

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 27, 2015

1:02 p.m.

MEMBERS PRESENT

Representative Gabrielle LeDoux, Chair
Representative Wes Keller, Vice Chair
Representative Bob Lynn
Representative Charisse Millett
Representative Matt Claman
Representative Neal Foster
Representative Max Gruenberg

MEMBERS ABSENT

Representative Kurt Olson (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 75

"An Act relating to the regulation of marijuana by municipalities; and providing for an effective date."

- MOVED CSHB 75(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 106

"An Act relating to the Uniform Interstate Family Support Act, including jurisdiction by tribunals of the state, registration and proceedings related to support orders from other state tribunals, foreign support orders, foreign tribunals, and certain persons residing in foreign countries; relating to determination of parentage of a child; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 75

SHORT TITLE: MARIJUANA ESTAB. REG; LOCAL ELECTION

SPONSOR(S): COMMUNITY & REGIONAL AFFAIRS

01/23/15	(H)	READ THE FIRST TIME - REFERRALS
01/23/15	(H)	CRA, JUD
02/21/15	(H)	CRA AT 10:00 AM BARNES 124

02/21/15 (H) -- MEETING CANCELED --
02/24/15 (H) CRA AT 8:00 AM BARNES 124
02/24/15 (H) Heard & Held
02/24/15 (H) MINUTE(CRA)
03/03/15 (H) CRA AT 8:00 AM BARNES 124
03/03/15 (H) Moved CSHB 75(CRA) Out of Committee
03/03/15 (H) MINUTE(CRA)
03/05/15 (H) CRA AT 8:00 AM BARNES 124
03/05/15 (H) Moved CSHB 75(CRA) Out of Committee
03/05/15 (H) MINUTE(CRA)
03/06/15 (H) CRA RPT CS(CRA) NT 3DP 3NR
03/06/15 (H) DP: NAGEAK, SEATON, TILTON
03/06/15 (H) NR: DRUMMOND, REINBOLD, HUGHES
03/11/15 (H) JUD AT 1:00 PM CAPITOL 120
03/11/15 (H) Heard & Held
03/11/15 (H) MINUTE(JUD)
03/18/15 (H) JUD AT 1:00 PM CAPITOL 120
03/18/15 (H) <Bill Hearing Canceled>
03/25/15 (H) JUD AT 1:00 PM CAPITOL 120
03/25/15 (H) <Bill Hearing Canceled>
03/27/15 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 106

SHORT TITLE: UNIFORM INTER.CHILD SUPPORT;PARENTAGE
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/11/15 (H) READ THE FIRST TIME - REFERRALS
02/11/15 (H) STA, JUD
02/19/15 (H) STA AT 8:00 AM CAPITOL 106
02/19/15 (H) Heard & Held
02/19/15 (H) MINUTE(STA)
03/03/15 (H) STA AT 8:00 AM CAPITOL 106
03/03/15 (H) Heard & Held
03/03/15 (H) MINUTE(STA)
03/05/15 (H) STA AT 8:00 AM CAPITOL 106
03/05/15 (H) -- MEETING CANCELED --
03/10/15 (H) STA AT 8:00 AM CAPITOL 106
03/10/15 (H) Heard & Held
03/10/15 (H) MINUTE(STA)
03/17/15 (H) STA AT 8:00 AM CAPITOL 106
03/17/15 (H) Moved CSHB 106(STA) Out of Committee
03/17/15 (H) MINUTE(STA)
03/18/15 (H) STA RPT CS(STA) 4DP 3NR
03/18/15 (H) DP: TALERICO, STUTES, VAZQUEZ, KREISS-
TOMKINS
03/18/15 (H) NR: KELLER, GRUENBERG, LYNN
03/27/15 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

REPRESENTATIVE CATHY TILTON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During the hearing on CSHB 75, thanked Chair LeDoux for working with her on the committee substitute and turned testimony over to her aide.

HEATH HILYARD, Staff
Representative Cathy Tilton
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented CSHB 75 on behalf of the House Community and Regional Affairs Committee, sponsor by request, chaired by Representative Tilton.

DENNIS WHEELER, Municipal Attorney
Legal Department
Municipality of Anchorage
Anchorage, Alaska

POSITION STATEMENT: During the hearing of CSHB 75 answered questions and offered support for the bill.

AMY MEAD, Assistant Municipal Attorney
Law Department
City and Borough of Juneau
Juneau, Alaska

POSITION STATEMENT: During the hearing of CSHB 75 answered questions and offered support for the bill.

CAROL BEECHER, Deputy Director
Anchorage Central Office
Child Support Division
Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: Presented CSHB 106 on behalf of the House Rules Committee, sponsor by request, of the Governor.

STACY STEINBERG, Chief Assistant Attorney General
Statewide Section Supervisor
Collections and Support Section
Civil Division
Anchorage, Alaska

POSITION STATEMENT: During the hearing of CSHB 106 offered a sectional analysis of the bill and answered questions.

ACTION NARRATIVE

[1:02:27 PM](#)

CHAIR GABRIELLE LEDOUX called the House Judiciary Standing Committee meeting to order at 1:02 p.m. Representatives Keller, Lynn, Millett, Claman, and LeDoux were present at the call to order. Representatives Gruenberg and Foster arrived as the meeting was in progress.

HB 75-MARIJUANA ESTAB. REG; LOCAL ELECTION

[1:02:55 PM](#)

CHAIR LEDOUX announced that the first order of business would be HOUSE BILL NO. 75, "An Act relating to the regulation of marijuana by municipalities; and providing for an effective date."

[1:02:56 PM](#)

The committee took an at-ease from 1:02:56 to 1:04:30 p.m.

[1:04:58 PM](#)

REPRESENTATIVE KELLER moved to adopt proposed CS to HB 75, Version 29-LS0345\V, Martin, 3/23/15, as the working document. There being no objection Version V was before the committee.

[1:05:25 PM](#)

REPRESENTATIVE CATHY TILTON, Alaska State Legislature, thanked Chair LeDoux for working with her on the committee substitute and turned testimony over to her aide.

[1:05:50 PM](#)

HEATH HILYARD, Staff, Representative Cathy Tilton, Alaska State Legislature, paraphrased the following "Explanation of Changes" [original punctuation provide]:

Title (Page 1, lines 1-6) - The title has been significantly tightened from previous versions.

Section 2 (Page 2, line 21-22) - The household plant limit has been increased from 12 to 24 plants. Also,

the term "residence" has been replaced with the term "dwelling" to be more consistent with municipal ordinances. LAA Legal has indicated that Statute treats the two terms as functionally interchangeable.

Section 11 (Page 6, line 22) - the addition of the phrase "consistent with the" referring to the Administrative Procedures Act was included at the requests of municipalities in order to prevent conflict with their own ordinances. This would allow them to use their own version of the Administrative Procedures Act.

