

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

April 9, 2013

1:12 p.m.

MEMBERS PRESENT

Representative Wes Keller, Chair
Representative Bob Lynn, Vice Chair
Representative Neal Foster
Representative Gabrielle LeDoux
Representative Lance Pruitt
Representative Max Gruenberg

MEMBERS ABSENT

Representative Charisse Millett

OTHER LEGISLATORS PRESENT

Representative Doug Isaacson

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 56(JUD)

"An Act relating to certain crimes involving controlled substances; and providing for an effective date."

- MOVED HCS CSSB 56(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 3

"An Act relating to voter identification at the polls; and relating to the counting of absentee and questioned ballots."

- MOVED HB 3 OUT OF COMMITTEE

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 54

"An Act relating to the identification, location, and notification of specified family members and family friends of a child who is in state custody."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 56

SHORT TITLE: RECLASSIFYING CERTAIN DRUG OFFENSES

SPONSOR(S): SENATOR(S) DYSON

02/15/13 (S) READ THE FIRST TIME - REFERRALS
02/15/13 (S) JUD, FIN
03/04/13 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/04/13 (S) Heard & Held
03/04/13 (S) MINUTE(JUD)
03/05/13 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/05/13 (S) Moved CSSB 56(JUD) Out of Committee
03/05/13 (S) MINUTE(JUD)
03/11/13 (S) JUD CS RPT 3DP SAME TITLE
03/11/13 (S) DP: COGHILL, MCGUIRE, DYSON
03/18/13 (S) FIN AT 9:00 AM SENATE FINANCE 532
03/18/13 (S) Heard & Held
03/18/13 (S) MINUTE(FIN)
03/27/13 (S) FIN AT 9:00 AM SENATE FINANCE 532
03/27/13 (S) Moved CSSB 56(JUD) Out of Committee
03/27/13 (S) MINUTE(FIN)
03/27/13 (S) FIN RPT CS(JUD) 3DP 3NR 1AM
03/27/13 (S) DP: KELLY, MEYER, HOFFMAN
03/27/13 (S) NR: FAIRCLOUGH, BISHOP, DUNLEAVY
03/27/13 (S) AM: OLSON
04/04/13 (S) TRANSMITTED TO (H)
04/04/13 (S) VERSION: CSSB 56(JUD)
04/05/13 (H) READ THE FIRST TIME - REFERRALS
04/05/13 (H) JUD, FIN
04/06/13 (H) JUD AT 1:00 PM CAPITOL 120
04/06/13 (H) -- MEETING CANCELED --
04/08/13 (H) JUD AT 1:00 PM CAPITOL 120
04/08/13 (H) Heard & Held
04/08/13 (H) MINUTE(JUD)
04/09/13 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 3

SHORT TITLE: PHOTO IDENTIFICATION VOTING REQUIREMENT

SPONSOR(S): REPRESENTATIVE(S) LYNN, KELLER

01/16/13 (H) PREFILE RELEASED 1/7/13
01/16/13 (H) READ THE FIRST TIME - REFERRALS
01/16/13 (H) STA, JUD
02/21/13 (H) STA AT 8:00 AM CAPITOL 106
02/21/13 (H) Heard & Held
02/21/13 (H) MINUTE(STA)
03/14/13 (H) STA AT 8:00 AM CAPITOL 106
03/14/13 (H) Moved Out of Committee
03/14/13 (H) MINUTE(STA)
03/14/13 (H) STA RPT 2DP 1DNP 1NR 2AM

03/14/13 (H) DP: KELLER, LYNN
 03/14/13 (H) DNP: KREISS-TOMKINS
 03/14/13 (H) NR: GATTIS
 03/14/13 (H) AM: HUGHES, ISAACSON
 04/01/13 (H) JUD AT 1:00 PM CAPITOL 120
 04/01/13 (H) Heard & Held
 04/01/13 (H) MINUTE(JUD)
 04/05/13 (H) JUD AT 1:00 PM CAPITOL 120
 04/05/13 (H) Heard & Held
 04/05/13 (H) MINUTE(JUD)
 04/09/13 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 54

