeneti explained that in the house version of the bill the House Judiciary Committee had added two sections: 30 and 31. The section addressed the state's adoption law which contained a savings clause that provided that if a victim of sexual assault or abuse had a child as a result of the crime the victim could sue to terminate the parental rights of the perpetrator. The savings clause was a civil provision that provided that if the victim had filed a cause of action to terminate the parental rights of the perpetrator, then the victim would also retain other remedies for damages. The two sections added sexual assault to the savings clause and then defined sexual assault. The addition of sexual assault in the savings clause was something that had needed to be fixed.

Ms. Carpeneti continued with the sectional analysis:

Section 30 provides that a person convicted of an unclassified or class A sexual felony is not eligible for mandatory parole (also called good time).

[10:06:18 AM](#)

Sections 31 -- 34 address the procedure for a law enforcement officer to obtain an administrative subpoena for the business records of an Internet service provider. These subpoenas may be issued in the investigation of the crimes of online enticement of a minor, unlawful exploitation of a minor, distribution of child pornography, possession of child pornography, and distribution of indecent material to a minor. The amendments allow the attorney general to designate the deputy attorney general for the civil division or the criminal division to evaluate applications for the subpoena, in addition to the attorney general. The investigation of these cases often requires a prompt response to a request for a subpoena, and having two attorneys who may approve them will assist law enforcement in their investigations.

Section 35 adds to the circumstances that allow a court to decide that reasonable efforts by the Office of Children's Services to reunite a child who is in an

out-of-home placement with the child's family are not required. It provides that the court may make this determination if it finds by clear and convincing evidence that the parent or guardian has committed sexual abuse against the child or another child of the parent or guardian, or that the parent or guardian is registered or required to register as a sex offender or child kidnapper.

Co-Chair Stoltze asked if the issue was currently discretionary.

Ms. Carpeneti replied that it was not specified in current law. The section would add the provisions of whether the parent or guardian had abused a child or was a registered sex offender.

Co-Chair Stoltze understood that under current law the Office of Children's Services was required to make best efforts to reunite a child in out-of-home placement with the child's family.

Ms. Carpeneti replied in the affirmative.

Representative Thompson asked whether the language of AS 12.63 was too broad because it included everyone who had ever had to register and not just the most egregious offenders.

Ms. Carpeneti noted that it was discretionary. The department would have to ask for the judge to excuse them from best efforts and then the judge would use their own discretion. If the person were no longer on the registry it would not apply.

[10:11:38 AM](#)

Representative Costello referred to a presentation from the Department of Public Safety in the year prior. During the presentation Commissioner Masters had relayed that the state did not comply with all of the Sex Offender Registration and Notification Act (SORNA) federal requirements for registration. She referred to a letter she had received from the commissioner that explained that there were offenses under Alaska law that did not currently require registration under AS 12.62 but that would be required under federal law; human trafficking in the First

degree if the victim was under 18 years old, human trafficking in the Second degree if the victim was under the age of 18 years old, and involving sexual contact. In addition, federal offenses that were not currently included in the state's requirement for the registry included: sex trafficking of children, video voyeurism of a minor, offenses resulting in death, and misleading domain names on the internet. She added that state did not require school information for the sex offender registry, which could expose high school students attending college classes to offenders.

Ms. Carpeneti replied that the bill would add felony patrons of child prostitutes to the sex offender requirement. She believed that sex trafficking offenses were included in the state's sex offender registration. She requested a copy of commissioner's letter and offered to reply specifically to any questions the letter raised at a later date.

Representative Costello said she would provide a copy of the letter to the committee and the department.

Representative Wilson asked if the provision in Section 35 could open the courts up to liability.

Ms. Carpeneti replied that the bill would allow the courts to make the best decision possible with the information available. She said that the courts were protected by immunity for judicial acts.

Representative Wilson did not understand why the provision was discretionary and not mandatory.

Ms. Carpeneti responded that the section would give the courts the discretion to excuse the department from trying to make best efforts to reunite the child with a parent or guardian who refused to address behavior that could be damaging to the child.

[10:16:24 AM](#)

Ms. Carpeneti continued with the sectional analysis:

Sections 36 and 37 add athletic coaches to the persons who are required to report to authorities if the person has reasonable cause to believe that a child

has suffered harm from child abuse or neglect. Athletic coach is defined in **Section 37** to include paid leaders of a sports team and their assistants.