Section 14 (Page 7, lines 9-14) - This provision was included after the discovery of a potential circumstance regarding a "gap" in potential enforcement. The way the original provision was written, a scenario was envisioned where a 2nd class borough (FNSB and MSB, for example), which does not have general public health or police powers, may have issued a registration but the borough's enforcement would be limited only to the revocation of the registration. This provides that the holder of the registration is ALSO subject to state regulation or enforcement.

Section 16 (Page 7, line 23) - Similar to the change made in section 11 above, this allows municipalities to use local ordinances that are substantially similar or "consistent with" AS 44.62, the Administrative Procedures Act.

Several sections have been renumbered accordingly, as a result of the changes listed above.

[1:06:50 PM](#)

MR. HILYARD said the household plant limit was increased from 12 plants to 24 plants as Chair LeDoux mentioned during the last committee hearing there was confusion as to whether there was an existing limit on the books. He related that Mr. Dennis Wheeler, Municipality of Anchorage, sent Mr. Hilyard the [2006] Darrin Hotrum v. State of Alaska, 130 P.3d 965 (Alaska), case that dealt with the issue [of 24 plants]. Mr. Hilyard then stated there is existing statute making reference to 24 (Indisc.). AS 11.71.040[a](3)(G), which reads:

(G) 25 or more plants of the genus cannabis;

MR. HILYARD related that anything in excess of 25 plants under current criminal law is presumed possession with intent to distribute, and anything under 25 plants is presumed to be for personal use consistent with Ravin v. State of Alaska, 537 P.2d 494 (Alaska 1975) and Noy v. State of Alaska, 83 P.3d 538, 544-45 (Alaska Ct. App. 2003) decisions. He referred to Section 11, page 6, line 22, and advised "there is an addition of the phrase 'consistent with the'" which has to do with the Alaska Administrative Procedures Act. He said it was noted that a number of the larger municipalities have their own functional ordinances that act as an Administrative Procedures Act. He explained that phrases allows them to use their own ordinances and prevent any potential confusion between what they have on their books and what the Alaska Administrative Procedures Act provides for.

[1:08:23 PM](#)

CHAIR LEDOUX asked for clarification.

MR. HILYARD advised he is referring to page 6, line 22-23, which read:

... These procedures shall be consistent with the [SUBJECT TO ALL] requirements of AS 44.62 (Administrative Procedure Act).

[1:08:42 PM](#)

CHAIR LEDOUX referred to [Sec. 2, AS 17.38.020] and asked if there was a change on page 2, lines 5-31 through Page 3, lines 1-5, and further asked and it was in the previous CS.

MR. HILYARD said it was in the previous CS and offered a brief history from the Community and Regional Affairs Standing Committee. He explained that municipal attorneys that assisted in crafting this legislation asked for additional sideboards on defining what "assisting" properly means. Legislative Legal and Research Services provided the language in the bill and there has not been a change since the "S" version.

[1:09:59 PM](#)

MR. HILYARD pointed to Sec. 14, Page 7, lines 9-14, and stated this amendment was identified by Representative Keller in that

there was a gap in potential enforcement. He used the example that second class boroughs do not have general police powers or health powers. The way the initiative language read, if the municipality issued a registration and the registrant acted improperly, the municipality itself would not have the ability to enforce and would have to depend entirely on the state. The gap was closed in that the state also has enforcement authority for activities on commercial marijuana establishments at any time. He referred to Sec. 16, page 7, line 23, and stated it is similar to the change made to the Administrative Procedures Act provision in Sec. 11. It allows municipalities to use local ordinances that are substantially similar or "consistent with" AS 44.62, the Administrative Procedures Act. He described the language as "clean up" so that municipalities were not unnecessarily bound to particular language that might conflict with their own ordinances. Lastly, he explained, several of the sections throughout the remainder of the bill have been renumbered accordingly as a result of drafting changes.

[1:11:56 PM](#)

REPRESENTATIVE KELLER referred to Sec. 5, page 3, line 18, and questioned the rationale of "half of the registration application fee," as to whether it was looked at in the context of responsibilities that will be shared for the enforcement, regulation, and cost of application.

MR. HILYARD stated he could not answer that question because the language came directly from the initiative. Essentially, he said he found Sec. 5 non-substantive because the only real change pertaining to HB 75 was primarily the reference from "local government" to "municipality."

[1:13:06 PM](#)

REPRESENTATIVE LYNN referred to [Sec. 2, AS 17.38.020(2), page 2, lines 21-23], and asked for an explanation as to why the language changed from 12 plants to 24 plants [for personal use].

MR. HILYARD reiterated that there is existing statute in Title 11 stipulating that anything over 25 plants is a criminal charge of possession with intent to distribute, or misconduct involving a controlled substance. He described the presumption being that under Ravin and Noy, 24 plants is for personal use.

REPRESENTATIVE GRUENBERG asked for the cite.

MR. HILYARD advised it should be in his packet and is AS 11.71.040(3)(G).

1:15:03 PM

REPRESENTATIVE KELLER referred to [Sec. 9, AS 17.38.110(b)], page 6, line 4, and opined that criminal penalties can only be set by a First Class Borough or a Home Rule Borough and not a broader ... this uses the term municipality which would include both, but it also includes others, so the language should be tightened up a bit, he related.

MR. HILYARD advised that it certainly was not the intention of the Community and Regional Affairs Standing Committee to provide municipalities with powers they do not currently possess. He referred to a legal memo from Ms. Hilary Martin, Legislative Legal and Research Services written earlier this month that addressed that question. AS 29.25.070, which read:

(a) For the violation of an ordinance, a municipality may by ordinance prescribe a penalty not to exceed a fine of \$1,000 and imprisonment for 90 days. For a violation that cannot result in incarceration or the loss of a valuable license, a municipality may allow disposition of the violation without court appearance and establish a schedule of fine amounts for each offense.

MR. HILARY deferred to Ms. Martin, or a municipal attorney on line, for further clarification.

1:16:55 PM

DENNIS WHEELER, Municipal Attorney, Legal Department, Municipality of Anchorage asked Representative Keller to repeat his question.

REPRESENTATIVE KELLER opined that the question may be more appropriately for the drafter of the legislation. He pointed to page 6, line 4, regarding the municipality and established civil and criminal penalties. His concern is that the legislation may be creating a power for other municipality types that was not intended according to the sponsor.

MR. WHEELER replied that he represents a Home Rule Borough and he does not know the ins and outs of jurisdictions that are not Home Rule Boroughs. He stated they have a significant number of

laws that are local misdemeanor offense laws that are enforced every day through the police department. As Representative Keller noted, his question might be better for someone in the state to answer with respect to whether or not this opens the door to Second Class Boroughs and so forth, he said. He offered that this legislation clarifies that a Home Rule Borough can continue to enact misdemeanor offense ordinances.

[1:19:25 PM](#)

The committee took an at-ease from 1:19 to 1:21 p.m.

[1:21:42 PM](#)

CHAIR LEDOUX advised the committee could consider a conceptual amendment if it is necessary.