SHORT TITLE: PLACEMENT OF A CHILD IN NEED OF AID
 SPONSOR(S): REPRESENTATIVE(S) GARA, THOMPSON

01/16/13 (H) PREFILE RELEASED 1/11/13
 01/16/13 (H) READ THE FIRST TIME - REFERRALS
 01/16/13 (H) HSS, JUD
 01/24/13 (H) SPONSOR SUBSTITUTE INTRODUCED
 01/24/13 (H) READ THE FIRST TIME - REFERRALS
 01/24/13 (H) HSS, JUD
 02/07/13 (H) HSS AT 3:00 PM CAPITOL 106
 02/07/13 (H) Scheduled But Not Heard
 02/26/13 (H) HSS AT 3:00 PM CAPITOL 106
 02/26/13 (H) Heard & Held
 02/26/13 (H) MINUTE(HSS)
 04/02/13 (H) HSS AT 3:00 PM CAPITOL 106
 04/02/13 (H) Moved CSSSHB 54(HSS) Out of Committee
 04/02/13 (H) MINUTE(HSS)
 04/04/13 (H) HSS RPT CS(HSS) NT 3DP 4NR
 04/04/13 (H) DP: TARR, NAGEAK, SEATON
 04/04/13 (H) NR: KELLER, PRUITT, REINBOLD, HIGGINS
 04/08/13 (H) JUD AT 1:00 PM CAPITOL 120
 04/08/13 (H) Heard & Held
 04/08/13 (H) MINUTE(JUD)
 04/09/13 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

CHARLES KOPP, Staff
 Senator Fred Dyson
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Provided comments during discussion of SB 56 on behalf of the sponsor, Senator Dyson.

NEISJE STEINKRUGER

Fairbanks, Alaska

POSITION STATEMENT: During discussion of SB 56, provided a comment as a former Alaska Superior Court judge.

WILDA LAUGHLIN, Special Assistant

Office of the Commissioner

Department of Health and Social Services (DHSS)

Juneau, Alaska

POSITION STATEMENT: Offered a comment during discussion of Amendment 2 to SB 56.

TONY PIPER, Coordinator

Alcohol Safety Action Program (ASAP)

Prevention and Early Intervention Services Section

Division of Behavioral Health (DBH)

Department of Health and Social Services (DHSS)

Anchorage, Alaska

POSITION STATEMENT: Responded to a question regarding the potential fiscal impact of Amendment 2 to SB 56.

JEFFREY A. MITTMAN, Executive Director

American Civil Liberties Union of Alaska (ACLU of Alaska)

Anchorage, Alaska

POSITION STATEMENT: Provided a comment during discussion of HB 3.

REPRESENTATIVE LES GARA

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: During discussion of SSHB 54, provided comments as one of the bill's joint prime sponsors.

CHRISTY LAWTON, Director

Central Office

Office of Children's Services (OCS)

Department of Health and Social Services (DHSS)

Fairbanks, Alaska

POSITION STATEMENT: Responded to questions during discussion of SSHB 54.

ACTION NARRATIVE

[1:12:37 PM](#)

CHAIR WES KELLER called the House Judiciary Standing Committee meeting to order at 1:12 p.m. Representatives Keller, Foster,

Lynn, and Gruenberg were present at the call to order. Representatives LeDoux and Pruitt arrived as the meeting was in progress. Representative Isaacson was also in attendance.

SB 56 - RECLASSIFYING CERTAIN DRUG OFFENSES

1:13:00 PM

CHAIR KELLER announced that the first order of business would be CS FOR SENATE BILL NO. 56(JUD), "An Act relating to certain crimes involving controlled substances; and providing for an effective date."