Section 38 adopts a court rule that limits the publication of child pornography that occurs during the discovery process in a prosecution for unlawful exploitation of a minor. Because every viewing of child pornography is an additional harm to the victim, this section requires the defendant and the defendant's attorney to view the material where it is stored. If a defendant is not represented, it requires the court to arrange for the defendant to be supervised while viewing the material. If the defendant requests that an expert witness out of state view the material, it requires the court to arrange to send the material directly to the expert.

Ms. Carpeneti pointed out that SB 22 would only allow the materials to be copied and sent to an expert witness outside the state. The house version extended the court's ability to copy the material and send it to an expert witness both inside and outside the state.

Representative Thompson expressed concern with copying and sending the information outside the state. He noted that an expert witness was not an officer of the court.

Ms. Carpeneti replied that expert witnesses needed special equipment to view the material which would burden the expert to bring their equipment to the material.

Mr. Svobodny discussed an Adam Walsh Act. He said that the defense could argue that they could choose the expert that they wanted from wherever they wanted. He asserted that the client had the right to have the material examined by the person of their choice. He said that it was a cost question and that it was expensive to send materials out of state.

[10:20:58 AM](#)

Co-Chair Stoltze asked the department to finish the sectional analysis at a later date.

SB 22 was HEARD and HELD in committee for further consideration.

#sb21

CS FOR SENATE BILL NO. 21(FIN) am(efd fld)

"An Act relating to the interest rate applicable to certain amounts due for fees, taxes, and payments made and property delivered to the Department of Revenue; providing a tax credit against the corporation income tax for qualified oil and gas service industry expenditures; relating to the oil and gas production tax rate; relating to gas used in the state; relating to monthly installment payments of the oil and gas production tax; relating to oil and gas production tax credits for certain losses and expenditures; relating to oil and gas production tax credit certificates; relating to nontransferable tax credits based on production; relating to the oil and gas tax credit fund; relating to annual statements by producers and explorers; establishing the Oil and Gas Competitiveness Review Board; and making conforming amendments."

CSSB 21(FIN am(efd fld)was SCHEDULED but not HEARD.

#hb73

HOUSE BILL NO. 73

"An Act relating to the commencement of actions for felony sex trafficking and felony human trafficking; relating to the crime of sexual assault; relating to the crime of unlawful contact; relating to forfeiture for certain crimes involving prostitution; relating to the time in which to commence certain prosecutions; relating to release for violation of a condition of release in connection with a crime involving domestic violence; relating to interception of private communications for certain sex trafficking or human trafficking offenses; relating to use of evidence of sexual conduct concerning victims of certain crimes; relating to procedures for granting immunity to a witness in a criminal proceeding; relating to consideration at sentencing of the effect of a crime on the victim; relating to the time to make an application for credit for time served in detention in a treatment program or while in other custody; relating to suspending imposition of sentence for sex trafficking; relating to consecutive sentences for convictions of certain crimes involving child

pornography or indecent materials to minors; relating to the referral of sexual felonies to a three-judge panel; relating to the definition of 'sexual felony' for sentencing and probation for conviction of certain crimes; relating to the definition of "sex offense" regarding sex offender registration; relating to protective orders for stalking and sexual assault and for a crime involving domestic violence; relating to the definition of 'victim counseling centers' for disclosure of certain communications concerning sexual assault or domestic violence; relating to violent crimes compensation; relating to certain information in retention election of judges concerning sentencing of persons convicted of felonies; relating to remission of sentences for certain sexual felony offenders; relating to the subpoena power of the attorney general in cases involving the use of an Internet service account; relating to reasonable efforts in child-in-need-of-aid cases involving sexual abuse or sex offender registration; relating to mandatory reporting by athletic coaches of child abuse or neglect; making conforming amendments; amending Rules 16, 32.1(b)(1), and 32.2(a), Alaska Rules of Criminal Procedure, Rule 404(b), Alaska Rules of Evidence, and Rule 216, Alaska Rules of Appellate Procedure; and providing for an effective date."

HB 73 was SCHEDULED but not HEARD.

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ADJOURNMENT

[10:21:29 AM](#)

The meeting was adjourned at 10:21 a.m.