[1:21:53 PM](#)

REPRESENTATIVE KELLER said he is willing to offer a conceptual amendment and pointed to [Sec. 18, AS 17.38.200(c)], page 8, line 22, " ... and the board is not required to approve the application." He questioned if it is clear that the board is always referring to the state control board. The conceptual amendment he would propose is just that the drafters would review it and ascertain it is clear without unintended consequences.

REPRESENTATIVE KELLER responded to Chair LeDoux that he is asking whether the board is referring to the Alcoholic Beverage Control Board (ABC Board), or if it could apply to some useful regulatory board.

MR. HILYARD responded that the language is directly from the initiative. He said, in the absence of a Marijuana Control Board, he presumed the board is the ABC Board as the initiative language provides that the legislature may enact or adopt a Marijuana Control Board.

[1:23:35 PM](#)

REPRESENTATIVE KELLER advised that putting it on the record is enough as the drafter should review the use of the word "board" to ascertain it is clear throughout the legislation.

MR. HILYARD responded that the initiative sponsors drafted this language, within which the drafter used relative portions of AS 17.38.

REPRESENTATIVE KELLER pointed out that the language that is passed is the product of the legislature. He opined that once the law passes, the legislature can't go back and say the confusion factor is in there and it's not our fault. He expressed that the drafter must ascertain that the language is clear as the legislature has that responsibility.

[1:24:47 PM](#)

REPRESENTATIVE CLAMAN surmised that Sec. 9 is technically the initiative's language except changing "local government" to "municipality," and adding "and criminal."

MR. HILYARD responded "That is correct."

[1:25:41 PM](#)

CHAIR LEDOUX advised that public testimony is closed and invited testimony is open.

[1:26:09 PM](#)

MR. WHEELER described the bill as a good product and that his office supports this version of the bill. He noted that when the state determines regulations and statutes, and whether there will be a marijuana control board, municipal governments will have basic parameters within which to regulate at the local level.

[1:28:01 PM](#)

AMY MEAD, Assistant Municipal Attorney, Law Department, City and Borough of Juneau voiced her support and appreciation and stated that the bill contains important provisions left unanswered by the initiative. She opined these provisions will assist [municipalities] in drafting local legislation necessary to responsibly regulate new business as part of this process. She expressed her appreciation that the bill includes the definition of "assisting," as it provides a protest process, recognizes marijuana clubs as a type of marijuana establishment, fixes the Administrative Procedure Act issue, and allows that criminal sanctions are allowed for time, place, and manner violations. These provision are consistent with other land use regulations

and the power provided to municipalities under AS 29.35.010 and AS 29.25.070.

[1:29:50 PM](#)

CHAIR LEDOUX requested that Ms. Mead and Mr. Wheeler remain on the line.

[1:30:14 PM](#)

REPRESENTATIVE LYNN moved to adopt [Amendment 1], labeled 29-LS0345\V.1, which read:

Page 2, line 21:
Delete "**24**"
Insert "**12**"
Delete "**12**"
Insert "**six**"

REPRESENTATIVE LYNN referred to page 2, line 21, and stated that he believes changing the number of [personal use] plants from 24 to 12 is a happy medium between zero and 24. "I don't think we need a forest" of plants in anyone's dwelling, he opined.

CHAIR LEDOUX objected.

[1:31:31 PM](#)

CHAIR LEDOUX expressed that the terms of the initiative allow 6 plants per person regardless of how many people live in a household, and 24 plants is a compromise. Nevertheless, she said, in order to make matters easier for municipalities in establishing a bright line, it appears appropriate to use the white line municipalities and police departments have used for years to determine intent to sell. She noted that she maintains her objection.

[1:32:26 PM](#)

REPRESENTATIVE MILLETT opined that the closer the committee stays to the language of the initiative, the better case the state will have if it comes down to a lawsuit. She offered she will not vote in favor of the amendment.

[1:32:55 PM](#)

REPRESENTATIVE KELLER said he supports the amendment and pointed out that any number picked over the number six is an arbitrary number. The committee is setting a bright line and, he noted, there is testimony "we" don't care where the legislature sets the line as long as a line is set. He does not see any justification in going to the maximum allowed by going to 24.

[1:33:25 PM](#)

REPRESENTATIVE CLAMAN remarked that he supports Chair LeDoux and will not vote in favor of the amendment. He expressed that he views 24 plants as a compromise and a bright line in light of the Holtrum case, and the previously articulated reasons.

[1:34:22 PM](#)

REPRESENTATIVE GRUENBERG stated he associates himself with Representative Claman's comments.

[1:34:48 PM](#)

A roll call vote was taken. Representatives Lynn, and Keller voted in favor of Amendment 1. Representatives Foster, Millett, Claman, Gruenberg, and LeDoux voted against it. Therefore, Amendment 1 failed the House Judiciary Standing Committee by a vote of 2-5.

[1:35:30 PM](#)

REPRESENTATIVE CLAMAN moved to adopt [Amendment 2], labeled 29-LS0345\V.2, which read:

Page 6, line 4:
Delete "and criminal"

REPRESENTATIVE CLAMAN referred to page 6, line 4, wherein the language would delete "and criminal" as he is committed to supporting the language of the initiative. Although, he stated, he was a "no" vote on the initiative, he recognizes that the majority of the public voted in favor of the initiative language except the language only references "civil penalties." He opined that as a matter of standard statutory construction, if the Alaska Supreme Court was asked to analysis the initiative's language it would presume that every word had meaning. He further opined the Alaska Supreme Court would presume that words not included, were intended to not be included. He noted that to

add the words "and criminal" is changing the jurisdiction by taking language different from the intent of the voters.

CHAIR LEDOUX objected for purposes of discussion.

[1:37:18 PM](#)

REPRESENTATIVE KELLER noted that Representative Claman's logic that because the word "criminal" is not in the initiative means that the very intent was to not allow for a criminal penalty is a leap. He opined that when the initiative was written, the sponsors would have made the statement that there would be no civil or criminal penalties allowed.

REPRESENTATIVE CLAMAN responded that this particular bill relates to the regulation of marijuana, and not to the question of civil penalties. He referred to a memo from Hilary Martin, Legislative Legal and Research Services, dated 3/2/15, and stated that on page 2, paragraph 2, Ms. Martin specifically wrote "it is possible that the intent of this language is to prevent a municipality from imposing criminal penalties on violations of an ordinance as only civil penalties are mentioned." He argued that it is not a leap of faith because the committee is not dealing with the broad scheme of criminal penalties, but is focused solely on the question of regulations affecting those that get permits for a marijuana sales and growing business. He said that the Alaska Supreme Court would read the fact that there is no language about criminal penalties and would look at it as a reason to limit the powers to just civil penalties.

REPRESENTATIVE KELLER said that was exactly his point and asked the sponsor to reiterate why the language was put in, for the sake of context.

[1:39:46 PM](#)

CHAIR LEDOUX asked the municipal attorneys on line how they regulate and enforce, whether they do enforce, or whether they have criminal ordinances with respect to alcohol sales.

REPRESENTATIVE KELLER requested historical background for the committee on the discussion around inserting this language.