1:13:16 PM

CHARLES KOPP, Staff, Senator Fred Dyson, Alaska State Legislature, speaking on behalf of the sponsor of SB 56, Senator Dyson, explained that the sponsor has provided for inclusion in members' packets a proposed amendment labeled 28-LS0355\C.9, Luckhaupt/Strasbaugh, 4/9/13, intended to address a concern expressed during the previous hearing on the bill that it would lower the penalty [in certain situations] for possessing the schedule IA controlled substances used by sexual predators to incapacitate their victims during sexual assault and sexual abuse of a minor crimes. Lowering the penalty for possessing such schedule IA controlled substances - enumerated in [AS 11.71.140(e)] - does not comport with the sponsor's intent. Under this proposed amendment [later named Amendment 3], the penalty for possessing such schedule IA controlled substances would remain a class C felony regardless of how many crimes of misconduct involving a controlled substance in the first through fifth degrees the perpetrator has previously been convicted of. He offered his understanding - based on a note he said he'd received from the executive director of the Alaska Network on Domestic Violence & Sexual Assault (ANDVSA) - that the ANDVSA would be in support of SB 56 with the adoption of [Amendment 3], which read:

Page 2, lines 1 - 9:

Delete all material and insert:

"(A) any amount of a

(i) schedule IA controlled substance **listed in AS 11.71.140(e)**; or

(ii) **schedule IA or IIA controlled substance other than [EXCEPT] a controlled substance listed in (i) of this subparagraph, and, two or more times within the preceding five years, the person was**

convicted under AS 11.71.010 - 11.71.050 or a law or ordinance of this or another jurisdiction with elements similar to those of an offense under AS 11.71.010 - 11.71.050 [AS 11.71.150(e)(11) - (15)];"

Page 3, lines 1 - 7:

Delete all material and insert:

"(H) 15 or more tablets, ampules, or syrettes containing a schedule IA or IIA controlled substance other than a controlled substance listed in AS 11.71.140(e); or

(I) one or more preparations, compounds, mixtures, or substances of an aggregate weight of

(i) three grams or more containing a schedule IA controlled substance other than a controlled substance listed in AS 11.71.140(d)(11) or 11.71.140(e) or a schedule IIA controlled substance other than a controlled substance listed in AS 11.71.150(b)(12);"

Page 5, lines 3 - 9:

Delete all material and insert:

"(F) less than 15 tablets, ampules, or syrettes containing a schedule IA or IIA controlled substance other than a controlled substance listed in AS 11.71.140(e); or

(G) one or more preparations, compounds, mixtures, or substances of an aggregate weight of less than

(i) three grams containing a schedule IA controlled substance other than a controlled substance listed in AS 11.71.140(d)(11) or 11.71.140(e) or a schedule IIA controlled substance other than a controlled substance listed in AS 11.71.150(b)(12);"

[1:14:40 PM](#)

MR. KOPP then referred to the proposed amendment labeled 28-LS0355\C.6, Strasbaugh, 4/5/13, already included in members' packets, and explained that it's intended to address a concern that the proposed time period of five years during which previous convictions could be considered for purposes of charging a person with a class C felony under the bill's proposed AS 11.71.040(a)(3)(A), is too short in terms of accurately reflecting whether the person has indeed reformed

his/her behavior. This proposed amendment [later named Amendment 1] read:

Page 2, line 2:

Delete "five"

Insert "seven"

MR. KOPP also referred to the proposed amendment labeled 28-LS0355\C.7, Strasbaugh, 4/5/13, already included in members' packets, and explained that it's intended to ensure that for purposes of sentencing those convicted under the bill's proposed AS 11.71.050 - addressing the crime of misconduct involving a controlled substance in the fifth degree - the court shall [in certain circumstances] order defendants to satisfy the screening, evaluation, referral, and program requirements of an alcohol safety action program or a drug abuse evaluation program. This proposed amendment [later named Amendment 2] read:

Page 5, following line 15:

Insert a new bill section to read:

"* **Sec. 3.** AS 12.55.135 is amended by adding a new subsection to read:

(1) A defendant convicted of misconduct involving a controlled substance in the fifth degree shall be ordered to satisfy the screening, evaluation, referral, and program requirements of an alcohol safety action or drug abuse evaluation program, if an alcohol safety action or drug abuse evaluation program is available in the community where the person resides, or of a private or public treatment facility approved by the Department of Health and Social Services under AS 47.37 to make referrals for rehabilitative treatment or to provide rehabilitative treatment."

