

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

April 7, 2015

1:35 p.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

Representative Kurt Olson (alternate)

**COMMITTEE CALENDAR**

HOUSE BILL NO. 154

"An Act allowing appropriations to the civil legal services fund from court filing fees."

- MOVED HB 154 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."

- MOVED CSHB 106(STA) OUT OF COMMITTEE

CS FOR SENATE BILL NO. 30(FIN)

"An Act relating to controlled substances; relating to marijuana; relating to crimes and offenses related to marijuana and the use of marijuana; relating to open marijuana containers; relating to established villages and local options; relating to delinquent minors; making conforming amendments; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 154

SHORT TITLE: CIVIL LEGAL SERVICES FUND

SPONSOR(s): REPRESENTATIVE(s) EDGMON

03/20/15 (H) READ THE FIRST TIME - REFERRALS  
03/20/15 (H) JUD, FIN  
04/06/15 (H) JUD AT 1:00 PM CAPITOL 120  
04/06/15 (H) <Bill Hearing Canceled>  
04/07/15 (H) JUD AT 1:30 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  
03/27/15 (H) Heard & Held  
03/27/15 (H) MINUTE(JUD)  
04/07/15 (H) JUD AT 1:30 PM CAPITOL 120

BILL: SB 30

SHORT TITLE: MARIJUANA REG;CONT. SUBST;CRIMES;DEFENSES

SPONSOR(s): JUDICIARY

01/23/15 (S) READ THE FIRST TIME - REFERRALS

01/23/15 (S) JUD, FIN  
01/26/15 (S) JUD AT 1:00 PM BUTROVICH 205  
01/26/15 (S) Heard & Held  
01/26/15 (S) MINUTE(JUD)  
01/28/15 (H) JUD AT 1:00 PM CAPITOL 120  
01/28/15 (H) -- Companion Bill --  
01/30/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
01/30/15 (S) -- Meeting Postponed to Monday 2/2/2015  
02/02/15 (S) JUD AT 1:30 PM BUTROVICH 205  
02/02/15 (S) -- Rescheduled from 01/30/15 --  
02/05/15 (S) FIN AT 9:00 AM SENATE FINANCE 532  
02/05/15 (S) Scheduled but Not Heard  
02/06/15 (S) JUD AT 1:30 PM BUTROVICH 205  
02/06/15 (S) -- MEETING CANCELED --  
02/09/15 (S) JUD AT 1:30 PM BUTROVICH 205  
02/09/15 (S) Heard & Held  
02/09/15 (S) MINUTE(JUD)  
02/11/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
02/11/15 (S) Heard & Held  
02/11/15 (S) MINUTE(JUD)  
02/13/15 (S) JUD AT 1:30 PM BUTROVICH 205  
02/13/15 (S) Heard & Held  
02/13/15 (S) MINUTE(JUD)  
02/16/15 (S) JUD AT 1:30 PM BUTROVICH 205  
02/16/15 (S) -- MEETING CANCELED --  
02/18/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
02/18/15 (S) Heard & Held  
02/18/15 (S) MINUTE(JUD)  
02/20/15 (S) JUD AT 1:30 PM BUTROVICH 205  
02/20/15 (S) Moved CSSB 30(JUD) Out of Committee  
02/20/15 (S) MINUTE(JUD)  
02/23/15 (S) JUD RPT CS 1DP 3AM NEW TITLE  
02/23/15 (S) DP: MCGUIRE  
02/23/15 (S) AM: COSTELLO, COGHILL, MICCICHE  
02/24/15 (S) FIN AT 9:00 AM SENATE FINANCE 532  
02/24/15 (S) Heard & Held  
02/24/15 (S) MINUTE(FIN)  
03/03/15 (S) FIN AT 9:00 AM SENATE FINANCE 532  
03/03/15 (S) Heard & Held  
03/03/15 (S) MINUTE(FIN)  
03/05/15 (S) FIN AT 9:00 AM SENATE FINANCE 532  
03/05/15 (S) Heard & Held  
03/05/15 (S) MINUTE(FIN)  
03/06/15 (S) FIN AT 9:00 AM SENATE FINANCE 532  
03/06/15 (S) -- MEETING CANCELED --  
03/09/15 (S) FIN AT 9:00 AM SENATE FINANCE 532  
03/09/15 (S) -- MEETING CANCELED --