MR. HILYARD said this was an issue in early discussions of developing HB 75 to its current iteration. He noted that Title 29 provides certain municipalities with limited criminal penalty

authority, and the rationale was that it was not abundantly clear how Title 29 would apply. The municipalities that do have general police authority prefer to make it clear that they would continue to maintain the ability to adopt criminal penalties specifically with time, place, and manner, violations of commercial establishments. It was suggested by municipal attorneys that it would be unlikely that local assembly or city councils may adopt those, they simply wanted to have that ability in the event it was necessitated.

[1:41:39 PM](#)

CHAIR LEDOUX pointed to alcohol establishments and asked whether municipalities are allowed to have criminal penalties for violations of ordinances or regulations with respect to time, place, and manner.

MS. MEAD responded "The City and Borough of Juneau does."

MR. WHEELER responded that under the Anchorage Municipal Code, Title 8, Chapter 35, there are a number of ordinances that make it misdemeanor offenses to violate the rules including hours of service, serving under aged persons, allowing person who are intoxicated on premises, and so forth.

[1:42:35 PM](#)

REPRESENTATIVE GRUENBERG said he supports the amendment and noted that the language of the bill reads a "municipality may establish civil and criminal penalties." "Read directly and literally," he opined, it does not limit it to municipalities that already have the power. He further opined it could be read as giving municipalities that don't already have that power additional power to do so. He remarked he does not know if that argument would be accepted in view of the fact there is no amendment to the governing statutes in Title 29 on municipal powers, but it could create litigation. Whether it should not violate the initiative due to the language on line 4 does not say "may establish only civil" or "may establish civil but not criminal." He opined the court would apply the rule that because the initiative does not just say "penalties," but says "civil penalties" that it would be read as excluding criminal. He explained that normally the Rules of Statutory Construction only require that things that are included be put into the statute.

REPRESENTATIVE KELLER responded to Representative Gruenberg that the committee is not a court and it is deals with whether or not to put [certain] language into Alaska Statutes. According to Representative Gruenberg's argument, he related, to be certain the language is crystal clear that it would have to include language that reads that the "civil and not criminal." The committee's role is to determine intent and clarify what goes into statute. He referred to Representative Gruenberg's argument and said he intends to propose a conceptual amendment that limits this section to municipalities that already have the power to establish criminal statutes.

CHAIR LEDOUX remarked with regard to the conceptual amendment, after hearing from the City and Borough of Juneau, and the Municipality of Anchorage regarding the regulation of liquor, she does not have a problem with this language. She pointed out that it does not appear to be violative of the spirit of the initiative in that the legislation allows municipalities to regulate marijuana establishments in the same manner.

[1:47:19 PM](#)

CHAIR LEDOUX said she maintained her objection.

A roll call vote was taken. Representatives Gruenberg, Foster, and Claman voted in favor of Amendment 2. Representatives Keller, Lynn, Millett, and LeDoux voted against it. Therefore, Amendment 2 failed the House Judiciary Standing Committee by a vote of 4-3.

[1:47:56 PM](#)

REPRESENTATIVE KELLER proposed a conceptual amendment [Amendment 3], on page 6, line 3, after the word municipality insert "with power to establish civil and criminal penalties" and then continue on with the language in the bill. He offered that his intention is that only municipalities currently with the power to set criminal penalties be allowed to set criminal penalties.

REPRESENTATIVE GRUENBERG advised he supports [Amendment 3].

CHAIR LEDOUX objected for purposes of discussion.

REPRESENTATIVE GRUENBERG stated that Amendment 3 helps with the problem.

CHAIR LEDOUX removed her objection. [There being no further objection Amendment 3 passes the House Judiciary Standing Committee.]

[1:50:49 PM](#)

The committee took an at-ease from 1:50 to 1:52 p.m.

[1:52:27 PM](#)

REPRESENTATIVE CLAMAN [moved to adopt] Amendment 4, which read:

Page 2, line 29, through page 3, line 5:

Delete "; assisting under this paragraph does not include

(A) using, displaying, purchasing, or transporting marijuana in excess of the amount allowed in this section;

(B) possessing, growing, processing, or transporting marijuana plants in excess of the amount allowed in this section;

(C) growing marijuana plants for another person in a place other than that other person's dwelling"

CHAIR LEDOUX [objected].

REPRESENTATIVE CLAMAN referred the committee to [page 2, line 29, through page 3, line 5], and advised there are three layers of the existing language that was added into the CS before the committee. With regard to assisting, he found the language vague, ambiguous and confusing and, therefore, submits [Amendment 4]. He referred to Sec. 2, "notwithstanding whatever else is the law it will be lawful and not criminal under Alaska law to possess, use, display, purchase, transport, marijuana accessories, Sub (2) grow marijuana, (3) transfer one ounce or less of marijuana (4) consume marijuana, and then using the specific language of the initiative, paragraph (5) is that you can assist another person who is 21 years of age or older in doing all of 1-4, which was assisting, possessing marijuana." Previously marijuana is not allowed, possession of marijuana is generally illegal, except as protected by Ravin. Currently the language is what was previously (Indisc.) can't be now that it is no longer prohibited as now it is specifically lawful to do this and now, he related, the language is trying to create a negative on the negative by trying to say what assisting is. He pointed out Sub (C) of the assisting language "growing marijuana plants for another person in a place other than that other

person's dwelling." He said he understands this language was urged by the municipalities and had questions regarding Sub (C) how can the person watering marijuana plants as part of the housesitting responsibilities answer "Sub (5) where it basically says a person can assist in somebody to grow plants at their house and (5)(C) trying to say you can't do it." He stated it seems they are in contradiction and he asked the municipal attorneys to explain how this works.

MS. MEAD responded that she did not ask for [the language] but believes this paragraph would allow someone to have their plants watered while on vacation, it would prohibit a person sending a note to 20 of the neighbors telling them "I" will grow their plants for them in my house and ending up with 80 plants. She opined that is what it was intended to prohibit, to not allow a communal growing situation in one dwelling.

1:56:48 PM

REPRESENTATIVE CLAMAN questioned if the concern is that someone will try to be a community grower how does that get a person that is growing more than 24 plants, get around the 24 plant limit that is part of the committee substitute Sub (2) that is specifically permitted. He further questioned that the police would ask a person how many plants they have and if they have more than 24 plants, there is a problem.

MS. MEAD replied that if there are not enough adults living in the house. She posited that the number of plants allowed in a particular dwelling are still tied to the number of adults in the house. The assisting language prohibits someone from doing a "work around" and growing plants for someone not residing in the home by claiming they are assisting their friend in growing his six plants - just growing them at "my" house.

1:58:02 PM

REPRESENTATIVE CLAMAN stated that currently there is a statute dealing with legal accountability based on the conduct of another, AS 11.16.110 [Legal Accountability Based Upon the Conduct of Another], the aiding and abetting statute. He asked how someone with 30 plants in their house ... "how can a person assist someone to grow marijuana and how do we basically try to negate what the language has specifically told them they could do."

