

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

April 11, 2014

1:17 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Charisse Millett

COMMITTEE CALENDAR

HOUSE BILL NO. 254

"An Act relating to powers of attorney; relating to the uniform probate code; and providing for an effective date."

- <BILL HEARING CANCELED>

SENATE JOINT RESOLUTION NO. 22 AM

Opposing the warrantless collection of telephone call data by the National Security Agency.

- MOVED HCS SJR 22(JUD) OUT OF COMMITTEE

CS FOR SENATE BILL NO. 171(JUD)

"An Act relating to multidisciplinary child protection teams; and relating to investigation of child abuse or neglect."

- MOVED HCS CSSB 171(2D JUD) OUT OF COMMITTEE

CS FOR SENATE BILL NO. 187(JUD)(TITLE AM)

"An Act relating to the crime of misconduct involving confidential information in the first degree; amending Rule 16, Alaska Rules of Criminal Procedure; amending Rule 8, Alaska Child in Need of Aid Rules; and providing for an effective date."

- MOVED HCS CSSB 187(JUD) OUT OF COMMITTEE

CS FOR SENATE BILL NO. 108(JUD)

"An Act relating to the confidentiality of certain records of criminal cases; and providing for an effective date."

- MOVED OUT OF COMMITTEE

HOUSE BILL NO. 108

"An Act relating to electronic citations; creating the electronic citation fund; and providing for an effective date."

- MOVED CSHB 108(JUD) OUT OF COMMITTEE

CS FOR SENATE BILL NO. 173(JUD)

"An Act relating to a prohibition on the possession, offer, display, marketing, advertising for sale, or sale of illicit synthetic drugs."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 254

SHORT TITLE: POWERS OF ATTORNEY

SPONSOR(S): REPRESENTATIVE(S) HUGHES, GRUENBERG

01/21/14	(H)	PREFILE RELEASED 1/17/14
01/21/14	(H)	READ THE FIRST TIME - REFERRALS
01/21/14	(H)	L&C, JUD
04/07/14	(H)	L&C AT 3:15 PM BARNES 124
04/07/14	(H)	Moved CSHB 254(L&C) Out of Committee
04/07/14	(H)	MINUTE(L&C)
04/08/14	(H)	L&C RPT CS(L&C) 5DP 1AM
04/08/14	(H)	DP: CHENAULT, HERRON, REINBOLD, SADDLER, OLSON
04/08/14	(H)	AM: JOSEPHSON
04/11/14	(H)	JUD AT 1:00 PM CAPITOL 120

BILL: SJR 22

SHORT TITLE: OPPOSE WARRANTLESS DATA COLLECTION

SPONSOR(S): SENATOR(S) GIESSEL

02/14/14	(S)	READ THE FIRST TIME - REFERRALS
02/14/14	(S)	JUD
03/07/14	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/07/14	(S)	Moved SJR 22 Out of Committee
03/07/14	(S)	MINUTE(JUD)

03/10/14 (S) JUD RPT 3DP
03/10/14 (S) DP: COGHILL, OLSON, DYSON
03/31/14 (S) TRANSMITTED TO (H)
03/31/14 (S) VERSION: SJR 22 AM
04/01/14 (H) READ THE FIRST TIME - REFERRALS
04/01/14 (H) JUD
04/09/14 (H) JUD AT 1:00 PM CAPITOL 120
04/09/14 (H) Scheduled But Not Heard
04/11/14 (H) JUD AT 1:00 PM CAPITOL 120

BILL: SB 171

SHORT TITLE: MULTIDISCIPLINARY CHILD PROTECTION TEAMS

SPONSOR(s): SENATOR(s) COGHILL

02/12/14 (S) READ THE FIRST TIME - REFERRALS
02/12/14 (S) JUD
02/24/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/24/14 (S) Heard & Held
02/24/14 (S) MINUTE(JUD)
03/03/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/03/14 (S) Scheduled But Not Heard
03/05/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/05/14 (S) Moved CSSB 171(JUD) Out of Committee
03/05/14 (S) MINUTE(JUD)
03/07/14 (S) JUD RPT CS 2DP 2NR SAME TITLE
03/07/14 (S) DP: COGHILL, DYSON
03/07/14 (S) NR: WIELECHOWSKI, OLSON
03/21/14 (S) TRANSMITTED TO (H)
03/21/14 (S) VERSION: CSSB 171(JUD)
03/24/14 (H) READ THE FIRST TIME - REFERRALS
03/24/14 (H) JUD
04/02/14 (H) JUD AT 1:00 PM CAPITOL 120
04/02/14 (H) Moved HCS CSSB 171(JUD) Out of
Committee
04/02/14 (H) MINUTE(JUD)
04/03/14 (H) JUD RPT HCS(JUD) 5DP 2NR
04/03/14 (H) DP: MILLETT, FOSTER, LYNN, LEDOUX,
KELLER
04/03/14 (H) NR: PRUITT, GRUENBERG
04/07/14 (H) RETURNED TO JUD COMMITTEE
04/11/14 (H) JUD AT 1:00 PM CAPITOL 120

BILL: SB 187

SHORT TITLE: CONFIDENTIAL INFORMATION: MISCONDUCT, RLS

SPONSOR(s): SENATOR(s) COGHILL

02/21/14 (S) READ THE FIRST TIME - REFERRALS

02/21/14 (S) JUD
 03/12/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/12/14 (S) Heard & Held
 03/12/14 (S) MINUTE(JUD)
 03/14/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/14/14 (S) -- MEETING CANCELED --
 03/17/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/17/14 (S) Moved CSSB 187(JUD) Out of Committee
 03/17/14 (S) MINUTE(JUD)
 03/18/14 (S) JUD RPT CS 2DP 1NR NEW TITLE
 03/18/14 (S) DP: COGHILL, DYSON
 03/18/14 (S) NR: OLSON
 03/26/14 (S) TRANSMITTED TO (H)
 03/26/14 (S) VERSION: CSSB 187(JUD)(TITLE AM)
 03/27/14 (H) READ THE FIRST TIME - REFERRALS
 03/27/14 (H) JUD
 04/04/14 (H) JUD AT 1:00 PM CAPITOL 120
 04/04/14 (H) Heard & Held
 04/04/14 (H) MINUTE(JUD)
 04/11/14 (H) JUD AT 1:00 PM CAPITOL 120