03/09/15 (S) FIN AT 1:30 PM SENATE FINANCE 532  
 03/09/15 (S) Departments: Environmental Conservation  
 03/10/15 (S) FIN AT 1:30 PM SENATE FINANCE 532  
 03/10/15 (S) Departments: Environmental Conservation  
 03/11/15 (S) FIN AT 1:30 PM SENATE FINANCE 532  
 03/11/15 (S) -- Public Testimony --  
 03/12/15 (S) FIN AT 1:30 PM SENATE FINANCE 532  
 03/12/15 (S) Heard & Held  
 03/12/15 (S) MINUTE(FIN)  
 03/13/15 (S) FIN AT 9:00 AM SENATE FINANCE 532  
 03/13/15 (S) -- MEETING CANCELED --  
 03/13/15 (S) FIN AT 1:30 PM SENATE FINANCE 532  
 03/13/15 (S) Heard & Held  
 03/13/15 (S) MINUTE(FIN)  
 03/14/15 (S) FIN AT 10:00 AM SENATE FINANCE 532  
 03/14/15 (S) -- MEETING CANCELED --  
 03/18/15 (H) JUD AT 1:00 PM CAPITOL 120  
 03/18/15 (H) <Bill Hearing Canceled>  
 03/23/15 (S) FIN RPT CS 1DP 3NR 3AM NEW TITLE  
 03/23/15 (S) DP: MACKINNON  
 03/23/15 (S) NR: BISHOP, DUNLEAVY, HOFFMAN  
 03/23/15 (S) AM: KELLY, MICCICHE, OLSON  
 03/23/15 (S) FIN AT 9:00 AM SENATE FINANCE 532  
 03/23/15 (S) Moved CSSB 30(FIN) Out of Committee  
 03/23/15 (S) MINUTE(FIN)  
 03/25/15 (S) FIN CS ADOPTED Y16 N4  
 03/30/15 (S) TRANSMITTED TO (H)  
 03/30/15 (S) VERSION: CSSB 30(FIN)  
 03/31/15 (H) READ THE FIRST TIME - REFERRALS  
 03/31/15 (H) JUD, FIN  
 04/06/15 (H) JUD AT 1:00 PM CAPITOL 120  
 04/06/15 (H) Heard & Held  
 04/06/15 (H) MINUTE(JUD)  
 04/07/15 (H) JUD AT 1:30 PM CAPITOL 120

**WITNESS REGISTER**

TIM CLARK, Staff  
 Representative Bryce Edgmon  
 Alaska State Legislature  
 Juneau, Alaska

**POSITION STATEMENT:** Presented HB 154 on behalf of  
 Representative Edgmon, prime sponsor.

NIKOLE NELSON, Executive Director  
 Alaska Legal Services Corporation (ALSC)  
 Anchorage, Alaska

**POSITION STATEMENT:** Offered testimony regarding the Alaska Legal Services Corporation during the hearing of HB 154.

NANCY MEADE, General Counsel  
Alaska Court System  
Anchorage, Alaska

**POSITION STATEMENT:** Testified on HB 154 regarding court filing fees.

CAROL BEECHER, Director  
Child Support Services  
Department of Revenue

**POSITION STATEMENT:** During the hearing of CSHB 106, offered testimony and answered questions.

LINDSAY BEAVER, Legislative Counsel  
Uniform Law Commission  
Chicago, Illinois

**POSITION STATEMENT:** Testified during the hearing of CSHB 106, with regard to the status of enactment of HB 105 in other states.

