

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

April 1, 2015

2:06 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Kurt Olson (alternate)

COMMITTEE CALENDAR

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 11

"An Act restricting the publication of certain records of criminal cases on the Internet; and providing for an effective date."

- MOVED CSSSHB 11(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 147

"An Act relating to the investigation of cruelty to animals complaints; relating to the seizure of animals; relating to the destruction of animals; relating to a bond or security posted for the costs of care for an animal; relating to the inclusion of an animal in a protective order and the crimes and arrests for violating that protective order; and relating to the ownership of an animal upon divorce or dissolution of marriage."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 11

SHORT TITLE: NO INTERNET ACCESS TO SOME CRIM. CASES

SPONSOR(S): REPRESENTATIVE(S) WILSON

01/21/15 (H) PREFILE RELEASED 1/9/15

01/21/15 (H) READ THE FIRST TIME - REFERRALS

01/21/15 (H) HSS, JUD
 03/04/15 (H) SPONSOR SUBSTITUTE INTRODUCED
 03/04/15 (H) READ THE FIRST TIME - REFERRALS
 03/04/15 (H) JUD
 03/20/15 (H) JUD AT 1:00 PM CAPITOL 120
 03/20/15 (H) -- MEETING CANCELED --
 03/23/15 (H) JUD AT 1:00 PM CAPITOL 120
 03/23/15 (H) Heard & Held
 03/23/15 (H) MINUTE(JUD)
 04/01/15 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 147

SHORT TITLE: ANIMALS: PROTECTION/RELEASE/CUSTODY

SPONSOR(s): REPRESENTATIVE(s) VAZQUEZ

03/16/15 (H) READ THE FIRST TIME - REFERRALS
 03/16/15 (H) JUD
 03/20/15 (H) BILL REPRINTED (CORRECTED) 3/20/15
 03/25/15 (H) JUD AT 1:00 PM CAPITOL 120
 03/25/15 (H) <Bill Hearing Canceled>
 04/01/15 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

REPRESENTATIVE TAMMIE WILSON
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Testified regarding changes in committee substitute for SSHB 11, and answered questions.

TRACEY WALLENBERG, Deputy Public Defender
 Appellate Division
 Public Defender Agency
 Department of Administration
 Anchorage, Alaska

POSITION STATEMENT: During the hearing of the committee substitute for SSHB 11, answered questions.

REPRESENTATIVE LIZ VAZQUEZ
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Presented HB 147, as prime sponsor, and answered questions.

SHERRY RAMSEY, Attorney and Director
 Animal Cruelty Prosecution of the Humane Society of the United States

New York City, New York

POSITION STATEMENT: During the hearing of HB 147, offered testimony and answered questions.

KATHY HESSLER

Portland, Oregon

POSITION STATEMENT: Testified on her own behalf in support of HB 147.

SALLY CLAMPITT, President and Co-Founder
Alaska Rural Veterinary Outreach, Inc. (ARVO)
Anchorage, Alaska

POSITION STATEMENT: During the hearing of HB 147, offered testimony.

RONNIE ROSENBERG, President
Animal Control Commissioner
Fairbanks Animal Shelter Fund
Fairbanks, Alaska

POSITION STATEMENT: During the hearing of HB 147, testified in support.

METIS RILEY, Board Member
Straw for Dogs
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 147.

SYLVIA PANZARELLA
Anchorage, Alaska

POSITION STATEMENT: During the hearing of HB 147, offered testimony.

DR. ROBERT GERLACH, DVM
State Veterinarian
Office of the State Veterinarian
Department of Environmental Conservation
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding standards for animal care regarding HB 147.

KATHRYN MONFRIEDA, Chief
Criminal Records & Identification Bureau
Division of Statewide Services
Department of Public Safety
Anchorage, Alaska

POSITION STATEMENT: During the hearing of HB 147, answered questions.

PEGGY BROWN, Executive Director
Alaska Network on Domestic Violence and Sexual Assault
Juneau, Alaska

POSITION STATEMENT: Testified in opposition to HB 147.

ACTION NARRATIVE

[2:06:17 PM](#)

CHAIR GABRIELLE LEDOUX called the House Judiciary Standing Committee meeting to order at 2:06 p.m. Representatives Keller, Foster, Claman, Gruenberg, and Keller were present at the call to order. Representatives Millett and Lynn arrived as the meeting was in progress.

[2:06:33 PM](#)

CHAIR LEDOUX announced that the committee will go into recess at the close of this meeting until 1:00 tomorrow.

HB 11-NO INTERNET ACCESS TO SOME CRIM. CASES

[2:07:27 PM](#)

REPRESENTATIVE TAMMIE WILSON, Alaska State Legislature, began by explaining changes in the committee substitute and referred to page 1.

[2:07:54 PM](#)

REPRESENTATIVE KELLER moved to adopt proposed CS for [SSHB 11], version 29-LS0083\H, Gardner/Martin, 3/27/15 as the working document. There being no objection, Version H was before the committee.

[2:08:21 PM](#)

REPRESENTATIVE WILSON referred to page 1, line 14, and stated it previously read "The state may not publish ..." and the current version reads "The Alaska Court System may not publish ..." She then referred to page 2, line 1, wherein "internet" was changed to "a publicly available website ..." She remarked that there were concerns that "internet" was a broad terminology and the intent was to focus solely on "CourtView." She then responded to Representative Gruenberg's previous question regarding other states and their procedures. She advised that the Alaska Court

System entails the entire state and that most examples she found were based upon counties and not statewide areas. She noted that social security numbers and the name of the county were required in other states.

[2:09:48 PM](#)

The committee took a brief at-ease.

[2:10:04 PM](#)

CHAIR LEDOUX announced that public testimony was left open during the last meeting.