BILL: SB 108

SHORT TITLE: CONFIDENTIALITY OF CRIMINAL CASE RECORDS

SPONSOR(s): SENATOR(s) DYSON

01/22/14 (S) PREFILE RELEASED 1/10/14
 01/22/14 (S) READ THE FIRST TIME - REFERRALS
 01/22/14 (S) JUD, FIN
 02/24/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 02/24/14 (S) Heard & Held
 02/24/14 (S) MINUTE(JUD)
 02/28/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 02/28/14 (S) Heard & Held
 02/28/14 (S) MINUTE(JUD)
 03/03/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/03/14 (S) Heard & Held
 03/03/14 (S) MINUTE(JUD)
 03/05/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/05/14 (S) Moved CSSB 108(JUD) Out of Committee
 03/05/14 (S) MINUTE(JUD)
 03/07/14 (S) JUD RPT CS 1DP 1NR 2AM SAME TITLE
 03/07/14 (S) DP: DYSON
 03/07/14 (S) NR: COGHILL
 03/07/14 (S) AM: WIELECHOWSKI, OLSON
 03/17/14 (S) FIN AT 9:00 AM SENATE FINANCE 532
 03/17/14 (S) Heard & Held
 03/17/14 (S) MINUTE(FIN)

03/18/14 (S) FIN RPT CS(JUD) 4DP 3NR
 03/18/14 (S) DP: KELLY, MEYER, DUNLEAVY, BISHOP
 03/18/14 (S) NR: HOFFMAN, FAIRCLOUGH, OLSON
 03/18/14 (S) FIN AT 9:00 AM SENATE FINANCE 532
 03/18/14 (S) Moved CSSB 108(JUD) Out of Committee
 03/18/14 (S) MINUTE(FIN)
 03/28/14 (S) TRANSMITTED TO (H)
 03/28/14 (S) VERSION: CSSB 108(JUD)
 03/31/14 (H) READ THE FIRST TIME - REFERRALS
 03/31/14 (H) JUD, FIN
 04/09/14 (H) JUD AT 1:00 PM CAPITOL 120
 04/09/14 (H) <Bill Hearing Canceled>
 04/11/14 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 108

SHORT TITLE: SURCHARGE ON FINES/ELEC. CITATION FUND
 SPONSOR(s): REPRESENTATIVE(s) P.WILSON

02/11/13 (H) READ THE FIRST TIME - REFERRALS
 02/11/13 (H) JUD, FIN
 03/11/13 (H) JUD AT 1:00 PM CAPITOL 120
 03/11/13 (H) Heard & Held
 03/11/13 (H) MINUTE(JUD)
 04/07/14 (H) JUD AT 1:00 PM CAPITOL 120
 04/07/14 (H) Scheduled But Not Heard
 04/09/14 (H) JUD AT 1:00 PM CAPITOL 120
 04/09/14 (H) <Bill Hearing Canceled>
 04/11/14 (H) JUD AT 1:00 PM CAPITOL 120

BILL: SB 173

SHORT TITLE: SYNTHETIC DRUGS
 SPONSOR(s): SENATOR(s) MEYER

02/14/14 (S) READ THE FIRST TIME - REFERRALS
 02/14/14 (S) JUD
 03/05/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/05/14 (S) Heard & Held
 03/05/14 (S) MINUTE(JUD)
 03/12/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/12/14 (S) Moved CSSB 173(JUD) Out of Committee
 03/12/14 (S) MINUTE(JUD)
 03/14/14 (S) JUD RPT CS 3DP 1NR 1AM NEW TITLE
 03/14/14 (S) DP: COGHILL, MCGUIRE, DYSON
 03/14/14 (S) NR: OLSON
 03/14/14 (S) AM: WIELECHOWSKI
 03/14/14 (S) FIN REFERRAL ADDED AFTER JUD
 03/18/14 (S) FIN REFERRAL REMOVED

03/28/14 (S) TRANSMITTED TO (H)
03/28/14 (S) VERSION: CSSB 173(JUD)
03/31/14 (H) READ THE FIRST TIME - REFERRALS
03/31/14 (H) JUD, FIN
04/10/14 (H) FIN AT 8:30 AM HOUSE FINANCE 519
04/10/14 (H) <Pending Referral>
04/11/14 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

SENATOR CATHY GIESSEL
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented SJR 22.

JANE CONWAY, Staff
to Senator Cathy Giessel
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented SJR 22 on behalf of Senator
Giessel.

RYNNIEVA MOSS, Staff
to Senator John Coghill
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented an amendment to HCS SB 171(JUD) on
behalf of Senator Coghill.

RYNNIEVA MOSS, Staff
to Senator John Coghill
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented CSSB 187(JUD) on behalf of Senator
Coghill.

JAN RUTHERDALE, Chair
Children's Justice Act Task Force
Department of Health and Social Services
Juneau, Alaska
POSITION STATEMENT: Spoke in support of SB 187 and expressed one
concern.

EMILY WRIGHT, Assistant Attorney General
Alaska Department of Law (DOL), Child Protection Section
Juneau, Alaska
POSITION STATEMENT: Answered questions regarding SB 187.

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

POSITION STATEMENT: Answered a question regarding CSSB 108(JUD).

REPRESENTATIVE PEGGY WILSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 108 as sponsor.

ARTHUR MARTIN, Staff
to Representative Peggy Wilson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding HB 108.

NANCY MEADE, General Counsel
Alaska Court System
Anchorage, Alaska

POSITION STATEMENT: Discussed HB 108.

LIEUTENANT RICK ROBERTS
Alaska State Troopers
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding HB 108.

RYNNIEVA MOSS, Staff
Senator John Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented CSSB 187(JUD) on behalf of Senator Coghill.

EDRA MORLEDGE, Staff
to Senator Kevin Meyer
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented CSSB 173(JUD) on behalf of Senator Meyer.

KATHLEEN STRASBAUGH, Attorney
Legislative Legal and Research Services
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding SB 173.

CYNTHIA FRANKLIN, Prosecutor
Municipality of Anchorage
Anchorage, Alaska

POSITION STATEMENT: Answered questions about SB 173.

QUINLAN STEINER, Public Defender
Public Defender Agency
Alaska Department of Administration
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding SB 173.

ACTION NARRATIVE

[1:17:47 PM](#)

CHAIR WES KELLER called the House Judiciary Standing Committee meeting to order at 1:17 p.m. Representatives LeDoux, Lynn, Gruenberg, and Keller were present at the call to order. Representatives Foster and Pruitt arrived as the meeting was in progress.