MS. MEAD remarked that the aiding and abetting statute does not apply as it is not a criminal activity for every adult over the age of 21 to grow six plants in his/her home. She reiterated it is trying to prevent a situation where there is one person growing more than the number of plants otherwise authorized by claiming they are for someone else.

[1:59:20 PM](#)

REPRESENTATIVE CLAMAN said the current provisions allow 24 plants in a person's own home, and do not allow him to have 24 plants in Chair LeDoux's home. He said he is only allowed 24 plants in his own home but he can say he is assisting her then, he questioned, isn't Chair LeDoux now in for aiding and abetting him in having more than 24 plants.

MS. MEAD answered that it would be Representative Claman that would be in trouble, but a person cannot have 24 plants in their home unless there are four adults living there.

REPRESENTATIVE CLAMAN responded that what is being proposed in the statute, 24 plants is the line and a person could have 24 plants whether they have ...

CHAIR LEDOUX expressed that Representative Claman's description is not what everyone intended the line.

[2:00:32 PM](#)

REPRESENTATIVE CLAMAN opined that the amendment is confusing because it does not address ... the initiative specifically says that a person can assist another person in all these activities. Now, he said, it is trying to say that a person cannot assist those persons in those very same activities. He related that he does not see how the person with 36 plants in their home, what is the basis for saying "I'm assisting somebody" that the assistance somehow creates a defense.

CHAIR LEDOUX said "I don't understand what you are talking about at all right now."

[2:01:20 PM](#)

REPRESENTATIVE GRUENBERG said that the committee tries to write language so clearly that public defenders, prosecutors, judges, and legislators can understand and this provision is a triple negative.

CHAIR LEDOUX remarked that she does not a problem with the language as it reads that everyone is allowed six plants, but if one person is caught with twelve plants they cannot say "these are my six, and the other six belong to someone else and I am just assisting them to grow their six plants."

[2:03:24 PM](#)

REPRESENTATIVE GRUENBERG conveyed that there are other scenarios this will arise in as the person watering the plants is assisting the other person. He opined he would like the language to be clearer.

[2:05:20 PM](#)

MR. HILYARD pointed to page 2, lines 29-31 through page 3, lines 1-5, and said in reviewing (a)[5], "assisting under this paragraph does not include using, displaying, purchasing, or transporting, marijuana in excess of the amount allowed in this section." A person can water their friend's plants all day long so long as those plants are in their friend's home.

CHAIR LEDOUX offered that a friend cannot go away for a while and bring their plants to another person's home.

MR. HILYARD responded his reading of the provision is that he could water his friend's plants at his friend's home.

[2:06:36 PM](#)

REPRESENTATIVE MILLETT remarked that a person can babysit plants but cannot bring the plants to their home.

[2:06:47 PM](#)

REPRESENTATIVE CLAMAN asked why a neighbor cannot bring 24 plants to person's home when the person does not have any plants. He included that the 24 plants represent four adults living in the neighbor's home.

MR. HILYARD responded that as long as there are not more than six plants in a [single] individual's home at a time, it really doesn't matter.

REPRESENTATIVE CLAMAN restated his question of why the person assisting his neighbor, who has four adults living in the

neighbor's house, bring [24 plants] to his house to water and assist the neighbor.

MR. HILYARD replied "No," because the committee is defining it that does not constitute assisting for the purposes of this paragraph.

REPRESENTATIVE CLAMAN further questioned that under this language "I specifically could not bring them to my house, whereas, under ... if you don't have these ... except the language that is in the proposed ... that I am proposing to delete ... you didn't have that language there wouldn't be a basis to say I could take them to my house."

MR. HILYARD replied that he could take six plants, if there were no other plants in his home.

[2:08:36 PM](#)

REPRESENTATIVE GRUENBERG reiterated that lines 29-30, "assisting under this paragraph does not include ..." is confusing. What the language should say is that even if a person is helping someone over 21, the person is criminally liable if they do the following things ... He expressed that would be one way of making the language clearer.

[2:10:10 PM](#)

CHAIR LEDOUX expressed that she does not have a problem with the language and will maintain her objection.

A roll call vote was taken. Representatives Claman and Gruenberg voted in favor of Amendment 4. Representatives Foster, Keller, Lynn, Millett, and LeDoux voted against it. Therefore, Amendment 4 failed the House Judiciary Standing Committee by a vote of 2-5.

[2:10:59 PM](#)

REPRESENTATIVE KELLER moved to report CSHB 75, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 75(JUD) was reported from the House Judiciary Standing Committee.

[2:11:18 PM](#)

The committee took an at-ease from 2:11 to 2:13.

HB 106-UNIFORM INTER.CHILD SUPPORT;PARENTAGE

2:13:58 PM

CHAIR LEDOUX announced that the final order of business would be HOUSE BILL NO. 106, "An Act relating to the Uniform Interstate Family Support Act, including jurisdiction by tribunals of the state, registration and proceedings related to support orders from other state tribunals, foreign support orders, foreign tribunals, and certain persons residing in foreign countries; relating to determination of parentage of a child; and providing for an effective date." [Before the committee was CSHB 106(STA).]

2:14:01 PM

CAROL BEECHER, Deputy Director, Anchorage Central Office, Child Support Division, Department of Revenue, advised the Alaska Child Support Services Division is authorized under Title IV-D of the Social Security Act and that the agency has been in operation since 1976. The mission of the child support division is to collect and disburse child support of which it collected approximately \$112 million in FY14, and approximately 90 percent went directly to families for support and 10 percent reimbursed the state and federal government for public assistance. The case load currently is approximately 49,000 cases. She explained that the Uniform Interstate Family Support Act (UIFSA) was drafted by the Uniform Law Commissioners and provides universal and uniform rules for the enforcement of family support orders between states. Alaska passed the Uniform Interstate Family Support Act in 1996 and by 1998 all United States jurisdictions had passed UIFSA into law. She opined the rationale for amending UIFSA is that it was clear some revisions were required to clarify jurisdictional and controlling order issues. The Act was amended by the Uniform Law Commission in 2001, but enactment was not required by the states. In 2007, the United States signed The Hague Convention Treaty on the International Recovery of Child Support and Other Forms of Family Maintenance (Convention). She advised this Convention contains numerous provisions that establish uniform procedures for processing international child support cases.

2:16:29 PM

MS. BEECHER advised that in 2008 the Uniform Law Commission amended UIFSA to incorporate changes required by the Convention. In 2010 the United States Senate gave its advice and consent to the treaty. In September 2014, Public Law 113-183, Preventing Sex Trafficking and Strengthening Families Act was signed into law. This act requires that all United States jurisdictions enact UIFSA 2008 in their next legislative session. For example, she noted, for Alaska the date is July 1, 2015.

[2:17:36 PM](#)

CHAIR LEDOUX asked if there were states that were not doing anything.

MS. BEECHER responded that currently all states are either enacting, or it is in their legislature, or it is being drafted.