[2:10:48 PM](#)

REPRESENTATIVE GRUENBERG referred to page 2, line 4, and asked whether it should require that criminal charges have been dismissed with prejudice. He advised he was not certain that would be a good idea and wondered whether any of the lawyers thought it would be an improvement.

[2:11:40 PM](#)

TRACEY WALLENBERG, Deputy Public Defender, Appellate Division, Public Defender Agency, Department of Administration, responded that the suggestion would significantly narrow the number of cases to which this applies as there are very few circumstances in which cases are dismissed with prejudice. She offered that most of the time cases are dismissed without prejudice which may be due to the fact that the prosecutor determined there was not sufficient cause to proceed with the charges or some other equitable reason to not go forward with the case. Generally, she posited, under those circumstances the prosecutor dismisses without prejudice under Criminal Rule 43. She noted that even in circumstances where the prosecutor does not see fit to go forward and dismisses the charges under those circumstances (indisc.) the statute to only apply to cases dismissed with prejudice would be excluded and they would still appear on CourtView.

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CHAIR LEDOUX closed public testimony after ascertaining no one further wished to testify.

[2:13:09 PM](#)

REPRESENTATIVE KELLER moved to report CS for Sponsor Substitute HB 11, version 29-LS0083\H, Gardner/Martin, 3/27/15, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSSSHB 11(JUD) moved from the House Judiciary Standing Committee.

[2:13:37 PM](#)

The committee took an at-ease from 2:13 to 2:17 p.m.

HB 147-ANIMALS: PROTECTION/RELEASE/CUSTODY

[2:17:07 PM](#)

CHAIR LEDOUX announced that the final order of business would be HOUSE BILL NO. 147, "An Act relating to the investigation of cruelty to animals complaints; relating to the seizure of animals; relating to the destruction of animals; relating to a bond or security posted for the costs of care for an animal; relating to the inclusion of an animal in a protective order and the crimes and arrests for violating that protective order; and relating to the ownership of an animal upon divorce or dissolution of marriage."

[2:17:10 PM](#)

REPRESENTATIVE LIZ VAZQUEZ, Alaska State Legislature, said the bill amends the cruelty of animal statutes to require owners of animals locally seized for neglect or cruelty to pay the animal's costs of care through bond or other security. She stated this shifts the burden from governmental agencies, independent shelters, and rescue agencies to the animal's owners. She pointed out that this will save tax dollars and the lives of animals, as it also allows for the adoption and rehoming of a seized animal if the owner surrenders them, fails to pay the costs of care ordered, or post an ordered bond. She noted it also amends the domestic violence statutes to allow the courts to allow for the inclusion of animals, including their temporary care in a domestic violence protective order. Finally, she related, it amends the divorce of marriage or dissolution statutes to require consideration of the animal's well-being when adjudicating ownership or joint ownership.

[2:18:48 PM](#)

REPRESENTATIVE VAZQUEZ referred to [Sec. 3, AS 03.55.120(c)(2)] page 2, lines 23-24, which read

(2) the notice required in (b) of this section shall be conspicuously posted at the premises from which the animal was removed.

REPRESENTATIVE VAZQUEZ advised that notice is to be placed in a conspicuous place on the premises where the animal was removed. [Representative Vazquez referred to the definition of "peace officer," Sec. 2, AS 03.55.110(d)(2), page 2, lines 14-18, which read:

(2) "peace officer" means
 (A) an officer of the state troopers;
 (B) a member of the police force of a municipality;
 (C) a village public safety officer; of
 (D) a regional public safety officer.]

[2:19:30 PM](#)

REPRESENTATIVE VAZQUEZ then referred to [Sec. 4, AS 03.55.130(d)(2)], page 3, lines 2-6, which read:

(2) posting a bond or security with the court of the judicial district in which the animal was seized **within 10 business days after the court's order to post a bond or security under this paragraph** in an amount determined by the court to be sufficient to provide for the animal's care for a minimum of 30 days from the date the animal was **seized** [REMOVED].

[2:19:53 PM](#)

REPRESENTATIVE VAZQUEZ then referred to [Sec. 5 AS 03.55.130(e)], page 3, lines 17-31 through page 4, lines 1-3, which read:

(e) **...Upon the expiration of a bond or security posed under this section, the owner shall pay or post the amount ordered by the court every 30 days thereafter until a final disposition of the animal is ordered by the court. If a bond or security posted under this subsection expires, the owner fail to pay or post an additional bond or security, and the court has not ordered an alternative disposition, the animal shall**

become the property of the custodian. The court of the judicial district in which the animal was seized may enter an order directing the owner of the animal to pay the custodian an amount sufficient to provide for the animal's care for a minimum of 30 days or to post a bond or security for the same amount. The court may hold a cost-of-care hearing for this purpose. The court shall, if possible, hold a hearing under this section not more than 10 business days after an animal is taken into custody. The custodian or, at the direction of the custodian, a peace officer or person authorized to serve process shall provide notice of the time and place of the hearing to the owner of the animal. If the owner of the animal is unknown and cannot be ascertained with reasonable effort, the custodian or, at the direction of the custodian, a peace officer or person authorized to serve process shall conspicuously post the notice required by this subsection on the premises where the animal was seized.

REPRESENTATIVE VAZQUEZ explained that the above provision sets out the procedure on the bond and securities for the feeding and care of the animals.