Renumber the following bill sections accordingly.

CHAIR KELLER opened public testimony.

[1:17:39 PM](#)

NEISJE STEINKRUGER - after confirming that she'd previously provided testimony to the committee during discussion of HB 178, the House companion bill to SB 56, regarding distinctions between how certain felony cases are handled compared to like misdemeanor cases, and noting that she was merely providing

information to the committee based on her former experience as an Alaska Supreme Court judge and was not then and is not now taking a position on behalf of the Alaska Court System (ACS) - expressed appreciation for the work being done to review the statutes addressing the crimes of misconduct involving a controlled substance.

CHAIR KELLER closed public testimony on SB 56.

[1:19:15 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 1 [text provided previously].

CHAIR KELLER objected.

REPRESENTATIVE GRUENBERG reiterated that Amendment 1 would extend the time period - from five years to seven years - during which previous convictions could be considered for purposes of charging a person with a class C felony under proposed AS 11.71.040(a)(3)(A). Urging adoption of Amendment 1, he added that it provides a compromise to address a concern expressed by [the Department of Law (DOL)] that the proposed time period of five years would be too short and that a time period of ten years would be preferable.

CHAIR KELLER removed his objection, ascertained that there were no further objections, and announced that Amendment 1 was adopted.

[1:20:01 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 2 [text provided previously].

CHAIR KELLER objected.

REPRESENTATIVE GRUENBERG offered his understanding that the DOL is amenable to Amendment 2's proposed change, that the language it's adding to AS 12.55.135 is modeled on similar language addressing the crimes of driving under the influence (DUI), and that in the DUI context, [the process outlined in the proposed new language] has been successful. He reiterated that Amendment 2 would ensure that for purposes of sentencing those convicted under the bill's proposed AS 11.71.050 - addressing the crime of misconduct involving a controlled substance in the fifth degree - the court shall [in certain circumstances] order

defendants to satisfy the screening, evaluation, referral, and program requirements of an alcohol safety action program or a drug abuse evaluation program.

[1:21:33 PM](#)

WILDA LAUGHLIN, Special Assistant, Office of the Commissioner, Department of Health and Social Services (DHSS), in response to a comment, relayed that the DHSS believes that Amendment 2 would have a fiscal impact on the DHSS, and is currently working to quantify that impact.

[1:22:20 PM](#)

TONY PIPER, Coordinator, Alcohol Safety Action Program (ASAP), Prevention and Early Intervention Services Section, Division of Behavioral Health (DBH), Department of Health and Social Services (DHSS), in response to a question, added that there would be a fiscal impact on the DHSS because Amendment 2 together with the bill's proposed changes to AS 11.71.040 and AS 11.71.050 would increase the number of misdemeanants his office would be required to screen, evaluate, and refer.

CHAIR KELLER removed his objection to the adoption of Amendment 2.

MS. LAUGHLIN, in response to another question and comments, reiterated that the DHSS is currently working to quantify the fiscal impact that Amendment 2 together with the bill's proposed changes to AS 11.71 would have on the DHSS.

CHAIR KELLER ascertained that there were no further objections to Amendment 2. [Although not formally stated, the committee treated Amendment 2 as having been adopted.]

[1:24:22 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 3 [text provided previously].

CHAIR KELLER objected; ascertained that there were no further comments, questions, or concerns regarding Amendment 3; removed his objection; and, noting that there were no further objections to the motion, announced that Amendment 3 was adopted.

[1:25:04 PM](#)

REPRESENTATIVE LYNN moved to report CSSB 56(JUD), as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCS CSSB 56(JUD) was reported from the House Judiciary Standing Committee.

The committee took an at-ease from 1:26 p.m. to 1:28 p.m.

HB 3 - PHOTO IDENTIFICATION VOTING REQUIREMENT

[1:28:54 PM](#)

CHAIR KELLER announced that the next order of business would be HOUSE BILL NO. 3, "An Act relating to voter identification at the polls; and relating to the counting of absentee and questioned ballots."