MEGAN WEBB, Assistant Public Defender  
Appellate Unit  
Public Defender Agency  
Department of Administration  
Anchorage, Alaska

**POSITION STATEMENT:** During the hearing on SB 30, answered questions.

PETER MLYNARIK, Chief of Police  
City of Soldotna  
Soldotna, Alaska

**POSITION STATEMENT:** Testified in support of CSSB 30, Version T, and answered questions.

JASON HARDER  
Copper Center, Alaska

**POSITION STATEMENT:** Offered testimony regarding the "opt in/opt out" provisions in CSSB 30, and answered questions.

ROSS MULLINS  
Cordova, Alaska

**POSITION STATEMENT:** Testified during the hearing on CSSB 30.

LIEF ABEL  
Kasilof, Alaska

**POSITION STATEMENT:** Testified during the hearing on CSSB 30.

DEBRA KIRK  
Kodiak, Alaska

**POSITION STATEMENT:** Testified during the hearing on CSSB 30, regarding marijuana from an educational standpoint.

MIKE COONS  
Palmer, Alaska

**POSITION STATEMENT:** Testified during the hearing of CSSB 30.

BRUCE SCHULTE  
Coalition for Responsible Cannabis Legislation  
Anchorage, Alaska

**POSITION STATEMENT:** Offered testimony during the hearing on CSHB 30.

#### **ACTION NARRATIVE**

[1:35:03 PM](#)

**CHAIR GABRIELLE LEDOUX** called the House Judiciary Standing Committee meeting to order at 1:35 p.m. Representatives Claman, Gruenberg, Keller, Lynn, and LeDoux were present at the call to order. Representatives Millett and Foster arrived as the meeting was in progress.

#### **HB 154-CIVIL LEGAL SERVICES FUND**

[1:36:15 PM](#)

CHAIR LEDOUX announced that the first order of business would be HOUSE BILL NO. 154. "An Act allowing appropriations to the civil legal services fund from court filing fees."

CHAIR LEDOUX stated that she has a conflict of interest with respect to this bill in that she sits on the Board of Alaska Legal Services Corporation and unless someone objects, she will recuse herself from voting.

REPRESENTATIVE KELLER objected.

[1:36:40 PM](#)

REPRESENTATIVE CLAMAN advised that his firm performs pro bono services for the Alaska Legal Services Corporation (ALSC) on a monthly basis.

CHAIR LEDOUX objected.

1:37:28 PM

TIM CLARK, Staff, Representative Bryce Edgmon, Alaska State Legislature, said the bill safe guards access to low income Alaskans to the civil justice system by creating a stable mechanism for state funding for ALSC. Specifically, he explained, it allows the legislature to appropriate to the already existing civil legal services fund up to 25 percent of filing fees paid to the Alaska Court System during the previous fiscal year. He said that according to current filing fee totals, 25 percent would provide approximately \$550,000 annually to the fund. He noted that it will always be at the legislature's discretion to appropriate that percentage of fees both into the fund and to make appropriations from the fund to ALSC. He offered that this is necessary because the Civil Legal Services Fund was originally designed to be capitalized by civil punitive damages collected by the state. However, he noted, the state has not collected punitive damages in three years. He advised that the need for state contributions to ALSC is real as in the past 30 years the number of Alaskans eligible for legal services has more than doubled from approximately 41,000 to more than 100,000. Yet, he related, even with HB 154, the state's contribution to ALSC is a fraction of what it was decades ago. Currently, he said, the appropriation from the state is approximately \$450,000. Access to ALSC is that civil justice should not just be for people who can afford an attorney and that HB 154 is important to ascertain that in Alaska the phrase "justice for all" rings true.

1:40:58 PM

CHAIR LEDOUX referred to the zero fiscal note and questioned how there could be a zero fiscal note when the legislature is appropriating court fees to ALSC, which would otherwise go into the general fund.

MR. CLARK responded that the fiscal note was issued by the Alaska Court System which states that currently all legal filing fees or court fees go directly into the general fund, and there has never been any receipt authority or any mechanism of that sort for the Alaska Court System. The zero fiscal note pertains specifically to their operations. He said the legislature always retains discretion in its appropriations as to how the funds are eventually spent or not spent. In that regard, he

explained, it would be the legislature's decision to appropriate those filing fee percentages into the fund and in turn, their decision as to whether to appropriate from the fund to civil legal services.