[2:17:45 PM](#)

MS. BEECHER continued her presentation and stated that as a condition of the federal financial participation, which is \$19 million for Alaska, each state child support agency must have an approved state plan which meets all federal requirements. The Federal Office of Child Support Enforcement determines whether a state plan is approved and it is requiring states to adopt UIFSA 2008 verbatim. The CS version of HB 106 is because Version A went before the Office of Child Support Enforcement and they prepared amendments so that the bill would be verbatim. She advised this was also reviewed by Legislative Legal and Research Services and the Department of Revenue's legal staff. She opined that this bill will amend UIFSA and that most amendments contain clean up language and clarifying definitions. She pointed out that the primary change is the addition of a new section, Article 7A. [Support Proceedings under Convention] Sec. 96, [AS 25.25 is amended by adding a new section.], page 31. She advised that this new section provides guidelines and procedures for the registration, recognition, enforcement, and modification of foreign support orders from countries that are parties to the Convention. To date, 33 countries have signed onto the Convention. Passage of this bill will provide a better opportunity for Alaska's children to receive child support from parents that live in a foreign country. She noted that Alaska already enforces foreign support cases when the parent provides sufficient documentation, and that there are processes similar to the way the agency currently enforces between states. But, she further noted, this tends to be a one-way street. The agency enforces foreign order orders but many countries will not

enforce United States' orders outside of a treaty agreement. The new section of UIFSA will not go in effect until the treaty is ratified. Until then states will continue to enforce orders in the same way it currently enforces.

[2:20:34 PM](#)

STACY STEINBERG, Chief Assistant Attorney General, Statewide Section Supervisor, Collections and Support Section, Civil Division, pointed out that there are 106 section in the bill and offered an overview sectional analysis. She described the meat of the bill as Sec. 96, which is a new article dealing with foreign support orders from the Convention countries. She reiterated Ms. Beecher in that current law already provides for Alaska to enforce foreign orders and this needs to become a two-way street for the other countries to enforce our orders. Sec. 96, adds 13 new statutes that deal with processing requests from other countries. Basically, she explained, it mirrors the current process in Article VI, which is how orders are registered now. There are a few differences on the time frame for objecting to the registration. She referred to Sec. 20, AS 25.25.104 [Application of this chapter to resident of foreign country and foreign support proceedings] and stated it includes the 2008 changes. There will also be a new section, she explained, that deals with the procedure to register a foreign support order and designation whether using Article VI or Article VII processes, in Sec. 95 of the bill. Another new statute, AS 25.25.402, deals with parentage and was recently moved from what was formerly .701, so only Article VII deals with the foreign support orders. She offered that there are a host of other changes directly related to the new Article VII, of which many deal with definitions. Under the act there is a legal fiction that a foreign country can be a "state," which is being deleted so that a foreign country is truly a foreign country. She remarked that it results in many statute changes, including Secs. 1-16, as there are new definitions. She said she determined there are 21 statutes that will be amended to add either foreign country, or foreign tribunal, or define outside the state, which results in 23 new sections of the bill. She related there is clean up language fixing cross-references, and providing for notice by electronic mail. She opined there are many changes but the meat of it is in Sec. 96.

[2:24:37 PM](#)

MS. STEINBERG continued her analysis in that by adopting the 2008 version, the committee would be in essence adopting the

2001 changes by the Uniform Law Commission. She reiterated Ms. Beecher in that the state is currently under the 1996 version because that is what the federal government has mandated for funding, and Alaska is required to update the 2001 changes. In the statute, she remarked what is related to the 2001 changes and in essence, she related, are clarifying changes to the laws already on the books. In 2001, the state had been using UIFSA for approximately 15 years and the drafters realized certain areas needed to be "tweaked," she opined. As part of the 2001 changes there will be 3 new statutes, in that there is a change in Sec. 40, AS 25.25.280 which deals with the application of the act to a non-resident subject to the state's personal jurisdiction. Another new statute, AS 25.25.615 deals with jurisdiction to modify a child support order of a foreign country, if that foreign country either lacks jurisdiction or refuses jurisdiction to modify in Sec. 95. AS 25.25.281 deals with spousal support in that a state can modify spousal support. When is also in Sec. 40, of the bill and is not a new section as these provision are already in current law in AS 25.25.205(f) and .206(C). She explained that the drafter pulled those sections out and put them in their own stand alone section. For example, the court that sets spousal support will always have jurisdiction over spousal support and is the only court that can modify it, which is different from the rules on modifying child support. She pointed out that 21 sections of the bill deal with more clarifying amendments, for example, what court should determine the controlling order. The clarifying amendments touch 29 different statutes and there are 51 sections in the bill that deal with that, she explained.

[2:28:10 PM](#)

MS. STEINBERG responded to Chair LeDoux that the bill is something she and Ms. Beecher work with everyday and do not find it confusing. She noted it is an excellent vehicle for child support as when it was enacted in 1996, it was problematic dealing with enforcing child support orders through different states. Under this uniform law enacted in 1996, it made the process much more efficient with the states communicating with the same laws. She remarked that this bill expands it beyond just the states in taking it to a more global level with the main intent that children do get support no matter where the parent resides.

[2:29:53 PM](#)

CHAIR LEDOUX stated that she sees the good intent of the bill but it bothers her somewhat that if the legislature does not pass this bill verbatim that "it's no good."

MS. STEINBERG responded that is her understanding as they have worked closely with the Federal Office of Child Support. Congress changed the law that applies to child support agencies, and basically, in that law, changed the language to the states' requirement to adopt from UIFSA 1996 to UIFSA 2008. She advised she has been contact with the Federal Office of Child Support and it has interpreted it to mean that each state must adopt this in its next legislative session in order to continue to be eligible. She explained that as part of its funding, the state must provide a state plan and the state plan must be in compliance in order to continue to receive funding.

CHAIR LEDOUX expressed that she is uncomfortable to have the federal government say "you have to adopt this in exactly the form we want it in, or it's no good." Within most uniform rules there are differences between Alaska and California and Iowa, even though they may be small differences, and are all substantially the same. She asked that an attorney from the federal government who deals with child support and this statute attend the next meeting.

2:31:40 PM

MS. STEINBERG replied that in previous committee hearings someone from the Federal Office of Child Support testify regarding the verbatim requirement and how that affects funding. Also available will be Ms. Lindsay Beaver, Uniform Law Commission, to explain the uniform laws. Part of the reasoning, she remarked, regarding uniformity amongst the states is related to a uniform processes and mentioned that a few tweaks were allowed as "we call it the bracketed language." For example, not every state calls their child support agency the Child Support Services Agency, but the actual substance of the bill cannot be changed.

CHAIR LEDOUX asked whether the foreign countries are adopting something that is absolutely identical to the bill.

MS. STEINBERG answered that the foreign countries have signed the Convention, and as part of the Convention or treaty, they have to agree to do certain things. The Convention is outlined as an exhibit to the committee's packet, which is similar to

Article VII regarding documents that must be provided and due process.