[1:18:00 PM](#)

HB 254-POWERS OF ATTORNEY

CHAIR KELLER said HOUSE BILL NO. 254, "An Act relating to powers of attorney; relating to the uniform probate code; and providing for an effective date," was scheduled to be heard today, and it is very well-intentioned legislation to stop abuse of elders by amending the power-of-attorney law. It is an extensive bill, so he said, he will drop it from the hearing with the understanding that the committee would be willing to look at it during the interim.

[1:18:33 PM](#)

REPRESENTATIVE GRUENBERG noted that he would work on HB 254 during the interim if the chair were to set up a subcommittee.

[House bill 254 was held over.]

SJR 22-OPPOSE WARRANTLESS DATA COLLECTION

[1:18:56 PM](#)

CHAIR KELLER listed the bills to be discussed at today's hearing, and then he announced that the next order of business would be SENATE JOINT RESOLUTION NO. 22 am: Opposing the warrantless collection of telephone call data by the National Security Agency.

[1:20:18 PM](#)

SENATOR CATHY GIESSEL, Alaska State Legislature, said SJR 22 "calls out the NSA [National Security Agency] and their bulk telephone record program, which has been capturing our telephone records, storing them, viewing them, and this calls out our opposition to this program." She said SJR 22 has bipartisan support in the Alaska Senate and across the country, and it calls out the violation of the Fourth and Fifth Amendments by this program. "We are simply urging the federal government to truly abandon the program," she summarized.

[1:21:22 PM](#)

CHAIR KELLER noted that the version before the committee was amended on the Senate floor and is labeled 1391\U.a.

JANE CONWAY, Staff to Senator Cathy Giessel, Alaska State Legislature, said the Senate, on the floor, added the governor to the list of recipients and the following language:

The Alaska State Legislature urges the governor to prohibit the use of state personnel and resources to assist the NSA in its collection of mass data on Alaskans without specific search warrant.

[1:22:29 PM](#)

MS. CONWAY said the resolution is a reflection of growing negative public sentiment toward the NSA's aggressive collection of data. She said everyone is aware of "the whistleblower situation and the uprising against the NSA's collections of data." In December, 2013, Judge Leon said, "I cannot imagine a more indiscriminate and arbitrary invasion than this systematic and high-tech collection and retention of personal data on virtually every citizen for purposes of querying and analyzing it without prior judicial approval. Surely such a program infringes on that degree of privacy that the founders enshrined in the Fourth Amendment."

[1:23:41 PM](#)

MS. CONWAY said the NSA was founded in 1952, and it focused on overseas surveillance but has morphed into something quite different. She said the activities are in violation of the Constitution and strip Alaskans and Americans of their liberty. [SJR 22] urges the Foreign Intelligence Surveillance Court to declassify past opinions and urges future opinions to be released to the public, she stated. The resolution finds NSA's activities to be a troubling example of federal overreach, she added, and there is a packet with various articles. She said she believes that the President made an announcement a few weeks ago that he was going to propose a lot of changes, and those are being deliberated in Congress right now.

[1:24:53 PM](#)

REPRESENTATIVE GRUENBERG noted a technical change on line 20, page 4, which should say "and the Constitution of the State of Alaska." Additionally, since these are activities of the NSA, "I believe that is under the jurisdiction of the Senate Intelligence Committee ... and if so, you might want to have copies sent to the chair of that committee and the ranking minority member." He suggested those as conceptual amendments.

[1:26:47 PM](#)

REPRESENTATIVE GRUENBERG offered Conceptual Amendment 1, as follows:

Page 4, line 20, will read "the Constitution of the State of Alaska.

Recipients of the resolution will include the chairs and ranking members of the U.S. House and U.S. Senate Intelligence Committees.

[1:27:14 PM](#)

CHAIR KELLER, hearing no objection, announced the adoption of Conceptual Amendment 1.

REPRESENTATIVE LYNN moved to report SJR 22 am, as amended, out of committee with individual recommendations and the accompanying fiscal notes. Hearing no objections, HCS SJR 22(JUD) passed out of the House Judiciary Standing Committee.

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

[1:28:41 PM](#)

SB 171-MULTIDISCIPLINARY CHILD PROTECTION TEAMS

[1:28:47 PM](#)

CHAIR KELLER announced that the next order of business would be HCS FOR SENATE BILL NO. 171(JUD), "An Act relating to multidisciplinary child protection teams; and relating to investigation of child abuse or neglect."

RYNNIEVA MOSS, Staff to Senator John Coghill, Alaska State Legislature, said that at Senator Coghill's request, SB 171 was returned to the House Judiciary Standing Committee because the wording created a large fiscal note. She said, "We want to make it clear that multi-disciplinary child protection teams (MDT) can be formed but that the Department of Health and Social Services (HSS) will still be the clearinghouse." She continued:

On page 1, line 8, we have added the words that these different entities within subsection (a) with expertise in child abuse or neglect, in participation with the department, may facilitate the initial establishment of a multi-disciplinary child protection team.

MS. MOSS added that on Page 2, line 11, "may to the extent feasible" is replaced with "shall", in order to make it clear that, although it is now possible for multi-disciplinary teams to be formed without participation of OCS [Office of Children Services], that office will still be the clearinghouse.

[1:30:16 PM](#)

CHAIR KELLER noted that the committee is working off of the CS that the committee had already passed.

The committee took an at-ease from 1:30 p.m. to 1:31 p.m.

The committee took an at-ease from 1:32 p.m. to 1:32 p.m.

REPRESENTATIVE GRUENBERG said he has a grammatical question regarding lines 5-8: Does the language mean that the state, municipal agencies, and tribes must be in partnership with the department "or is it just the tribe?"

[1:33:43 PM](#)

MS. MOSS said the language means that any one of those entities and the department may facilitate a MDT.

REPRESENTATIVE GRUENBERG recommended that the amendment be made a conceptual amendment because the editors may have a better way to phrase it with less confusion.

[1:34:17 PM](#)

CHAIR KELLER said he believes that is a friendly suggestion.

MS. MOSS said that Legislative Legal Services drafted it.

CHAIR KELLER suggested that Ms. Moss provide legal services with Representative Gruenberg's concern.

[1:34:42 PM](#)

REPRESENTATIVE GRUENBERG moved Conceptual Amendment 1, labeled 28-LS1416\Y.1, Mischel, 4/7/14, as follows:

Page 1, line 8, following "neglect":
Insert ", in partnership with the department,"

Page 2, line 11:
Delete "may, to the extent feasible,"
Insert "shall"

CHAIR KELLER noted no objections, so Amendment 1 was adopted.