CHAIR LEDOUX opened public testimony.

[1:43:08 PM](#)

NIKOLE NELSON, Executive Director, Alaska Legal Services Corporation (ALSC), said the Alaska Legal Services Corporation (ALSC) is aimed at reducing Alaska's civil justice gap. She explained that ALSC through its more than 20 attorneys provides free civil legal aid to Alaskans in need. She pointed out that its mission is to ensure that there is meaningful access to the civil justice system for all Alaskans and not just those who can afford it. Assistance is provided to individuals and families regarding critical legal needs that affect their safety, family stability, and their self-sufficiency. She described scenarios, such as: a grandparent raising their grandchildren who is unable to enroll them in school or to receive health care because they lack legal documents to do so; an abused spouse that does not have the financial means to leave the relationship and fears losing custody of her children if she does; a fisherman who has spent his life savings to have his boat repaired by an out-of-state mechanic only to have it return and catch on fire in the prime of fishing season with no recourse to continue to earn a living; and/or a veteran denied his federal veterans affairs benefits despite the fact he has earned them through his service to this country and his disability leaves him unable to work in his rural community. She noted that there are civil legal solutions for these problems, but unlike a criminal defendant's guarantee that the court will appoint an attorney if the defendant cannot afford an attorney, there is no such right in the civil legal context. She related that for people like these, and thousands like them, ALSC is their only hope to access Alaska's civil legal services. She pointed out that each year, approximately 2,500 cases are served and benefit an additional 6,000 people as most the people served have children in their households. The Alaska Legal Services Corporation provides staff attorneys and volunteer pro bono attorneys who donate their time and expertise. She noted that ALSC serves thousands more within its self-help resources, and on-line, and through community education services to ensure that access to the justice system is a reality for rural residents as well. She related that the problem is that, despite the fact ALSC is stretching its legal resources, it is not able to serve everyone

and it is turning away one person for every one that is served. Ms. Nelson indicated that people are turned away, not because there are no laws to protect them, and not because their cases lack merit, but because ALSC does not have the staff and resources to help.

[1:46:41 PM](#)

MS. NELSON related that HB 154 is aimed at providing additional resources to bridging Alaska's justice gap. She described ALSC as being cost efficient and effective in that an average case costs approximately \$600. She explained that approximately 80 percent of its cases are resolved without ever going to court, and attorneys are paid far below the market rate for private bar or state attorneys. She expressed that last year volunteer attorneys donated almost \$500,000 in their time. She offered that ALSC is doing what it can but it is not enough to stand against the justice gap alone.

[1:48:07 PM](#)

REPRESENTATIVE GRUENBERG asked whether ALSC is on the "pick-click-and give" program.

MS. NELSON answered in the affirmative.

REPRESENTATIVE GRUENBERG offered that in other states within bar dues a person can give an additional donation, and asked if there is a similar program in Alaska.

MS. NELSON answered in the affirmative.

REPRESENTATIVE GRUENBERG requested the current status of pro bono which has been under ALSC in the past.

MS. NELSON answered that previously and currently pro bono has been under ALSC. She described the pro bono program as strong and it assists in stretching ALSC resources.

[1:49:19 PM](#)

REPRESENTATIVE GRUENBERG questioned that with respect to HB 154, if the money goes to the ALSC, would some of that be sent to pro bono.

MS. NELSON answered that it could use its state dollars to extend its resources and it is possible but not guaranteed that it could go to pro bono.

REPRESENTATIVE GRUENBERG surmised there was nothing to prevent the state dollars going to pro bono.

MS. NELSON said there is nothing to prevent it.

REPRESENTATIVE GRUENBERG quiered whether pro bono has a separate funding source or would this be the mechanism.

MS. NELSON responded that the pro bono program is funded through a variety of sources that fund the entire program, and this is the proper mechanism.