[2:20:23 PM](#)

REPRESENTATIVE VAZQUEZ referred to [Sec. 8, AS 18.65.520(a)(15-16)], page 7, lines 4-10, which read:

(15) prohibit your abuser from removing, harming, or disposing of an animal owned or possessed by you, your abuser, or any other person living in your residence, or authorize you to remove an animal from the possession of your abuser;

(16) grant you the exclusive care, custody, and control of an animal owned or possessed by you, your abuser, or any other person living in your residence; and

REPRESENTATIVE VAZQUEZ described the above provisions as key in that they prohibit the abuser from "removing, harming, or disposing of the animal owned by you (the victim), your abuser or any other person living in your residence or authorized you to remove an animal from the possession of your abuser." The following provision "grant you the exclusive care, custody, and

control of an animal owned or possessed by you, your abuser, or any other person living in your residence." She advised there has been a discussion regarding the word "custody" and expects to amend it to "possession."

[2:21:30 PM](#)

REPRESENTATIVE VAZQUEZ referred to [Sec. 9, AS 18.65.590], page 7, lines 25-27, which read

Sec. 18.65.590 Definitions [DEFINITION], in AS 18.65.510 - 18.65.590,

(1) "animal" means a vertebrate living creature not a human being, but does not include fish;

[2:21:42 PM](#)

REPRESENTATIVE GRUENBERG responded to a question asked while off record by Representative Millett and stated that the four red-bellied fire frogs they discussed are under the protection of this bill as they are vertebrates and not fish.

[2:22:32 PM](#)

CHAIR LEDOUX asked the reasoning in excluding pet fish.

REPRESENTATIVE GRUENBERG answered that Legislative Legal and Research Services reviewed the bill and noted there are three definitions of "animal" in the code. This definition is used in [AS 25.24.990], the general definition of the Alaska Criminal Code. He pointed out that it is also the definition used in Title 3, the animal code. He noted that another provision includes insects, and the sponsor felt that ... with respect to fish, these definitions did not include fish.

REPRESENTATIVE MILLETT said that she bought red-bellied fire frogs, and noted that expensive salt water aquariums are quite an investment.

[2:25:00 PM](#)

REPRESENTATIVE GRUENBERG stated that he would be happy to include fish in the committee substitute.

CHAIR LEDOUX responded that her thought was not that fish were expensive, but if people can get attached to a frog presumably they can get attached to a fish.

[2:25:23 PM](#)

REPRESENTATIVE VAZQUEZ replied that individuals and families do get attached to fish.

CHAIR LEDOUX related that as a child had a pet goldfish and was attached to it.

REPRESENTATIVE VAZQUEZ stated she has two pet goldfish, although she is more attached to her dogs and birds, than the fish.

REPRESENTATIVE GRUENBERG remarked that he had clams as a child.

[2:26:03 PM](#)

REPRESENTATIVE VAZQUEZ submitted that the definition [of animal] adopted in the committee substitute is set forth in AS 11.61.145(c), which read:

(c) In this section, "animal" means a vertebrate living creature not a human being, but does not include fish.

and, AS 11.81.900(b)(3), which read:

(3) "animal" means a vertebrate living creature not a human being, but does not include fish;

and a definition including fish, AS 03.05.100(2), which read:

(2) "animal" means an animal other than a human being and includes a mammal, insect, bird, fish, and reptile, whether wild or domestic, and whether living or dead;

and, AS 08.98.250(2), excludes insects, which read:

(2) "animal" means any animal other than a human being including mammals, birds, fish, and reptiles, wild or domestic, living or dead;

[2:27:33 PM](#)

REPRESENTATIVE GRUENBERG advised that those definitions were rejected because they say whether living or dead.

[2:27:44 PM](#)

REPRESENTATIVE VAZQUEZ referred to [Sec. 11, AS 18.66.100(c)(17-18)], page 9, lines 28-31, and page 10, lines 1-2, which read:

(17) prohibit the respondent from removing, harming, or disposing of an animal owned or possessed by the petitioner, respondent, or any other person living in the residence;

(18) grant the petitioner the exclusive care, custody, and control of an animal owned or possessed by the petitioner, respondent, or any other persons living in the residence.

REPRESENTATIVE VAZQUEZ noted that the word "custody" will be replaced by the word "possession."

[2:28:27 PM](#)

REPRESENTATIVE GRUENBERG advised that the sponsors are working on a committee substitute with the Alaska Network on Domestic Violence and Sexual Assault who suggested the bill not be included in the domestic violence provisions "or any other person living in the residence," because some of the people would not be parties to the lawsuit and there could be problems. He offered that a number of states that include animal provisions in domestic violence orders also include any minor child of the parties or household individuals living in the residence. He surmised that the majority of other states do this and there are a total of 30 jurisdiction that now allow this.

CHAIR LEDOUX asked how minor children are involved in the discussion.

REPRESENTATIVE GRUENBERG responded that the pet could be owned by the minor child.

[2:30:25 PM](#)

REPRESENTATIVE CLAMAN questioned in terms of pets, whether Madagascar hissing cockroaches would be included.

[2:30:46 PM](#)

CHAIR LEDOUX asked if that was a serious question.

REPRESENTATIVE CLAMAN opined that his cousin had Madagascar hissing cockroaches of which he was attached and questioned if fish were included, whether there was a subsistence preference for the fish.

[2:31:39 PM](#)

REPRESENTATIVE KELLER surmised that when the bill was put together the sponsors were thinking in terms of pets.

REPRESENTATIVE GRUENBERG answered "Not entirely."

REPRESENTATIVE KELLER noted that there is potentially a huge economic pond when discussing an Iditarod dog team. He requested that the sponsors consider including an exemption for other kinds of stable animals, like horses.

REPRESENTATIVE GRUENBERG replied that in some areas of the law there is an exemption for dog mushing, and offered that he had a divorce case wherein the husband and wife owned a fine mushing team and they alternated the Iditarod. Clearly, he remarked, the [dog team] must be looked at as a valuable piece of property and there is no intention to change that. He stated that he just does not want to send the animals to a place where they will be starved.