[1:29:04 PM](#)

REPRESENTATIVE LYNN, speaking as one of the joint prime sponsors, characterized HB 3 as a good bill, and offered his understanding that nothing in it would prevent anybody who is registered to vote and who is motivated to vote, from voting. He said, "They can identify themselves by photo ... [identification (ID)], two forms of non-photo ID; they can be recognized by two election workers or cast a question ballot." "It's our intent not to disenfranchise anybody, but safeguard our precious right to vote in this state," he remarked, and urged the committee's favorable consideration of HB 3.

[1:29:46 PM](#)

REPRESENTATIVE FOSTER made a motion to adopt Amendment 1, labeled 28-LS0010\U.2, Bullard, 4/6/13, which read:

Page 1, line 4, through page 2, line 29:

Delete all material and insert:

"* **Section 1.** AS 15.15.225(a) is amended to read:

(a) Before being allowed to vote, each voter

(1) in a community that has a population of less than 5,000 shall exhibit to an election official one form of identification, including

(A) [(1)] an official voter registration card, driver's license, state identification card, current and valid photo identification, birth certificate, passport, or hunting or fishing license; or

(B) [(2)] an original or a copy of a current utility bill, bank statement, paycheck, government check, or other government document; an item exhibited under this paragraph must show the name and current address of the voter;

(2) in a community that has a population of 5,000 or more shall exhibit to an election official

(A) one form of personal identification that contains a photograph; under this paragraph, permitted forms of photographic identification include a valid

(i) Alaska driver's license;

(ii) identification card issued by a branch, department, agency, or entity of the state, any other state, or the United States government;

(iii) United States passport;

(iv) employee identification card issued by any branch, department, agency, or entity of the United States government, the state, or a municipality of the state;

(v) United States military identification card;

(vi) student identification card issued by a high school or an accredited institution of higher education, as that term is defined under AS 23.20.520, located in the state;

(vii) tribal identification card; or

(B) two forms of personal identification that do not contain a photograph; under this paragraph, permitted forms of identification without a photograph include

(i) the original or a certified copy of the birth certificate of the voter;

(ii) certified naturalization documents of the voter;

(iii) a certified copy of the voter's court record of adoption, marriage, or name change;

(iv) a valid identification card, license, or permit issued by any branch, department, agency, or entity of the United States government or the state;

(v) a valid tribal identification card or a valid card issued by an Indian health program, as that term is defined in 25 U.S.C. 1603.

* Sec. 2. AS 15.15.225(b) is amended to read:

(b) In a community that has a population of less than 5,000, an [AN] election official may waive the identification requirement if the election official

knows the identity of the voter. In a community that has a population of 5,000 or more, the identification requirement may only be waived if two election officials know the voter. The identification requirement may not be waived for voters who are not on the precinct voter registration list or for voters who are first-time voters who initially registered by mail or by facsimile or other electronic transmission approved by the director under AS 15.07.050, and did not provide identification as required in AS 15.07.060. If the identification requirements are waived for a voter under this subsection, the election official or officials who know the voter shall sign beside the voter's name in the register kept under AS 15.15.180."

Renumber the following bill sections accordingly.

CHAIR KELLER objected.

REPRESENTATIVE FOSTER - referring to what he termed the unique circumstances/situations faced by those living in rural Alaska, and remarking that some of the rural communities in his district have a population of less than 100 - explained that Amendment 1 would exempt communities with a population of less than 5,000 from the [voter-identification] requirements outlined in HB 3, essentially leaving the current statutory requirements in place for voters living in such communities. Under current law, things like hunting licenses and utility bills, for example, are also sufficient to establish identification for purposes of voting, and in order for the statutory voter-ID requirements to be waived, only one election official need know the voter. He acknowledged, however, that a memorandum from Legislative Legal and Research Services dated April 7, 2013, indicates that Amendment 1 would raise constitutional equal-protection problems by establishing different identification requirements in different areas of the state [based on population].

REPRESENTATIVE FOSTER therefore then withdrew Amendment 1.