[1:50:17 PM](#)

REPRESENTATIVE GRUENBERG asked whether Ms. Nelson was familiar with Dimmick v. Watts, 490 P.2d 483 (Alaska 1971).

MS. NELSON said she was not.

REPRESENTATIVE GRUENBERG described it as a case wherein one of the litigants was sued by a company for debt and that person was represented by ALSC. He said that the attorney for the company attempted to get into the question of whether that person was eligible for legal services. He related that the case went to the Alaska Supreme Court who said "you cannot inquire whether this person is eligible for legal services."

[1:51:18 PM](#)

CHAIR LEDOUX interjected "Where exactly are you going with this."

REPRESENTATIVE GRUENBERG replied "I am going because we don't very often have a bill dealing with legal services."

CHAIR LEDOUX said this is not a seminar on legal services, this is basically to determine whether ALSC should be funded through this particular mechanism. She asked that Representative Gruenberg limit his questions to the subject of the bill before the committee.

REPRESENTATIVE GRUENBERG offered that he is trying to ascertain whether that is still a problem and whether legislatively something should be done.

CHAIR LEDOUX remarked that if there is a problem that needs to be tended legislatively that has nothing to do with this bill she was sure Ms. Nelson would be glad to talk with Representative Gruenberg at another time, and he could prepare a bill on the issue.

[1:52:07 PM](#)

REPRESENTATIVE GRUENBERG advised his second question deals with circumstances where ALSC is conflicted out.

CHAIR LEDOUX reiterated that he should chat with Ms. Nelson as to whether she thinks it is a problem, but it is not the subject of this particular bill.

[1:52:36 PM](#)

REPRESENTATIVE FOSTER commented that the Native Corporation in Nome is contributing office space and that ALSC is doing what it can to get by. He questioned how much it received from "pick-click-and give" in round numbers.

MS. NELSON related that the tally is approximately \$6,700, which is up from approximately \$5,000 last year.

REPRESENTATIVE FOSTER surmised that amount is a very small amount of its budget.

MS. NELSON offered that its total overall budget is approximately \$4.2 million.

[1:53:27 PM](#)

REPRESENTATIVE CLAMAN surmised that the 25 percent based on court fees this year would be roughly \$500,000.

MS. NELSON advised that it is approximately \$550,000.

REPRESENTATIVE CLAMAN asked how that compares with prior years.

MS. NELSON requested clarification in whether he was referring to prior years of court fees or the ALSC appropriation.

REPRESENTATIVE CLAMAN clarified that his question related to the appropriation to ALSC.

MS. NELSON responded that in prior years the appropriation has been \$550,000.

[1:54:11 PM](#)

REPRESENTATIVE CLAMAN surmised that the state appropriation is not the majority of funding.

MS. NELSON answered in the affirmative.

REPRESENTATIVE CLAMAN asked whether part of the reason between using this formula based on court fees rather than using a population index or cost of living index, is basically trying to tie funding to a litigation related fee. He offered that if litigation was going up and more people were filing that the fees might go up.

MS. NELSON opined that is a smart idea but she is not necessarily sure that was the intent, although it does make sense.

[1:55:03 PM](#)

CHAIR LEDOUX requested the amount of state funding for the last several years, and the funding amount from the state this year.

MS. NELSON replied that state funding for the last several years has been \$550,000, and this year the operating budget proposed by the Senate and House is \$450,000, which is approximately a 20 percent cut.

[1:55:51 PM](#)

NANCY MEADE, General Counsel, Alaska Court System, said the Alaska Court System is poised to increase its filing fees by a good percentage.

CHAIR LEDOUX asked what percentage.

MS. MEADE responded that it varies depending upon the fee for the item. For example, the current filing fees collected in FY13 by the Alaska Court System was \$2,238,700, and with the increase in filing fees expects it to go up by another million.

In that regard, she offered, the 25 percent number would go up by a corresponding order of magnitude.

[1:57:12 PM](#)

CHAIR LEDOUX questioned whether the filing fees collected by the Alaska Court System go into the general fund, or to the courts.