[2:33:21 PM](#)

REPRESENTATIVE CLAMAN surmised that the whole topic of collecting child support internationally became the subject of The Hague Convention Treaty that basically said if both sides of the countries sign onto the treaty that both sides can collect in each other's country.

MS. STEINBERG responded "That is essentially correct," in that prior to The Hague Convention the Federal Office of Child Support would contract with different countries with Bi-Lateral Treaties or Reciprocating Agreements with specific countries like Canada and the Canadian Provinces. The problem is that it is very time consuming and each treaty had different provisions on the forms. She described that currently there is a "new age" approach where instead of trying to negotiate with each individual country that the countries come together and all agree to the same set of forms and processes.

[2:34:56 PM](#)

REPRESENTATIVE CLAMAN confirmed that The Hague Convention was the means as opposed to the United States making one deal with Canada and another with Mexico. The countries could sign on to The Hague Convention, with the United State Senate, and that all countries refer to The Hague Convention as a means of dealing with this.

MS. STEINBERG responded in the affirmative and said it makes it more efficient. She noted that part of the reason it is critical for each state to adopt this language verbatim is that this language is needed to implement the provisions of the Convention because all of the states enforce child support. The federal government directly does not address it through their federal courts. In order for the United States to do the final ratification process the United States must be prepared to say it can do all the steps required under the Convention. Basically it does not allow another country to come into the United States - it allows that the United States will provide services to them and will enforce their order, and likewise will send a foreign order to the Polish central authority to enforce the United States' child support against one of their citizens. Another provision is that even though the United States does some enforcement of foreign countries because law already

provides for it, it makes it better due to translation costs, which can be very expensive. Some of the provisions will be very helpful just in assisting the Child Support Services Division with its enforcement. She noted that the Child Support Services Division had to pay \$1,500 for three different translations in order to register an order in Alaska and enforce it. Under Article VII, if it is one of the Convention countries, it reads that the country must provide a copy in their native language and a certified translation in English.

[2:37:42 PM](#)

CHAIR LEDOUX asked why Child Support Services Division pays for the cost of translation currently, as normally if a plaintiff presents an order to the court the plaintiff pays the translating fee.

MS. STEINBERG responded that Child Support Services Division provides services to parents and is required to enforce an order for the parent which means the order must be registered in court before enforcing it. Child Support Services Division is required to obtain the translation so it can be enforced for that parent.

MS. STEINBERG, in response to Chair LeDoux, stated that the statute does not require that the state pay for the cost of translating, but it is part of registering an order and the parties must understand what it says.

[2:38:55 PM](#)

CHAIR LEDOUX said that Child Support Services Division could require the parent to have the order translated, if it wanted to.

[2:39:11 PM](#)

MS. BEECHER responded that Chair LeDoux is correct in that the agency could require the parent to pay, but the custodial parent is requesting services so she/he can receive child support and the expense is so high they cannot afford it, the agency does view it as a service it provides.

CHAIR LEDOUX quiered if there was a means test to determine whether a custodial parent can use the agency's services.

MS. BEECHER responded "There is not."

CHAIR LEDOUX assessed that a custodial parent could have a \$200,000 income and the state would still pay for the translation services.

MS. BEECHER answered that it is possible.

[2:39:55 PM](#)

REPRESENTATIVE CLAMAN pointed out that the federal government is telling the states they all have to adopt the same provisions. He said he is sensitive to government overreach but this is more on an international level. He opined that it would be more difficult if every state took a different path in its child support rules.

MS. BEECHER answered in the affirmative.

[2:41:21 PM](#)

REPRESENTATIVE CLAMAN asked whether it is part of the scenario today, without adopting this legislation, that there are countries that come to Alaska and collect child support from Alaska residents, but because Alaska has not adopted statutes that would allow enforcement of The Hague Convention that Alaska cannot go to some countries and collect child support from that country.

MS. BEECHER offered that the scenario is possible, but she does not have a specific example. Due to the fact that many countries will not collect without a treaty provision, it is possible they will not collect for Alaska.

[2:42:10 PM](#)

REPRESENTATIVE CLAMAN opined that Poland is a country in which it can collect in Alaska today, but because the statute is not in line with The Hague Convention, Poland does not necessarily enforce Alaska's orders.

MS. BEECHER offered to provide more specifics on that issue, but in a general sense the situation is that the United States has the structure, including Alaska, for collecting child support. She noted that even in the area of enforcement with other states there are disagreements on what can be collected and how to go about it. She assessed that the same situation occurs when

Child Support Services Division attempts to enforce a support order to another country.

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CHAIR LEDOUX questioned that if the United States is allowing another country to collect and use Alaska courts to collect child support, and the other country is not enforcing Alaska's child support orders, "why not play hard ball with them."

MS. BEECHER responded that as a general rule Child Support Services Division is required to provide child support services to people who provide the agency with the appropriate documentation to open a child support [case]. The agency does not view it from the perspective of Alaska and the country, but rather as one person who needs the child support to be collected for them.

CHAIR LEDOUX questioned whether that would be the person living in the other country collecting from an Alaskan citizen.

MS. BEECHER answered that it could be either way wherein the custodial parent lives in Alaska and the agency reaches out to the other country to collect from the non-custodial parent in another country, or the custodial parent could live in another country and contact Alaska to collect for it.

[2:44:36 PM](#)

CHAIR LEDOUX expressed her concern that Alaskan courts are used to collect money for Alaskan citizens which would go to another country, while the other country was not honoring Alaska's child support orders.

MS. BEECHER agreed that the scenario could occur. She clarified that Alaska is an administrative state so most of the "orders we do are administratively administered."

CHAIR LEDOUX asked Ms. Beecher to explain her statement.

MS. BEECHER explained that the agency has the authority to set up cases and enforce them unless they are set up in the courts. She further explained that someone could go to divorce court and as part of that proceeding child support was set, and the agency could enforce it for the courts, but set it up in court.

CHAIR LEDOUX questioned that in a child support proceeding, if the custodial parent lives in Alaska wouldn't the parent simply use Alaska courts to obtain another child support order. She further questioned why the agency would enforce the child support order from Poland, or Brazil, or Cuba, in that why wouldn't the parent just have one from here.

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MS. STEINBERG answered that statute reads if there is no existing child support order, the court will set one. She further answered that if there is already an existing child support order Child Support Services Division will enforce it. Unless there is something wrong with the foreign order, the order will be enforced and not put another order on top of it, she said. It goes against the whole principle of the uniform act which reads "there should be one order in time for the child," so it is clear. She explained there are rules set out in the act of when another jurisdiction can modify that order.

CHAIR LEDOUX asked how it works if a child support order from another jurisdiction is more generous than a child support order from Alaska. Different countries, different cultures, may have different views of divorce, and the obligation to support children, she pointed out.

MS. STEINBERG replied that under the current process Alaska has that problem within other states. She explained that each state is required to have their own set of child support guidelines and the requirement is that they have to be numeric and have to be considered on an economic basis. She said it is permitted under the current system so if Child Support Services Division has the child support order it will enforce it and often the order is in different amounts. That order is enforced until it is modified and there are a set of rules as to what point in time another state can modify an order.