REPRESENTATIVE GRUENBERG opined, however, that because of the lack of accessibility in rural areas of Alaska to identification resources, if the state could demonstrate to the court that a fundamental right is at issue and that providing for different identification requirements is the appropriate approach to ensure that right given that lack, then the changes proposed by Amendment 1 might indeed withstand a constitutional challenge.

Furthermore, if Amendment 1 were to be adopted, a severability clause could also be added to the bill.

REPRESENTATIVE FOSTER relayed that he would instead be pursuing the issues addressed by Amendment 1 further as HB 3 continues through the process.

[1:36:31 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 2, labeled 28-LS0010\U.1, Bullard, 4/4/13. He offered his understanding that Amendment 2 would make it a little easier for people to register to vote. [Because of its length, Amendment 2 is provided at the end of the minutes on HB 3.]

CHAIR KELLER ruled Amendment 2 out of order in that its text constitutes legislation currently in the possession of another committee.

[1:38:31 PM](#)

JEFFREY A. MITTMAN, Executive Director, American Civil Liberties Union of Alaska (ACLU of Alaska), noting that he'd previously testified on HB 3 and provided the committee with written comments, reiterated that the ACLU of Alaska believes that there are several constitutional infirmities with the bill.

CHAIR KELLER closed public testimony on HB 3.

REPRESENTATIVE FOSTER referred to some of the items in HB 3's proposed lists of acceptable forms of required identification, and pointed out that many people living in rural Alaska - particularly many Native elders - don't have any such pieces of identification or any way to obtain them. Furthermore, in some rural communities, finding even one person to serve as an election official can be difficult, thereby raising a concern regarding the bill's proposal to require two election officials to know the person for purposes of waiving the identification requirements. "I just want to be ... expansive and inclusive ... [of folks] being able to vote, and ... things are so different in rural Alaska ... you really don't need ID," he remarked.

REPRESENTATIVE LYNN, in conclusion, said the whole purpose of HB 3 is to help safeguard Alaska's voting process.

[1:42:46 PM](#)

REPRESENTATIVE PRUITT moved to report HB 3 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 3 was reported from the House Judiciary Standing Committee.

AMENDMENT(S)

Amendment 2 [Labeled 28-LS0010\U.1, Bullard, 4/4/13] (ruled out of order):

Page 1, line 1, following "An Act":

Insert "relating to voter registration and questioned ballots; permitting a voter to register up to or on the day of an election;"

Page 1, following line 3:

Insert new bill sections to read:

"* **Section 1.** AS 15.05.010 is amended to read:

Sec. 15.05.010. Voter qualification. A person may vote at any election who

- (1) is a citizen of the United States;
- (2) is 18 years of age or older;
- (3) has been a resident of the state and of the house district in which the person seeks to vote for at least 30 days just before the election; and
- (4) has registered [BEFORE THE ELECTION] as required under AS 15.07 and is not registered to vote in another jurisdiction.

* **Sec. 2.** AS 15.07.070(d) is amended to read:

(d) Qualified voters may register in person before a registration official or through a voter registration agency at any time throughout the year. **A qualified voter who registers** [, EXCEPT THAT A PERSON REGISTERING] within 30 days preceding an election **or on the day of an election shall vote a questioned ballot** [IS NOT ELIGIBLE TO VOTE] at that election. Upon receipt and approval of the registration forms, the director or the election supervisor shall forward to the voter an acknowledgment in the form of a registration card, and the voter's name shall immediately be placed on the master register. Names of persons registering 30 or more days before an election shall be placed on the official registration list for that election.

* **Sec. 3.** AS 15.07.090(d) is repealed and reenacted to read:

(d) A voter who has failed to request a transfer as provided in (c) of this section or a person who claims to be a registered voter, but for whom no evidence of registration in the precinct can be found, shall vote a questioned ballot. The director or the director's representative shall determine whether a voter for whom no evidence of registration in the precinct is found is registered in that house district before counting the ballot.