REPRESENTATIVE LEDOUX stated that she does not see how Amendment 1 gets rid of the fiscal note, if that is the intention.

[1:36:16 PM](#)

MS. MOSS explained that without the amendment, HCS SB 171(JUD) reads that any one of these entities may start a MDT without supervision from the Department of Health and Social Services. She said OCS estimates an increase in 20 new social workers if even half of these tribes started an MDT without supervision.

CHAIR KELLER noted that the amendment was adopted without objection.

[1:37:09 PM](#)

REPRESENTATIVE LYNN moved to report HCS SB 171(JUD), as amended, out of committee with individual recommendations and the accompanying fiscal notes.

CHAIR KELLER objected.

REPRESENTATIVE GRUENBERG stated that it sounds like what is being done is having one agency, HSS, be the clearinghouse, "and you're sort of saying it will simplify things to have one agency do it, I gather, rather than a bunch...Am I right?"

MS. ROSS said yes.

CHAIR KELLER removed his objection, and HCS SB 171(2d JUD) moved out of the House Judiciary Standing Committee.

[1:38:45 PM](#)

SB 187-CONFIDENTIAL INFORMATION: MISCONDUCT, RLS

[1:39:01 PM](#)

CHAIR KELLER announced that the next order of business would be CS FOR SENATE BILL NO. 187(JUD)(title am), "An Act relating to the crime of misconduct involving confidential information in the first degree; amending Rule 16, Alaska Rules of Criminal Procedure; amending Rule 8, Alaska Child in Need of Aid Rules; and providing for an effective date."

The committee took an at-ease from 1:39 p.m. to 1:42 p.m.

[1:42:26 PM](#)

RYNNIEVA MOSS, Staff to Senator John Coghill, Alaska State Legislature, said the conceptual amendment just reverses statutes on page 4-5 to make it clearer. She said the amendment inserts "limitation of disclosure of certain recorded images and records that are also evidence under AS11.41.410-11.41.450." And beginning on page 4, line 31, the following is deleted: "there is also evidence for investigation under AS 11.41.410-11.41.450." This was a recommendation from legal services to clarify that everything in subsection (j) applied to the criminal codes, she explained.

[1:43:35 PM](#)

MS. MOSS said Representative Gruenberg had brought up a good point about using the word "physician." The intent was to give access to medical records to physicians, but after conferring with others, "physician" was replaced with "healthcare provider" on page 5, line 28.

The committee took an at-ease from 1:44 p.m. to 1:45 p.m.

1:45:56 PM

REPRESENTATIVE GRUENBERG moved to adopt Amendment 1, labeled 28-LS1145\P.1, Strasbaugh, 4/9/14, as follows [original punctuation provided]:

Page 5, line 28:

Delete "physician"

Insert "health care provider"

Page 5, line 28, following "child.":

Insert "In this subsection, "health care provider" includes a physician, dentist, physician assistant, nurse, nurse practitioner, psychologist, counselor, marital and family therapist, village or community health aide, community health worker, or another person that provides health care treatment in the course and scope of the person's employment."

CHAIR KELLER objected.

1:46:30 PM

REPRESENTATIVE GRUENBERG said that the term "includes" on line 6 is defined in Title 1 to mean "included but not limited."

MS. MOSS said she agreed with that definition.

CHAIR KELLER removed his objection. Hearing no further objections, Amendment 1 was adopted.

1:47:13 PM

JAN RUTHERDALE, Chair, Children's Justice Act Task Force, Department of Health and Social Services, said the function of the Children's Justice Act Task Force is to make recommendations that improve the response to child maltreatment, and last fall the task force drafted legislation that led to SB 187. She said the group is grateful to Senator Coghill for carrying it

through, and she told committee members that they have documents from a "Lunch and Learn" presentation done by the taskforce in February. She expressed a concern regarding pages 4 and 5 [of SB 187] over whether the language only offers protections in cases where there is also evidence for an investigation under a criminal prosecution. She pointed out that sometimes a child has been abused and there is an examination and photos taken, but it ends up being a child-in-need-of-aid (CINA) case rather than a criminal prosecution. The same danger could happen with videos posted online, she said, and "I don't want that to be the effect, where there's a whole class of victims that have the potential of being re-victimized." She said she cannot think of a sexual abuse investigation that would not initially involve the police, so if the law is read in that way, "we are perfectly happy with this, but I just don't want to leave out a class of victims." Otherwise, she said, the task force supports the bill and the changes.

[1:50:38 PM](#)

CHAIR KELLER suggested that the sponsor write a letter of explanation [to address the above concern].

MS. MOSS said, "They were trying to word it so that everything in that paragraph applied to CINA cases and to criminal cases." There was concern that only the first sentence would apply to CINA and not the other two sentences. "They wanted to be inclusive," she added, and she offered to get an explanation from Legislative Legal Services.

[1:51:47 PM](#)

CHAIR KELLER asked if that was the intent of the sponsor to make sure that CINA cases are covered, and "you believe that that's what legal services has done?"

MS. MOSS said yes.

REPRESENTATIVE GRUENBERG said he wants to be sure that it is crystal clear so that no one has to come back to an obscure House Judiciary hearing to sort it out.

[1:52:43 PM](#)

EMILY WRIGHT, Assistant Attorney General, Alaska Department of Law (DOL), Child Protection Section, said current CINA statutes have a huge amount of confidentiality language built in; there

are a lot of protections already. She said line 31 [of SB 187] references AS 47.10.011, which lists all the reasons that a child could be a child in need of aid. She continued:

If the committee would like to reference sexual abuse and sexual abuse statutes for child-in-need-of-aid cases, you could add a reference to the subsection which specifically deals with sexual abuse and sexual assault, which is [paragraph] (7), and then you would also have the reference to the criminal case, if there is a criminal case, and that way you could cover both sexual assault-sexual abuse of a minor cases in a CINA proceeding, as well as if there's a criminal proceeding.

[1:54:04 PM](#)

CHAIR KELLER asked if there would be a danger of narrowing it to the point that it increases the risk.

MS. WRIGHT said it would narrow it to sexual abuse and sexual abuse of minor cases, but her understanding was that that was the point of the bill, to deal with sexual abuse of minors. The DOL position would be that there are ample protections under CINA statutes in the rest of the realm, she stated.