[2:35:07 PM](#)

REPRESENTATIVE KELLER reiterated [Sec. 8, AS 18.65.520(a)(17)] page 7, lines 8-10, "grant you the exclusive care, custody, and control or an animal owned or possessed by you, your abuser, or any other person living person living in your residence; and ...". He said he has not determined a positive suggestion but the legislation appears to favor a pet as opposed to a valuable dog team.

REPRESENTATIVE GRUENBERG advised there has been some question as to the intent of the domestic violence language. Currently, he noted, there is a provision in the domestic violence forms and Sec. 8, deals with what can be included in the petition filed for a domestic violence order, he explained. Sec. 11, deals with what the order may contain and the two sections track each other, he further explained. Currently, a box can be checked when seeking a domestic violence order, or that the judge can check, but there is nothing in statute, he remarked. He advised that this legislation will put it in statute so there is no

question. He explained that the sponsors are not trying to do anything additional, just to codify the practice. The intention, he noted, is to preserve the economic value of a dog team and to ensure that the team is not being abused or dissipated.

2:37:26 PM

CHAIR LEDOUX referred to [Sec. 8, AS 18.65.520(a)] page 7, lines 14-17, which read:

... It is not necessary to have an attorney to obtain a protective order, but you may consult an attorney if you choose. If you would like help obtaining a protective order, you may contact the nearest domestic violence program located at _____.

...

CHAIR LEDOUX advised that those sentences are different from what it has been in the past.

REPRESENTATIVE GRUENBERG stated the intent is to set it out specifically. In the past, he opined, it has gone under "(17) and fit it under that." He advised that there will be testimony regarding judges in other jurisdictions that with language like this won't include animals. This provision ensures that pro per litigants know about it, and the judges as well. He pointed out that the Department of Public Safety publishes a pamphlet and offers information on their web site, and with the passage of HB 147 it will appear in the pamphlet and on the web site. He opined it will make a significant difference in the government's actions.

2:38:39 PM

REPRESENTATIVE VAZQUEZ related that it will make a difference with law enforcement because often the respondent is aggressive and possibly asserts control over the animal as a means of leveraging control over the victim. She noted there will be testimony with regard to that issue as animals are often used by an abuser to control victims in preventing them from leaving. She described this provision in the statute as empowering the victim which is stronger than having it in a form.

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CHAIR LEDOUX quiered whether this allows someone who obtained a domestic violence restraining order to remove the animal themselves.

REPRESENTATIVE GRUENBERG responded that usually when the order is issued, a Writ of Assistance is also issued and the police accompany the person. The victim is not sent out alone to retrieve children, or animals, as the purpose is to protect the victims, he expressed. He described that as the key to the entire domestic violence procedure.

[2:40:32 PM](#)

REPRESENTATIVE VAZQUEZ again referred to page 9, lines 28-30, which prohibits the respondent from "removing, harming or disposing of the animal owned or possessed by the petitioner, respondent or any other person living in the residence." She then referred to page 9, line 31 through page 10, lines 1-2, "grant the petitioner of the exclusive care ..." and stated the word "custody" will be replaced with "possession and control of an animal owned or possessed by the petitioner, respondent, or any other person living in the residence." She advised that pages 12-16, are sections dealing with divorce and dissolution of marriages that empowers the well-being of the animal in deciding who retains the animal. She referred to [Sec. 20. AS 25.24.200(c)], page 15, lines 28-29,

(c) ... ownership of animals taking into consideration the well-being of the animals,

REPRESENTATIVE VAZQUEZ then referred to [Sec. 18, AS 25.24.200(a)], page 15, lines 2-4, which read:

(5) if an animal is owned, the spouses have agreed to the ownership or joint ownership of the animal, taking into consideration the well-being of the animal.

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REPRESENTATIVE GRUENBERG advised that one is the divorce statute and the other is the dissolution statute. He referred to page 15, line 14, which is included in the Petition for Dissolution in that a party can include provisions concerning animals. He described it as an important piece of the bill as a large portion of the bill is to let the public know what they can do.

Often, he opined, one side of a divorce or dissolution is pro per.

CHAIR LEDOUX questioned that if at least one side is pro per regarding [Sec. 19, AS 25.24.200(b)], page 15, line 5-18, how will the pro per party know that this exists as generally pro per people do not read statutes.

REPRESENTATIVE GRUENBERG responded that this will be reflected in the court form.

CHAIR LEDOUX asked if there is any place that provides that it will be reflected in the court form.

REPRESENTATIVE GRUENBERG deferred to Nancy Meade, Alaska Court System. He offered that with the concurrence of the Alaska Court System, Sec. 16, was included which is the civil jurisdiction of the Alaska District Court because there are provisions for the costs of care at the beginning of the bill. He noted that this section was added to be certain that a case within the Alaska District Court's jurisdiction, money-wise, could do this.

[2:44:35 PM](#)

REPRESENTATIVE GRUENBERG responded to Chair LeDoux that the provision is on page 12, lines 7-8, [Sec.16, AS 22.15.030(a)(11)], and explained that it amends the statute setting forth the types of cases within the Alaska District Court's civil jurisdiction.