* **Sec. 4.** AS 15.15 is amended by adding a new section to read:

Sec. 15.15.212. Election day voting by questioned ballot outside a voter's house district. (a) Notwithstanding AS 15.05.010(3), a qualified voter who has been a resident of the state and of a house district for at least 30 days before an election, but who is absent from that house district on election day, may vote a questioned ballot at a polling place outside that district on election day.

(b) For purposes of (a) of this section, the director shall

(1) supply all polling places with ballots for all house districts in the state; the director may provide the ballots under AS 15.15.032, 15.15.050, or AS 15.20.030;

(2) provide each voting official with a means of determining, by address, the appropriate house district ballot for a qualified voter voting a questioned ballot under this section; and

(3) provide each polling place with a separate ballot box for questioned ballots cast under this section.

* **Sec. 5.** AS 15.15.215(a) is amended to read:

(a) A voter who casts a questioned ballot in the voter's house district shall vote the ballot in the same manner as prescribed for other voters. The voter shall insert the ballot into a secrecy sleeve and put the secrecy sleeve into an envelope on which the statement the voter previously signed is located. The envelope shall be sealed and deposited in the ballot box. When the ballot box is opened, the envelopes shall be segregated, counted, compared to the voting list, and delivered to the official or body supervising the election. The merits of the question shall be determined by this official or body in accordance with the procedure prescribed for questioned ballots [VOTES] in AS 15.20.207.

* **Sec. 6.** AS 15.15.215 is amended by adding a new subsection to read:

(c) A voter who casts a questioned ballot at a polling place outside the voter's house district under AS 15.15.212 shall vote the ballot in the same manner prescribed for other voters. The voter shall insert the ballot into a secrecy sleeve and put the secrecy sleeve into an envelope on which the statement the voter previously signed is located. The envelope shall be sealed and deposited in a ballot box provided by the director under AS 15.15.212(b) for out-of-district questioned ballots. When the ballot box is opened, the envelopes shall be segregated, counted, and delivered to the director."

Page 1, line 4:

Delete "**Section 1**"

Insert "**Sec. 7**"

Renumber the following bill sections accordingly.

Page 2, following line 29:

Insert new bill sections to read:

"* **Sec. 9.** AS 15.15.350(a) is amended to read:

(a) The director may adopt regulations prescribing the manner in which the precinct ballot count is accomplished so as to ensure accuracy in the count and to expedite the process. The election board shall account for all ballots by completing a ballot statement containing (1) the number of official ballots received; (2) the number of official ballots voted; (3) the number of official ballots spoiled; (4) the number of official ballots unused and either destroyed or returned for destruction to the elections supervisor or the election supervisor's designee. The board shall count the number of questioned ballots cast by voters registered to vote in the house district and compare that number to the number of questioned voters in the register. Discrepancies shall be noted and the numbers included in the certificate prescribed by AS 15.15.370. The election board, in hand-count precincts, shall count the ballots in a manner that allows watchers to see the ballots when opened and read. A person handling the ballot after it has been taken from the ballot box and before it is placed in the envelope for mailing may not have a

marking device in hand or remove a ballot from the immediate vicinity of the polls.

* **Sec. 10.** AS 15.15 is amended by adding a new section to read:

Sec. 15.15.367. Counting and review of out-of-district questioned ballots. The director shall examine each questioned ballot cast under AS 15.15.212 in the manner provided in AS 15.20.207(b). If a questioned ballot is not rejected, it shall be counted, subject to AS 15.15.360. A questioned ballot cast under AS 15.15.212 may be challenged by an appointed party representative when that ballot is reviewed under AS 15.20.220(b). The director shall follow the procedures provided by AS 15.20.207(h) - (k) for ballots reviewed under this section."

Renumber the following bill sections accordingly.

Page 4, following line 21:

Insert a new bill section to read:

"* **Sec. 13.** AS 15.15.198(b) is repealed."

[End of amendment(s); HB 3 was reported from the House Judiciary Standing Committee.]

The committee took an at-ease from 1:43 p.m. to 1:52 p.m.; during the at-ease, Chair Keller turned the gavel over to Vice Chair Lynn.