CHAIR KELLER clarified that a conceptual amendment would just add (7) on page 4, line 31, to read: AS 47.10.011(7).

[1:55:11 PM](#)

MS. WRIGHT pointed out that the next reference to the statute, AS 47.14.300, is the multidisciplinary team, so "that clearly references all of the CINA sexual abuse statutes."

MS. MOSS said, "We introduced this bill at the recommendation of the Child Justice Task Force, and we've been working with the Department of Law, with Jan Rutherford, with the task force, and with our legal department to try to get this right, and I thought we had it right."

[1:56:32 PM](#)

REPRESENTATIVE GRUENBERG said he sees "two potential differences in here," and he wants to be sure that the bill accomplishes what everyone wants it to accomplish. He asked if the bill can be put at the bottom of the calendar to "let these guys talk and

see if they want to make a suggestion, and then they can come back in a few minutes, because I don't want you to be stuck with the wrong thing."

CHAIR KELLER said that is a very good suggestion, and he will do so. [SB 187 was set aside and taken up later in this hearing.]

[1:57:42 PM](#)

SB 108-CONFIDENTIALITY OF CRIMINAL CASE RECORDS

[1:57:52 PM](#)

CHAIR KELLER announced that the next order of business would be the CS FOR SENATE BILL NO. 108(JUD), "An Act relating to the confidentiality of certain records of criminal cases; and providing for an effective date."

CHAIR KELLER explained that this legislation was passed by this committee because it was included in HCS CSSB 64(JUD) [on April 9, 2014]. However, the House Finance Committee has requested [the House Judiciary Standing Committee hear and forward CSSB 108(JUD)] in order that it has both CSSB 108(JUD) and HCS CSSB 64(JUD) before it. He then requested a motion to move CSSB 108(JUD).

[1:58:31 PM](#)

REPRESENTATIVE GRUENBERG inquired as to what version of SB 108 is before the committee.

CHAIR KELLER clarified that before the committee is CSSB 108(JUD) [Version 28-LS0973\R].

The committee took an at-ease from 1:58 p.m. to 2:00 p.m.

[2:00:40 PM](#)

REPRESENTATIVE GRUENBERG related his understanding that the committee actually rolled [CSSB 108(JUD)] into HCS CSSB 64(JUD) with the adoption of [Amendment 17 labeled 28-LS0116\L.18, Gardner, 4/1/14, at the meeting on April 4, 2014]. He then surmised that the [next committee of referral for CSSB 108(JUD)] is the House Finance Committee.

CHAIR KELLER concurred.

CHUCK KOPP, Staff, Senator Fred Dyson, Alaska State Legislature, confirmed that Representative Gruenberg was correct.

REPRESENTATIVE LYNN moved to report CSSB 108(JUD) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSSB 108(JUD) was reported from the House Judiciary Standing Committee.

[2:01:55 PM](#)

The committee took an at-ease from 2:01 p.m. to 2:04 p.m.

HB 108-SURCHARGE ON FINES/ELEC. CITATION FUND

[2:04:47 PM](#)

CHAIR KELLER announced that the next order of business would be HOUSE BILL NO. 108, "An Act relating to electronic citations; creating the electronic citation fund; and providing for an effective date." He said the committee has looked at HB 108, Version O, and now he would like a motion to put Version P in front of the committee.

REPRESENTATIVE LYNN moved to adopt CSHB 108, labeled 28-LS0383\P, Wayne, 2/17/14, as the working document.

[2:05:16 PM](#)

CHAIR KELLER objected. [Version P was treated as if it were before the committee.]

REPRESENTATIVE PEGGY WILSON, Alaska State Legislature, noted that the only difference between Version O and P in HB 108 is the last line. "All we did was update the date," she said. She said HB 108 would create a \$10 surcharge for minor offenses (tickets), which would go to create the E-Citation Fund. The fund would help police, troopers, and courts move to the 21st Century by using electronic devices to issue tickets instead of using paper tickets, she stated. Currently, if a person receives a ticket for running a stoplight it could take up to 12 days to go through the court process. She pointed out that a hand-written ticket may be hard to read, and an e-ticket will eliminate many errors. With HB 108, a person will be able to pay or appeal a ticket almost instantly, she said. Larger Alaska municipalities received grants from a federal e-citation program, but the money is drying up and smaller communities still need the equipment. The court system would love for all

municipalities to have the capability, she said, and the devices add to the safety of peace officers by reducing the amount of time an officer has to be on the side of a road. Being struck by a vehicle during a traffic stop is the leading cause of death for peace officers, she added.

[2:08:02 PM](#)

CHAIR KELLER asked why a surcharge is necessary if electronic citations are more efficient.

[2:08:30 PM](#)

REPRESENTATIVE PEGGY WILSON said most communities with the devices received a grant from the federal government, but money for the grants has run out, and HB 108 will allow the rest of the communities to get the devices.

REPRESENTATIVE LYNN said that there is as much potential for error when inputting information into an electronic device as when writing [paper tickets]. "Garbage in, garbage out."

REPRESENTATIVE PEGGY WILSON said the problem is that the ticket has to go through many people to be copied, and many times rain smudges the paper.

[2:10:03 PM](#)

ARTHUR MARTIN, Staff, to Representative Peggy Wilson, Alaska State Legislature, said HB 108 will help the state move into the 21st Century by moving away from paper ticketing. He noted that the legislature has slowly been moving into the use of iPads, which are more efficient but have maintenance and training costs. The fiscal note outlines what the fund will do, and he recollected that members were worried about using the fund for hidden cameras and radars, but this fund would be specifically to move the police departments into this century.

[2:11:37 PM](#)

REPRESENTATIVE LEDOUX asked how a police officer would issue an electronic citation to someone without a computer.

REPRESENTATIVE PEGGY WILSON said they will carry something and "just mark it off." She said, "It's kind of like our iPads. We can put information on it and that transfers over to somewhere

else." She explained that the person who is [being cited] does not have to have the device.

REPRESENTATIVE LEDOUX asked if the person who is driving will get anything.

REPRESENTATIVE PEGGY WILSON said that there is a copy that gets torn off and handed to the offender.