[2:45:08 PM](#)

REPRESENTATIVE VAZQUEZ noted that the intent of the bill is also to allow victims to have their pets protected by the protective order. For example, Hurricane Katrina initiated the federal government's realization that many pet owners would refuse to leave a dangerous situation because they did not want to leave their pet behind. She pointed out that the federal government enacted a statute entitled Pets Evacuation Transportation Standards Act of 2002. She offered that subsequent to filing HB 147, two constituents wrote that they stayed in abusive situations because they were afraid to leave the dog behind for fear the abuser would cause harm to the dog. Representative Vazquez related that the sponsors provided a summary of an excellent article that appeared in the National Council of Juvenile and Family Court Judges, "Protecting Domestic Violence

Victims by Protecting their Pets," in the spring of 2010. She pointed out that when victims are attached to their pets or animals, they often endanger their own lives by going back to care for the pet or animals. In cases of children, there are strong emotional bonds formed especially when children are in a chaotic dysfunctional environment as the pet can provide stability. She described this as the intent of the legislation to protect the victims by also protecting the pet.

[2:48:00 PM](#)

REPRESENTATIVE CLAMAN stated that he noticed in the materials there is a letter from the "Alaska Network on Domestic Violence and Sexual Assault" that is voicing opposition to the proposed statute change.

[2:48:33 PM](#)

CHAIR LEDOUX opened public testimony

[2:48:58 PM](#)

SHERRY RAMSEY, Attorney and Director, Animal Cruelty Prosecution of the Humane Society of the United States, said she is in support of HB 147, which provides a number of important tools in the protection of animals. She advised she is particularly enthusiastic regarding the provision allowing domestic violence victims to request that their beloved animals are included under the protection of the restraining orders. As a prosecuting attorney, and in private practice, understands how important this provision can be in protecting not only the animal but the human victims. She remarked that an important study revealed that up to 49 percent of domestic violence victims admitted they delayed leaving a dangerous situation due to fear their animals might be harmed or killed by the abuser if they left. She related that another study shows a large percentage of victims advising that their animals had been threatened or harmed by their abusers. She explained that many studies demonstrate how important it is to ensure that a victim can leave a dangerous situation with her entire family, including furry ones. She pointed out that animals are considered property in every state, and because abusers often control every aspect of a domestic violence victim's life, the abusers will often argue they are the legal owner of the animal. She described the situation as the abuser using that animal to manipulate the victim and he/she won't let the victim remove the animal from the premises. Ultimately, she said, victims might sneak back into the home to

try to retrieve an animal as they are fearful it could be abused. She noted that the article referenced by Representative Vazquez, she co-authored on the subject which was published in the National Council of Juvenile and Family Court Judges quarterly magazine. She said the article offers examples of issues revealed with regard to this, and it explains why the specific language used in this bill is appropriate and best at ensuring the law will be effective and enforceable. She offered that she has worked in other states assisting in drafting and passing these bills. As of 2014, she advised, there are 29 states, the District of Columbia, and Porto Rico that have enacted legislation similar to include provisions for animals in domestic violence restraining orders, as well as additional bills pending around the country. She remarked that the results have been an effective means to protect victims of domestic violence, and that she has never heard of any of the laws having any negative effect or unintended consequences. In fact, she explained, she was sent a law from California to review which expands this type of protection in not only adding animals onto restraining orders, but all other protection orders, just as juvenile, elder abuse, and civil harassment proceedings. She surmised that California's original law to include animals in domestic violence restraining orders has worked so well that it is now being expanded for protection of more victims of abuse. These laws make procedures within states consistent and ensure that judges understand they can provide this relief, which some judges do not. She explained that state laws are the only means to ensure that human victims of domestic violence and their beloved animals can be protected from an abuser. She urged the committee to support this important bill.

[2:54:06 PM](#)

REPRESENTATIVE GRUENBERG asked if she was a professor, and what courses she taught in this area

MS. RAMSEY responded (indisc.) and teaches animal law.

[2:54:31 PM](#)

KATHY HESSLER, said she is a clinical law professor at Lewis & Clark Law School, in Portland, Oregon. Her areas of expertise include animal law, and previously was a legal services attorney and clinical law professor with a general civil and property law practice for over 15 years, including domestic violence issues, she said. She offered that currently she writes, teaches, and lectures in the area of animal law. She described herself as a

person who has studied animal law issues for quite a while, and that she is pleased Alaska is looking to change its laws in three important ways. First, she pointed out, in addressing the cost of care elements of this legislation the provision allows the state to act in order to get an abused animal the care it needs without cost to the taxpayers. It charges costs to the owners who are already responsible for the animals, and who may later be adjudicated as an abuser who caused the harm that required the care. She said with reference to the protective order piece, in 29 other jurisdictions it has been working well. She stated that she is not aware of any adverse impact to the domestic violence community, to the victims, or to the administration of justice. She related that she has experience in a number of jurisdictions that have elected, as a catch all provision, to allow judges to do what they deem best for the victim of violence. Although, she noted, some judges have been disinclined, concerned, hesitant, and also refused to include pets in the orders because they felt they did not possess the authority. She noted that codifying is a current practice in Alaska wherein the statute would make clear to judges, and pro per parties, that this is an appropriate remedy to seek and that it is important for a number of reasons. She explained, that these pet provisions are included in the National District Attorneys Association Manual on investigating and prosecuting abuse, and is part of the training that this is the ideal way to proceed.

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MS. HESSLER described the consensus about human and animal violence, in that it is clear abusers use the animals to control and punish victims. She continued that not dealing with pets puts certain victims at risk and it is clear that protecting animals leads to more safety for victims. She pointed out that the Federal Bureau of Investigation (FBI) treats animal abuse as a serious crime to be considered. She noted that this bill does not change ownership of the animal, as it is only a temporary control, but it is important to animals and society that animal abuse is taken seriously. She remarked that clarity is important and within her research found that jurisprudence is slim and muddled as judges do not have guidance, are not clear on what they can do, some are adding custody, and most are dealing with animals as property. She noted that the provisions in this bill handle that question in an eloquent manner.