HB 54 - PLACEMENT OF A CHILD IN NEED OF AID

[1:52:37 PM](#)

VICE CHAIR LYNN announced that the final order of business would be SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 54, "An Act relating to the identification, location, and notification of specified family members and family friends of a child who is in state custody." [Before the committee was CSSSHB 54(HSS).]

[1:53:12 PM](#)

REPRESENTATIVE LES GARA, Alaska State Legislature, speaking as one of the joint prime sponsors of SSHB 54, offered his understanding that [Section 1 of CSSSHB 54(HSS)] merely duplicates language contained in the Office of Children's Services' (OCS's) policy manual. He then provided information regarding HB 54, [which had previously been replaced by SSHB 54,

which had in turn been amended by the House Health and Social Services Standing Committee].

[Note to the reader: the language in Section 1 of CSSSHB 54(HSS), the version currently before the House Judiciary Standing Committee, stipulates that a supervisor shall verify in writing that the social worker has - within 30 days after the removal and subsequent placement of a child who has been removed from his/her home and been placed in out-of-home care under AS 47.10 and AS 47.14 - exercised due diligence in identifying, locating, and notifying noncustodial parents and adult family members regarding that child's removal and subsequent placement.]

REPRESENTATIVE GARA, noting that a question was posed during the prior hearing on CSSSHB 54(HSS) regarding the term, "verify" as used in Section 1's proposed new AS 47.10.035(b), referred to a memorandum from Legislative Legal and Research Services dated April 9, 2013, [indicating that the court would look to the context and common usage of that term]. He added, "Doesn't require any wax seal, doesn't require that you burn your finger and put an imprint on the paper; ... they just put a check on a box inside a file, says, 'I've spoken to the social worker - they've done their work.'" He relayed that the rationale for adopting the statutory changes proposed by [CSSSHB 54(HSS)] is to address the high employee-turnover rate within the OCS, adding, "I want to make sure that there's a check on the system."

REPRESENTATIVE GARA mentioned that during that prior hearing on the bill, questions unrelated to [CSSSHB 54(HSS)'s] proposed statutory changes also arose, and shared his understanding - based on information he'd received in response to those questions - that under current law the OCS provides notification to family members; that those notifications don't include the physical address of the child; and that the OCS won't allow what he termed a "crummy" non-custodial parent in whose home would not constitute the right placement, to become a foster parent. In conclusion, Representative Gara stressed that existing law, rather than the bill, already outlines who, specifically, shall be notified.

REPRESENTATIVE GRUENBERG, referring to an e-mail from the director of the OCS dated [April 9, 2013,] included in members' packets, added his understanding that the OCS does not notify a parent who's already had his/her parental rights terminated. He also relayed that the questions he'd had regarding the

appropriateness of some of CSSSHB 54(HSS)'s proposed language - specifically, the second usage of the word, "and" on page 1, line 7, the words, "conducting due diligence required" on page 2, line 3, and the words, "an adult [A] family friend" on page 2, line 11 - have all been answered to his satisfaction. In conclusion, he said he has no amendments to offer and he supports the bill.

VICE CHAIR LYNN, after ascertaining that no one else wished to testify, closed public testimony on SSHB 54.

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CHRISTY LAWTON, Director, Central Office, Office of Children's Services (OCS), Department of Health and Social Services (DHSS), in response to questions, explained that the changes proposed by [CSSSHB 54(HSS)] wouldn't significantly impact the OCS's workload because consultation between social workers and their supervisors already occurs regularly, and such consultations are already being documented in terms of confirming compliance with state and federal law; proffered that the bill would "enhance" and clarify how that documentation occurs with regard to ensuring the timeliness of required searches; predicted that no additional resources would be needed as a result of the bill's passage; pointed out that the 30-day timeframe by which a social worker must exercise due diligence in identifying, locating, and notifying noncustodial parents and adult family members, is already part of federal law; and reiterated that the bill would merely require a supervisor to specifically document that the social worker did indeed exercise due diligence as required by law and [outlined in] policy.

VICE CHAIR LYNN said he likes the bill, and would be holding [CSSSHB 54(HSS)] over in order to provide members with more time to consider it further.

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ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:04 p.m.