[2:13:04 PM](#)

NANCY MEADE, General Counsel, Alaska Court System, clarified that the court system would not be a recipient of any funds under HB 108; the money all goes to the Department of Public Safety (DPS), which has the discretion to distribute it to itself or to municipalities for the equipment. However, the court system is very involved in electronic citations, she added, as about two thirds of minor offense citations statewide are filed electronically. Most of the minor offenses come from traffic, littering, alcohol, and fish and game violations, she explained. Currently, minor offenses have a "police training" surcharge by statute, which is an extra ten dollars. "It was nice and neat and we could predict how much this would collect because it would be whatever we paid last year for police training surcharges," she said.

MS. MEADE said there were about 60,000 minor offenses filed with the court last year, and about \$204,000 is what the court collected for the surcharge and the money goes to the state general fund with a notation that it go to DPS. She added that HB 108 is estimated to generate about \$200,000 from the court. The many tickets that are unpaid are sent to the Department of Law Collections Unit. When that happens, a person's permanent fund dividend (PFD) can be garnished. This makes for, potentially, another \$200,000, she said, but the DOL does not have a 100 percent collection rate since these collections are the lowest priority for garnishing PFDs. Additionally, certain cities collect their own funds, and that would be another chunk of money that would go to the E-Citation Fund, she added.

[2:17:43 PM](#)

REPRESENTATIVE PRUITT asked if HB 108 will add [the surcharge] to citations placed under windshield wipers.

MS. MEADE said tickets and citations are the same. A minor offense is anything punishable by a fine of under \$500, but the surcharge is not added when the fine is less than \$30.

REPRESENTATIVE GRUENBERG surmised that the citation equipment belongs to DPS, and he asked if the court system has any experience with purchasing and using the equipment.

[2:19:53 PM](#)

MS. MEADE stated that two thirds of citations are issued with these "Packet Writers" in Alaska, but the court has no experience with purchasing the equipment.

REPRESENTATIVE GRUENBERG asked about the DPS experience "in ramping up to use this new equipment." He said that he is concerned about new equipment and that it be purchased with competitive bidding.

LIEUTENANT RICK ROBERTS, Alaska State Troopers, said DPS has been using this equipment for the last five years, and the Alaska State Troopers use a system called TraCS to write citations. He stated that 23 other police agencies in Alaska also use TraCS, and the Fairbanks and Anchorage Police Departments use other types of software. He said they all use a computer mounted in the police cars and a scanner to import the bar code data from a person's driver's license. The cars have a printer for giving a citation to the offender, and then the information is electronically sent to the Alaska Court System, he explained. This equipment has been purchased by grant funds over the past five years, and the surcharge will allow for refreshing and updating the equipment.

[2:22:26 PM](#)

REPRESENTATIVE PRUITT asked if these items would be replaced anyway, without the surcharge.

LIEUTENANT ROBERTS noted that "we have been standing this equipment up over the last few years with federal grant money that had been issued to the Alaska Highway Safety Office. We've been, in turn, applying for grants for this equipment." He said the Division of Motor Vehicles (DMV) has also applied for equipment grants, and DPS has purchased equipment for police agencies using this grant money from DMV and other sources. In the future, as federal grant funding becomes less available or nonexistent, DPS is looking for ways to identify funding to

replace this, not only for the State Troopers but for smaller agencies that might not have the resources to replace the equipment, he stated. He added that the equipment is also used for electronic crash reports, and if this surcharge is not made available, DPS will probably ask for capital funds or other funds to try and refresh this equipment.

[2:24:42 PM](#)

CHAIR KELLER closed public testimony.

REPRESENTATIVE LYNN moved to report CSHB 108, labeled 28-LS0383\P, out of committee with individual recommendations and the accompanying fiscal notes. Hearing no objection, CSHB 108(JUD) passed out of committee.

SB 187-CONFIDENTIAL INFORMATION: MISCONDUCT, RLS

[2:25:12 PM](#)

CHAIR KELLER announced that the next order of business would be the CS FOR SENATE BILL NO. 187(JUD)(title am), "An Act relating to the crime of misconduct involving confidential information in the first degree; amending Rule 16, Alaska Rules of Criminal Procedure; amending Rule 8, Alaska Child in Need of Aid Rules; and providing for an effective date."

[The bill was heard earlier in this hearing.]

The committee took an at-ease from 2:26 p.m. to 2:31 p.m.

[2:31:24 PM](#)

RYNNIEVA MOSS, Staff to Senator John Coghill, Alaska State Legislature, said she met with others and is happy with the bill as it is. Quinlan [Steiner of Public Defender Agency] was the person who recommended the amendment that the committee passed last time, which, she said:

added to line 30, on page 4, the language that limitations on disclosure of certain recordings, images, and records that are also evidence for an investigation under AS 11.41.410 through 11.41.450.

MS. MOSS said that Rule 8 is a rule of CINA [Child in Need of Aid], which already is very confidential, as the committee knows through the years of passing legislation tightening up

confidentiality, "but this adds some subsections to Rule 8 that relate to criminal investigations." So, she said, Jan Rutherford, Children's Justice Act Task Force, and Emily Wright, Assistant Attorney General, have looked at the bill and agree with the language. Ms. Wright had previously mentioned adding [paragraph] (7) but was not saying that it needed to be added, because that would narrow the statute. "So we like it the way it is," she concluded.

[2:32:17 PM](#)

REPRESENTATIVE GRUENBERG said that Ms. Moss has referred to language that is not in his version of the bill.

MS. MOSS said, "That is the amendment. I'm reading it as you amended it at the last meeting."

CHAIR KELLER said Amendment 1, labeled P.1, has been adopted, and that is what is being referenced.

[2:33:25 PM](#)

MS. MOSS said she is reading that section as it was amended with the conceptual amendment at the last meeting.

REPRESENTATIVE GRUENBERG said, "This is Conceptual Amendment 1 by Lynn, adopted without objection. That's what you're referring to, because they didn't reprint Version P." He said he understands.

[2:34:13 PM](#)

CHAIR KELLER closed public testimony.

REPRESENTATIVE LYNN moved to report CSSB 187(JUD), labeled 28-LS1145\P, as amended, out of committee with individual recommendations and the updated fiscal notes. Hearing no objections, HCS CSSB 187(JUD) passed out of committee.

[2:35:01 PM](#)

The committee took an at-ease from 2:35 p.m. to 2:36 p.m.

SB 173-SYNTHETIC DRUGS

[2:37:11 PM](#)

CHAIR KELLER announced that the next order of business would be the CS FOR SENATE BILL NO. 173(JUD), "An Act relating to a prohibition on the possession, offer, display, marketing, advertising for sale, or sale of illicit synthetic drugs."

REPRESENTATIVE LYNN moved to adopt CSSB 173(JUD) as the working document.