[3:00:06 PM](#)

REPRESENTATIVE CLAMAN asked whether Ms. Hessler is familiar with the letter submitted in opposition that was discussed earlier.

MS. HESSLER responded "I am."

REPRESENTATIVE CLAMAN pointed out that the Alaska Network basically depicts that this will become a tool for abuser to use and it will create a confusing system. He said it basically does not support the legislation and asked how Ms. Hessler responds to that.

MS. HESSLER noted that within the states she has reviewed or worked in, she has not experienced [the Alaska Networks claims] as [the law] has allowed victims to leave the home more quickly and completely. The ownership issue relating to the animal can be dealt with at a later time and through a safe venue, she explained. It could be that the victims feel compelled to speak to the abuser, but they certainly don't have to and the protective order gives them the right not to, she remarked. She described a situation where the pet is keeping the victim in the home, or they come home to feed the pet, wherein [the law] protects the victim as once the victim has control over the animal, safety is at hand.

[3:01:33 PM](#)

SALLY CLAMPITT, President and Co-Founder, Alaska Rural Veterinary Outreach, Inc. (ARVO), said the organization puts together medical teams of volunteer veterinarians and assistants to travel to remote villages where there are problems of an over population of animals, usually dogs. The organization provides very little to no cost clinics, vaccines, and general wellness as its approach is addressing issues through prevention and education. She offered that the committee may understand the challenges in having pets in rural Alaska without any support, and not just veterinary support, but there is nothing there for many of the animals living in a subsistence based low income community. She described that as a result, many of the communities have developed procedures in which to deal with over population that are heart breaking as they do not have humane euthanasia, or can spay/neuter animals. She pointed out that currently, and somewhat routinely, the communities destroy stray animals which is traumatic and unpleasant, and children grow up with this. She stated that any legislation looking at the big picture of the importance of the relationship between animals and their people is beneficial to all arms of animal welfare that Alaska has to deal with. She said she recognizes the

struggle between animal abuse and domestic violence. She further recognizes the invaluable healthy links between many programs and disadvantaged people, everything from therapeutic horseback riding to dogs that visit seniors, or children who are terminally ill. There is an amazing uplifting experience for these folks when they can have some sort of relationship with animals and she sincerely hopes the bill passes.

[3:05:22 PM](#)

RONNIE ROSENBERG, President, Animal Control Commissioner, Fairbanks Animal Shelter Fund, said that prior to living in Fairbanks, she was a supervising attorney for three counties in North Dakota for Legal Services of North Dakota and represented several domestic violence shelters. She said she fully supports the bill as in codifying the provisions there will be a checklist for advocates that assist pro per people in domestic violence applications and the issue of animals can be brought to the court's attention right up front. The judges or magistrates can make a ruling on that rather than people not remembering or not thinking about it until later. In that manner, she opined, it will protect victims and especially children living in the home who are already in chaotic situations. Beyond that, she stated, she fully supports the idea that perpetrators of violence towards animals have to pay a bond and are responsible for the costs rather than passing it onto the taxpayers. Over the years there have been several cases where the cost became quite large and, she noted, it has been hard to recoup those monies without people either posting a bond or decide they will relinquish the animal so the animal can receive proper care and be adopted. She said she strongly hopes this bill passes and asked that fish be included, as not too many years ago there was a case with a huge tank of fish in a domestic violence situation and the woman and her four children were very reluctant to leave the home.

[3:08:38 PM](#)

REPRESENTATIVE GRUENBERG noted that the Alaska Council on Domestic Violence and Sexual Assault submitted a letter opposing the bill as it did not feel that legislation was necessary. He asked whether she felt legislation is necessary.

MS. ROSENGERG related that it is necessary in order to have consistency as it gives direction to the court. She pointed out that some rural areas have magistrates who are not attorneys. She explained that this legislation leads to a full flow sheet

so that when people go to the court by themselves, or with an advocate who is not an attorney, or even a paralegal, there is a form the person fills out and it will spur their minds that they should say something about the pet. She opined this will not be an impediment in commercial kennels or dog mushing because it will be treated as a business asset or, in fact, it could be the victim who wants to have the dogs and the court will make a determination based on findings of fact. She offered that she is not certain why they are opposing this legislation as she did not know they were opposing it.

REPRESENTATIVE GRUENBERG corrected himself and related that the letter of opposition is from the Alaska Network on Domestic Violence & Sexual Assault.

[3:11:43 PM](#)

METIS RILEY, Board Member, Straw for Dogs, said she supports HB 147, particularly regarding cost of care in that the financial burden should be placed with the owner responsible for the care they did or did not give, and not taxpayers, municipal shelters, or law enforcement agencies. She offered that in her experience she has seen the cost (indisc.) the care needed or not even be able to be given due to ownership questions during seizure. Also, she stated, this bill places responsibility onto the owners of the animals who caused the neglect or abuse. In addition, the other components of this bill are well researched issues regarding the link between domestic violence and animal abuse. She remarked that she believes that while this bill provides pet health it is really about people and the people who either need to be held responsible for their actions, or need to be protected so they can protect their own animals.

[3:13:24 PM](#)

SYLVIA PANZARELLA, said she strongly supports HB 147 as she and her husband are animal lovers and consider their pets to be part of their family. Most people know that pets are living, breathing creatures, great and small, who experience happiness, sadness, fear, and love as they are not inanimate objects. She stated that something must be done to help combat cruelty to animals and their human families in that more protection must be offered. She remarked that this bill is just one tool added to the tool kit which has the bonus of saving Alaskans money. She opined that as word gets out concerning this bill, all of the mailboxes in all of the districts will be flooded with letters

of support. She asked that the committee support this bill as it is an important bill.