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REPRESENTATIVE KELLER requested clarification in that the treaty is not ratified until the states comply with the bill.

MS. BEECHER replied "That is correct."

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REPRESENTATIVE KELLER said he found it novel as instead of the United States Senate voting to ratify or not ratify, they evidentially changed the law to say that all states must comply in order for it to work. He described the bill in the context of a threat that "if you don't do this we are going to take your money away," and referred to comments by the Department of Law that the bill is for Alaska's benefit because it had input through its uniform commissioners. He opined that Alaskans have more access to Senators Murkowski and Sullivan than they do to the Uniform Law Commissioners. He described it as an odd process put upon Alaska by the United States Congress and it appears heavy handed and also impossible in that all states would pass the legislation verbatim.

MS. BEECHER responded that this is an unprecedented way of dealing with what is essentially a treaty. She explained it could be interpreted as being much more beneficial to the states and rather anti-federalist because it puts the vote for ratification in the states' hands by way of requiring each child support agency to adopt the amendments to the Uniform Interstate Family Support Act. The Uniform Interstate Family Support Act was drafted by the Uniform Law Commission but it was based on input from all of the various states. The language itself is the vehicle of child support agencies across the United States that have worked together to figure out ways to enforce child support across the line. Rather than having language that came down from a signed treaty from the federal government, written by the federal government, telling states they must enforce it and this is the language. Instead, she noted, the federal government chose to use the uniform act that was working well between the states and has been an excellent vehicle in enforcing interstate child support orders.

REPRESENTATIVE KELLER said he found it unsettling as it appears to be an administrative act that Alaska is being told to "rubber stamp" this, and trust us. It comes from the federal system, and everyone has a different evaluation but 18 trillion in debt and climbing ...

[2:53:38 PM](#)

CHAIR LEDOUX asked if Congress will ratify this Convention once the states have adopted the bill, or is the ratification automatic after the states have adopted the bill.

MS. STEINBERG responded that President Barack Obama signed the treaty, then the treaty goes through the ratification process

and noted that the Senate already gave its advice and consent. The next step is that all states adopt the implementing language for the Convention because the United States has to say it is going to do these things, and the things it agrees to do are in the bill. After all 50 states have adopted the legislation, it goes back to the President Obama to officially sign the Instruments of Ratification that are then deposited with the Kingdom of the Netherlands. Normally with a treaty it is ratified by the United States Senate and it gives its advice and consent. This is a different approach in that the states have the implementing language so basically the United States can say it has all of the procedures in place to enforce "your" child support orders. She reiterated Ms. Beecher in that from the child support perspective it is seen as a good thing because child support agencies had input, and state law commissioners drafted the changes specifically.

[2:55:57 PM](#)

MS. STEINBERG responded to Representative Gruenberg that if Alaska is going to set a divorce and the father lives in Poland and has never been to Alaska, Alaska will not have jurisdiction to set a child support order over him. Alaska does not have personal jurisdiction in that situation so the mother could come to Child Support Services Division and ask for its assistance. Child Support Services Division would then ask the Poland authorities to set a child support order for the mother.

CHAIR LEDOUX assessed that even the existence of the child is an action as to the conception of the child being an action of the person in Poland. That action, having impregnated the woman living in Alaska, would it not be enough to confer personal jurisdiction. In many cases, personal jurisdiction meant the person had to be there in order to confer, and then the courts expanded that with "minimum contacts." She asked whether the existence of the child in Alaska would be enough to confer minimum contacts according to Alaska laws.

[2:59:52 PM](#)

MS. STEINBERG related that the mere existence of the child in Alaska would not be sufficient minimum contacts. Alaska does have strong "long arm" provisions when a person is not in Alaska setting up the fictions as minimum contacts. Under this scenario if the father has never been to Alaska, Alaska courts do not have personal jurisdiction. Alaska has due process standards and Poland could look at the Alaska order and

determine that the Polish citizen was not given notice, and Alaska does not have jurisdiction over him so would not enforce the order,

[3:00:51 PM](#)

REPRESENTATIVE GRUENBERG opined it would not make a difference if there was notice, as notice does not confer jurisdiction. He pointed out that within the Alaska Civil Code of Procedure an article that deals with jurisdiction in Jonz v. Garrett/AireSearch Corp., 490 P.2d 1197 (Alaska 1971), which basically says the same as the California long arm statute, and if there is jurisdiction under the United States Constitution there is jurisdiction in Alaska. Under child custody it's more of an in rem situation and if the child is in Alaska for six months there is jurisdiction even if the other parent is not in Alaska. He advised support works like this and it is somewhat antiquated

[3:01:35 PM](#)

REPRESENTATIVE CLAMAN asked what exactly the United States Senate did when it considered the bill. He further asked how it can take up the bill for consideration but not give advice and consent and somehow do something "wring off." He requested more information about exactly what the United States Senate did and how it fits in. The legislation is dealing with international situations and the notion that every state "gets" to do its own thing in the international context is appealing from the state's power, but is not consistent with the notion that "we are one nation and we work with other nations."

MS. BEECHER asked whether Representative Claman was referring specifically to the United States Senate advice and consent to the treaty.

REPRESENTATIVE CLAMAN said it appears the United States Senate took some action in 2010, but it was different from ratification. He stated there was a vote in the Senate that approved it, but it is more complicated than simply saying here is the treaty, it was approved and given advice and consent. He offered that it did something less than that and would like to understand what it did.

[3:03:11 PM](#)

REPRESENTATIVE LYNN requested a simplistic answer to his question of what would happen if this bill failed to pass the Alaska legislature.

MS. BEECHER offered that the Alaska Child Support program is required to have an approved state plan and it must be in line with federal requirements. Public Law 113-183 mandated that all states adopt UIFSA 2008 by the end of its first legislative session.

MS. BEECHER responded to Representative Lynn that Public Law 113-183 was passed by the United States Congress and signed by President Obama on September 29, 2014. The consequences are that Alaska would not be eligible for the 66 percent match, and it would also follow into the Temporary Assistance for Needy Families (TANF) block grant which is at \$45 million that the state receives. She explained that would also be at risk because Alaska is required to have an approved child support agency in order to receive the grant funds. The federal government told the agency that Alaska funds are at risk and it is mandated to follow the law in order to be eligible for those funds.

[3:04:48 PM](#)

CHAIR LEDOUX questioned whether the treaty becomes law if only 49 states pass the legislation, or can Alaska hold it up if it so chose.

MS. BEECHER answered it is the agency's understanding that all United States jurisdictions must pass UIFSA 2008 to ratify the treaty. Essentially, she noted, the treaty would not pass until Alaska conceded to that vote.

CHAIR LEDOUX advised she is holding the bill over and requested that a federal attorney experienced in UIFSA attend the next meeting.

REPRESENTATIVE GRUENBERG requested that a uniform commissioner also attend the next meeting.

[HB 106 was held over.]

[3:05:58 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:05 p.m.