[2:37:30 PM](#)

EDRA MORLEDGE, Staff, to Senator Kevin Meyer, Alaska State Legislature, noted that SB 173 was a companion bill to Representative Millet's HB 362, which was heard on March 26, 2014. The bills are identical, and she conferred with the legal department in order to address the questions that were raised at that hearing. She pointed out a memo from the bill drafter, Kathleen Strasbaugh.

CHAIR KELLER listed the witnesses who were available. He asked Ms. Strasbaugh to explain the new version of SB 173.

MS. MORLEDGE said there has only been one version before the committee, and that was HB 362, which is identical to SB 173, which is now before the committee.

[2:40:25 PM](#)

CHAIR KELLER said he was satisfied with the legislation at that time.

REPRESENTATIVE GRUENBERG asked if the memo Ms. Morledge referred to is dated February 10, 2014.

MS. MORLEDGE said there is a more recent version.

[2:41:17 PM](#)

The committee took an at-ease from 2:41 p.m. to 2:46 p.m.

[2:46:23 PM](#)

REPRESENTATIVE GRUENBERG, [referring to the March 28, 2014, memo from Kathleen Strasbaugh to Senator Meyer containing nine questions with answers/recommendations regarding SB 173], said he would be interested in knowing the sponsor's views "as we take up each one, because there are some that Kathleen specifically recommends we adopt, and some that she doesn't seem

to recommend, and I don't know if there's anything that falls in-between."

REPRESENTATIVE PRUITT said, "There are three of these [question/answers in Ms. Strasbaugh's memo] that caught my eye." With regard to number 6, he asked if the bill contains a loophole.

[2:48:16 PM](#)

KATHLEEN STRASBAUGH, Attorney, Legislative Legal and Research Services, Legislative Affairs Agency, said she would not call it a loophole. The law is designed to address a particular type of product and transaction, which is characterized by the lack of disclosure of the contents and misleading packaging. It does not address the chemical composition of the substance, she explained. If a purveyor of one of these products did correctly label it, it would not be in violation of this law, but a few other things might occur. If there is no disclosure, the product cannot be imported, she stated. Additionally, the product may not be found safe for human consumption, so the disclosure of the contents may make the product run afoul of federal regulations. Misrepresentation, with or without disclosure of contents, is something that the FDA (Food and Drug Administration) enforces, but it tends to go after larger purveyors, she said. The basis of the statute is directed toward mislabeling, she added.

[2:50:28 PM](#)

REPRESENTATIVE PRUITT related that he is not very familiar with the FDA, which he finds to be confusing. He spoke of misleading claims on supplement packaging, which may state that a product was not reviewed by the FDA, so he asked if the maker of the [synthetic drugs] could do the same.

MS. STRASBAUGH said the FDA will go after a supplement product if its claims are inaccurate, but not necessarily every supplement. The FDA website has a list of enforcement items addressing supplements, she added. "There are some circumstances under which misleading claims can be prosecuted under federal law," she said.

[2:53:14 PM](#)

REPRESENTATIVE LEDOUX said if something is packaged with a list of all of the ingredients with a notice that the product is not safe for human consumption, will that be a violation of anything?

MS. STRASBAUGH answered that an accurate portrayal of the product and the terms of effect might well not be pursuable under this law. In order to be in violation of SB 173, it would have to violate the misrepresentation provisions.

[2:55:19 PM](#)

CYNTHIA FRANKLIN, Prosecutor, Municipality of Anchorage, said Anchorage passed an ordinance similar to SB 173 in January, 2014, and there has been some enforcement. The ordinance addresses the packaging, which is designed to address the lack of laws, so the idea of manufacturers just listing all ingredients is not realistic, she stated. The purveyors of these products are drug dealers, she explained, and that is why the packages do not contain the contents. The dealers often do not know what the chemicals are. She said this is not a legitimate consumer product—it is drug dealers packaging up drugs and selling them as iPod cleaners, potpourri, and aromatic substances, for example. She understands why the committee is trying to imagine what could come about and how the drug dealers might respond, but it is difficult for her to imagine the dealers saying "let's just list all of these substances that we're coming up with to create these crazy synthetic drugs" to get around this law. She explained that the law is to address the retailing of the product in Alaska's communities, because the retailers have insisted that because they cannot keep up with the chemical combinations that the drug dealers are coming up with, that the products are therefore legal and they can sell them over the counter.

[2:58:11 PM](#)

MS. FRANKLIN said the response of the Anchorage ordinance has been retailers taking the products off of the shelves. Whether or not the retailer would accept a product that looked, in every way, like these illegal substances except

that they have the ingredients listed out, would be a two-fold question: Would the retailer sell it, and, if officers seized it, would it be prosecuted? It can be a sliding scale, she stated. If the label says it is potpourri and is not for human consumption, and the ingredients are listed, "would I, as the prosecutor, be able to prosecute that case successfully?" She said it would likely depend on the other things on the package that are encompassed by the statute. As a career prosecutor, she does not see that happening, because [it is a false] assumption that these are legitimate products with a person on the other end who is trying to sell a legitimate product. These are drugs coming into our communities, she said, and the reason they are not properly labeled is because they are labeled and sold by drug dealers who do not even know what is in them.

[2:59:33 PM](#)

REPRESENTATIVE LEDOUX asked if the state or municipality can prosecute on a product listed with a half million different things that says it is not safe for human consumption. "Does the municipal prosecutor take these things and test them out to make sure that everything that they say is listed is listed and that there isn't anything else in them?" The items may now be off the shelves, but just like the drug dealers have figured out that they need to change the ingredients in order to circumvent the law, "why wouldn't they figure out that they need to change the packaging in order to circumvent the law?"

[3:00:38 PM](#)

MS. FRANKLIN said she thinks the officers would look at a package and make a determination, and they might seize the package and not issue a citation until prosecutors looked at it. She said if the item met the ordinance guidelines, the prosecutor would file a citation. The municipality is not testing the substances; the idea is to address them without requiring the traditional forensic analysis that the manufacturers have kept ahead of, she explained. She said to keep in mind that that these products are shipped nationally, and listing the ingredients will make it difficult to stay ahead of all state and federal laws. She

said that listing the actual ingredients on the product is not the response she foresees to this legislation.