[3:16:19 PM](#)

DR. ROBERT GERLACH, DVM, State Veterinarian, Office of the State Veterinarian, Department of Environmental Conservation, said he is available for questions regarding animal care or the standards for animal care.

[3:16:31 PM](#)

REPRESENTATIVE GRUENBERG asked whether he would be involved in any manner if the bill passes.

DR. GERLACH responded that his involvement is judgement and evaluation for proper care of animals, as to whether the animals were cared for properly, and whether there was improper care with respect to cruelty to animals.

[3:17:01 PM](#)

REPRESENTATIVE GRUENBERG referred to Sec. 1, [AS 03.55.110(c)], page 1, lines 8-13, through page 2, lines 1-5, which read:

(c) Before a peace officer may take an animal and place it into protective custody, the peace officer shall request an immediate inspection and decision by a veterinarian licensed under AS 08.98 that placement into protective custody is in the immediate best interest of the animal. If a veterinarian is not available to perform an inspection, before a peace officer may take an animal, the peace officer shall communicate with a veterinarian who has, after hearing a description of the condition of the animal and its environment, decided it is in the immediate best interest of the animal that it be placed in protective custody. If the peace officer is not able to communicate with a veterinarian, before the officer may take an animal, the officer shall decide it is in the immediate best interest of the animal that it be placed into protective custody.

REPRESENTATIVE GRUENBERG described the provision as a procedure that must be undertaken by the state or any level of government if they seize an animal for abuse or neglect. He asked how this provision works and the role of a veterinarian.

[3:17:56 PM](#)

DR. GERLACH replied that when abusive action is taking place, or a complaint filed, that generally a peace officer would be involved in determining if there was abuse or lack of care to the animal. He explained that in the case where the peace officer is unable to make a judgement, they would rely on either local veterinarians or the state veterinarian's office to assist them in the determination. He pointed out that the statute reads that the animal has to have proper care with respect to feeding and watering an animal and maintaining health, providing medical care and health for the animal, and providing shelter. He described that as broad and not distinct in that there is room for interpretation. He said in this determination, the goal is to establish an objective set of care standards that a peace officer could institute when making an evaluation in an investigation.

[3:19:21 PM](#)

REPRESENTATIVE GRUENBERG offered that the state's laws are carefully crafted and this bill does not affect that part of the statutes.

[3:19:48 PM](#)

KATHRYN MONFRIEDA, Chief, Criminal Records & Identification Bureau, Division of Statewide Services, Department of Public Safety, advised that the division submitted a 3/27/15, fiscal note.

REPRESENTATIVE GRUENBERG referred to the fiscal note with money attached and submitted that he is not anxious to see this bill go to the House Finance Committee for \$2,900. He opined that when a fiscal note is for small amounts of money, the legislature's procedure is to submit a committee note that would zero that out. He advised it is his intention to make a motion at the appropriate time, otherwise it could delay the bill for another year. He asked if the Department of Public Safety could "live" with that.

MS. MONFRIEDA advised that the Department of Public Safety could "live" with [zeroing out the fiscal note].

[3:22:18 PM](#)

PEGGY BROWN, Executive Director, Alaska Network on Domestic Violence and Sexual Assault, advised that she is not an expert in animal rights or animal welfare issues, and has worked at the Alaska Network for 19 years. The Alaska Network determines legislation by whether it is necessary and the impact on a victim's safety particularly regarding protective orders and statutes. She advised that protective orders are a critical tool used for the victim's safety, especially in Alaska. Previously, she offered, the Alaska Network worked with the Alaska Court System regarding protective order forms and "personal essential items," which includes pets and their names. She opined that Alaska has a high relationship with animals, animal companions, and being outdoors. She pointed out that pets are included in the protective order forms, and the Alaska Network has trained judges and attorneys, and that victim service providers have advised that this inclusion is working. She stated that the Alaska Network is opposing HB 147, as the Alaska Court System currently has pets on the form and it needn't be in statute. She advised that currently a victim can obtain a protective order and have complete care, and possession of their pets. She offered that shelter programs have on-site kennels and relationships with various animal societies, including people who care for animals in particular. She said her point in the opposition is that the Alaska Network does not believe there is a problem, and that pets are included within the instructions for the protective order forms police officers provide to victims. Currently, if the respondent is trying to coerce the victim through threat or injury to the animal the respondent would already be in violation of a protective order provision. She described the legislation as redundant to some degree, and at the worst degree "if it isn't broke, why are we trying to fix it." She questioned whether there are unintended consequences in adding a tool for an abuser in that the victim would be in constant contact, or increased contact through modification of the protective orders, of which the court system would be additionally charged with monitoring. She related that she had listened to testimonies regarding "animal cruelty, animal welfare, animal rights, animal, animal, animal." She expressed that putting this legislation into victim protective statutes posed the question of getting a protective order for animal cruelty, and asked why it has to be put with domestic violence victims. She clarified that it is important she go on record that there already are protective orders for victims to have their pets, and that the crime of domestic violence goes with the victim, not the animal.

[3:30:09 PM](#)

MS. BROWN noted that she had received a call from a victim that was concerned this legislation would affect her current protective order with pets. Ms. Brown said she appreciates the intent of the bill, and the efforts for animals, but the Alaska Network opposes this legislation.

[3:31:20 PM](#)

CHAIR LEDOUX questioned whether the Alaska Network has concern with other provision of the legislation such as, divorce, and who pays when an animal is taken out of the home. She surmised that the Alaska Network's concerns are the protective order.

MS. BROWN responded that Chair LeDoux is correct.