[3:04:31 PM](#)

REPRESENTATIVE GRUENBERG said he would like to hear from someone on the defense bar, because there are a number of very significant legal issues. Prosecutors are charged with enforcing the laws and making sure that anything they draft can survive challenges. He said he wants someone to go through SB 173 to highlight the problems and the challenges, "so we can deal realistically with whether this bill is going to be enforced."

CHAIR KELLER said he will get someone.

REPRESENTATIVE LEDOUX said she suspects this bill might survive a constitutional challenge—or there will be no challenges—because it has a civil penalty, where providing a public defender is not required and there is no right to a trial by jury.

[3:06:40 PM](#)

REPRESENTATIVE GRUENBERG said whether SB 173 survives a challenge is not the question. It will ultimately be a business decision by the government on whether it is worth prosecuting somebody for a little bottle, he stated. He noted page 3, line 8, regarding compliance with state or federal law, and asked if the product were manufactured in Idaho but sent to Alaska to be sold, would it be the law of Idaho that sets the standard, the law of Alaska, or a violation of interstate commerce?

[3:08:15 PM](#)

MS. MORLEDGE said the sponsor's intent is that the activity would fall under Alaska law.

REPRESENTATIVE GRUENBERG said someone should testify on the issue of interstate commerce under federal law.

CHAIR KELLER said Mr. Steiner is on the phone.

REPRESENTATIVE GRUENBERG asked if there are any practical or constitutional issues with SB 173.

[3:10:38 PM](#)

QUINLAN STEINER, Public Defender, Public Defender Agency, Alaska Department of Administration, noted that he worked on SB 173 when it had a criminal penalty, and he had concerns at that time. The bill sponsor clarified that the penalty is now a violation, so his concerns were satisfied and he did not see any problems. "It wouldn't implicate the public defender at all," but it is broadly written and that would have caused him concern when attaching a criminal penalty, but as a civil penalty it is not as dramatic, he explained.

REPRESENTATIVE GRUENBERG asked Mr. Steiner to look at SB 173 as a lawyer defending a person from civil penalties. He asked if there things that may cause points of litigation or problems.

MS. STEINER said he is reluctant to answer that. He does not get involved with civil matters, and although it is structured like a criminal penalty, SB 173 involves commerce, and he is not comfortable assessing its impacts. "These types of restrictions on food items and other things you might eat or ingest is not something I'm familiar with," he declared.

[3:12:54 PM](#)

REPRESENTATIVE PRUITT asked about the sixth point in Ms. Strasbaugh's memo. Part of the problem [with these products] is that the content can be changed, and now the name can be changed, he said. He asked if this is the "best thing that we have going forward to try to address the issue where we're not having to try and come back every year and fill in loopholes or oversights or changes that these intelligent drug dealers or manufacturers are making?" He asked if something needs to be added.

[3:14:45 PM](#)

MS. FRANKLIN said she sees this strategy as a tool to address a huge problem in Anchorage, which is the over-the-

counter sale of such products and their representation as being safe. The products are primarily marketed to young people who believe that when they buy a product in a store, it must be safe. She said a person can just walk into a store and buy it, and the Anchorage ordinance was specifically written to address the concept that there are things sold in stores that are unregulated and, in this case, extremely unsafe. She told the committee that she has been prosecuting since 1989 and has lived through various designer drug waves, and her belief is that this type of legislation addressing the sale of these products makes the problem go away.

[3:16:30 PM](#)

MS. FRANKLIN noted that that has happened in a short amount time in Anchorage, because stores do not want to sell illegal products, so once the Anchorage Assembly made the ordinance, the stores did not want any part of [the trade]. Decreasing availability does address the problem. She noted that the products can still be sold on the Internet, and that is why the Anchorage ordinance contains the possession element to allow officers to ticket individuals, which will turn a person's \$35 high into a \$535 high.

[3:17:07 PM](#)

MS. FRANKLIN said, "We think of it as a tool; not the end-all be-all." She explained that the names of the products were included in the ordinance to make it easy for officers if they encounter that particular package. She said she realizes that it will be a challenge keeping up with product names, but the assembly can update the city code more easily than legislators can update state law. The city anticipates that it will update the list of product names, but it will be a challenge on the statewide level, she stated. She noted that the packages she has seen are homemade with misspelled words; they are manufactured in someone's basement. The Anchorage Assembly specifically designed the ordinance to negate the idea that something is safe if it can be purchased over the counter. She said that the minute that the retailers were convinced that the community condemned the sale of these products, they took them off the shelves.

[3:19:27 PM](#)

REPRESENTATIVE PRUITT said since the legislature meets only once a year, he wants to be sure SB 173 is right. He said he would like to address the aspect of listing the names [of the products] and if there is nothing to stop [dealers] from changing names. What wording would cover a product with a different name so the legislature would not have to wait a year to [add a name to the list]?

[3:20:26 PM](#)

MS. FRANKLIN said Anchorage Assembly members named the names they were aware of, and those names came from undercover purchases, confiscations from individuals in the drunk tank, and other sources. So they knew such products had a high likelihood of being [sold] in Alaska, but the rest of language is designed to address products without requiring a specific name, she explained. It is a two-fold approach: listing the known products and giving officers the tools to identify the products with different names.

[3:21:39 PM](#)

REPRESENTATIVE PRUITT asked what the penalty is in Anchorage.

MS. FRANKLIN said it is a \$500 fine per packet.

REPRESENTATIVE PRUITT said question 3 [in Ms. Strasbaugh's memo] indicates that it is not necessary to clarify that the \$500 penalty is for each package. It might be appropriate to clarify that, he opined. Additionally, he said, before the committee is an article from the Alaska Dispatch with a 2013 photo of WTF brand synthetic marijuana, and that brand is not on the list in SB 173.

[3:23:40 PM](#)

CHAIR KELLER said the committee will take that up for consideration.

REPRESENTATIVE LEDOUX suggested leaving this law up to municipalities since they can update the list more easily.

CHAIR KELLER said that is a new question. He wants to clarify the nine questions before the committee.

REPRESENTATIVE GRUENBERG said he was going in that direction, and he has questions on the fiscal note.

[3:25:01 PM](#)

The committee took an at-ease from 3:25 p.m. to 3:26 p.m.

CHAIR KELLER noted that it is late in the day, and he will set SB 173 aside and bring it up on Monday.

REPRESENTATIVE GRUENBERG said it will take time for him to digest this bill, and he asked the sponsor's staff to talk with committee members in their offices. He said there could be a lot of money spent without much return, since the municipalities are doing this anyway.

[SB 173 was held over.]

[3:27:06 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:27 P.M.