[3:31:59 PM](#)

REPRESENTATIVE CLAMAN advised that he is on the Alaska Network on Domestic Violence and Sexual Assault Pro Bono Panel, and has worked on cases assigned by the Alaska Network. He described himself as exceptionally dedicated to protecting the rights of victims of domestic violence. He asked how a box gets on the protective order form and why is it there. He explained that a judge researching that issue would find it is not in the statute and opined that something supporting that box should be in statute. He said he agrees the domestic violence protective orders work well and that there are many provisions on the form that track the statute exactly. He offered that his worry is having a box without statutory support, and that the Alaska Network program may be undermined with the lack of statutory support.

MS. BROWN said she mentioned this issue to the sponsors and believes Representative Claman makes a valid point.

REPRESENTATIVE CLAMAN said he does not believe any municipality should be housing a pets for eight or so weeks that is unrelated to the domestic violence issues.

[3:37:00 PM](#)

CHAIR LEDOUX offered that she has the same confusion in that she agrees "if it ain't broken, don't fix it," but she believes Representative Claman is correct that because this procedure is provided why not put it into a statute. She explained if it is put into statute, the protective order forms can read exactly as

they have been reading, and the judge can refer back to the statute. She asked whether her concern was that the legislature would "monkey" around with the language on the petition as opposed to actually having a problem with codifying it.

MS BROWN responded that the Alaska Network's issue is not with codifying what is currently done, as the issue is of mixing animal welfare with victim's rights.

[3:39:06 PM](#)

MS. BROWN replied to Chair LeDoux that she did not have the section in front of her that her statement was referring to and opined that there are a couple of sections that allude to exclusive care. She stated she is testifying to the pieces of custody and possession which are currently in the protective order, regardless of ownership. She remarked that with regard to codifying it, the Alaska Network agrees, but there are other provisions around the protective order regarding the animal, possession, and custody that the Alaska Network sees as potentially very dangerous.

[3:40:06 PM](#)

REPRESENTATIVE GRUENBERG offered Representative Vazquez his assurance that the legislation will not be opened up to domestic violence as that is not the intent of the sponsors. He explained that if it is not done in the House Judiciary Standing Committee, and it came back from the Senate the House would have to concur.

MS. BROWN stated "I have to see it to believe it."

REPRESENTATIVE GRUENBERG offered that is a fair statement and unless there is a problem "we won't see it."

MS. BROWN agreed that it is a fair statement. She described the concern of the Alaska Network is that protective order statutes will be opened up and a lot can happen. She opined that it has been proven that very well-meaning people, particularly with animal welfare, can state that doing things in protective order statutes may seem on its face to be good, but in practice can be incredibly dangerous. For instance, she offered, if there is a lot of interaction at the courthouse, how many victims have been shot and killed at a courthouse. She asked the committee to understand that on practical, real world concerns, the Alaska Network is very picky about why protective orders should not be

opened up as before there were protective orders the homicide rate of "women against men" was astronomical. Yet, she offered, when protective orders were introduced the homicide rate of "women murdering partners" decreased nation-wide by 70 percent. She asked the committee to understand why the Alaska Network takes a strong position opposing a bill in that currently there are remedies so why have the legislation.

[3:43:16 PM](#)

CHAIR LEDOUX surmised that the Alaska Network is not concerned whether the legislation was codified, but if in codifying it the legislature would open up the statute and that bad things can happen when titles are opened up.

MS. BROWN said she was testifying as to how the Alaska Network perceives this legislation, but is aware that it is the legislature's call.

[3:43:52 PM](#)

REPRESENTATIVE CLAMAN said he understands the concerns raised and he will work with the organization to reassure it that the legislature is ensuring that the protective order statute does not suddenly get turned into something undesirable.

[3:44:25 PM](#)

REPRESENTATIVE GRUENBERG stated that wherever this is put into statute appears to be a help elsewhere. He referred to a 4/1/15 research brief by Chuck Burnham, Legislative Legal and Research Services, and read: "As you know, 27 states have enacted statutes that permit pets to be included in protective orders. As the attached Table 1 shows, 18 of these states provide on the forms used to petition for protective orders sections specific to pets." In other words, he explained, at least 18 other states have statutes as well as the forms and the purpose is to provide certainty over time and stability. He stated that the Department of Public Safety will be performing additional services as a result of this legislation, such as information on their website, and pamphlets as it is the sponsors' intention to provide greater protection for the victims. He asked if that provided solace.

MS. BROWN advised that law enforcement already does those things and it is on the instructions of how to obtain a protective order. She stated that the instructions are the notification

that law enforcement currently gives to victims and clearly offers multiple avenues. She opined that the Alaska Court System has the instructions on its website, and the notification is currently in place. The instructions would have to be changed to some degree, and she opined that pets are currently part of that.

[3:47:39 PM](#)

REPRESENTATIVE GRUENBERG offered that the fiscal note indicates the additional services provided.

MS. BROWN stated it is regarding updating the data base for law enforcement.

REPRESENTATIVE GRUENBERG agreed and said they have a pamphlet.

MS. BROWN stated she was talking about the pamphlet and not the data base.

REPRESENTATIVE GRUENBERG asked Ms. Brown to take a look and see.

[3:48:08 PM](#)

REPRESENTATIVE CLAMAN asked that in addition to the committee's material that a copy of the protective order form be included.

[3:48:36 PM](#)

REPRESENTATIVE GRUENBERG asked that the Department of Public Safety provide a copy of the pamphlet to the committee.

[3:48:58 PM](#)

CHAIR LEDOUX closed public testimony after ascertaining no one further wished to testify.

REPRESENTATIVE GRUENBERG advised it is the sponsors' intent to provide a committee substitute.

CHAIR LEDOUX held HB 147 in committee.

[3:50:13 PM](#)

ADJOURNMENT

The House Judiciary Standing Committee meeting was recessed at 3:50 p.m., until 1:00, April 2, 2015.