MS. MEADE replied that all fees collected by the Alaska Court System go straight into the general fund, which is why there is no fiscal impact from HB 154.

[1:57:42 PM](#)

REPRESENTATIVE CLAMAN requested amounts in terms of what the 25 percent was for the last five years.

MS. MEADE responded that with regard to the 25 percent number: FY14 = \$563,225; FY13 = \$559,675; FY12 = \$569,900; FY11 = \$666,725; FY10 = \$653,075. She remarked that they vary somewhat and the committee can expect those to jump by another half or so.

[1:58:47 PM](#)

REPRESENTATIVE GRUENBERG questioned why the fees have recently gone down.

MS. MEADE said she does not have information on that and should not speculate.

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

[1:59:50 PM](#)

REPRESENTATIVE KELLER moved to report HB 154, Version 29-LS0765\A out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, HB 154 moved from the House Judiciary Standing Committee.

[2:01:05 PM](#)

The committee took an at-ease from 2:01 to 2:03 p.m.

**HB 106-UNIFORM INTER.CHILD SUPPORT;PARENTAGE**

2:03:50 PM

CHAIR LEDOUX announced that the next 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."

2:04:06 PM

CAROL BEECHER, Director, Child Support Services, said that passage of CSHB 106 is good for Alaskans regardless of the federal legislation requirements. She reminded the committee that federal law imposes a short time frame for passage and that passage this year is critical. She stated that Congress requires passage of the bill for continued receipt of federal child support funding which for the Alaska Child Support Division in Alaska is approximately \$19 million. She explained that due to Title IV-D, of the Social Security Act this money is also tied to the Temporary Assistance for Needy Families (TANF) block grant monies and the Alaska Division of Public Assistance receives approximately \$45 million. She pointed out that the deadline for adopting the Uniform Interstate Support Act of 2008 amendments is July 1, 2015. She stated that during the previous meeting she provided a synopsis of the bill, and a sectional analysis and that questions were asked regarding the Uniform Law Commission and a few of the provisions. She advised that Lindsay Beaver, Legislative Counsel for the Uniform Law Commission, and Betty Johnson, retired judge and current Uniform Law Commissioner who has testified before Congress on this bill, are available on line to answer questions.

2:05:59 PM

REPRESENTATIVE CLAMAN asked what action was taken by the U.S. Senate on this bill, and the vote.

MS. BEECHER advised that the U.S. House of Representatives had a voice vote, and that it was unanimous consent in the U.S. Senate. Therefore, she offered, individual votes were not recorded.

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

[2:07:37 PM](#)

REPRESENTATIVE GRUENBERG asked whether any state found any problem with this uniform act.

[2:08:10 PM](#)

LINDSAY BEAVER, Legislative Counsel, Uniform Law Commission, responded "not to my knowledge" as at this point all states have either introduced, are in the process of introducing the Act, or have enacted the Act. She remarked that it is hoped all states will enact the Act by the end of the 2015 session in compliance with the federal legislation.

[2:09:22 PM](#)

REPRESENTATIVE KELLER commented that this bill is unusual and he wholeheartedly appreciate efforts to determine that children are taken care of. He said he is not used to the Alaska State Legislature taking action to ratify a federal treaty and that he still has questions, but remarked he decided to defer to the good judgement of the Uniform Law Commission, and his peers, and wanted it on the record.

[2:10:05 PM](#)

REPRESENTATIVE KELLER moved to report CSHB 106, Version 29-GH1897\W, Glover, 3/2/15, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 106(STA) moved from the House Judiciary Standing Committee.

[2:10:29 PM](#)

The committee took an at-ease from 2:10 to 2:14 p.m.

**SB 30-MARIJUANA REG;CONT. SUBST;CRIMES;DEFENSES**

[2:13:50 PM](#)

CHAIR LEDOUX announced that the final order of business would be Senate CS FOR SENATE BILL NO. 30(FIN), "An Act relating to controlled substances; relating to marijuana; relating to crimes and offenses related to marijuana and the use of marijuana; relating to open marijuana containers; relating to established villages and local options; relating to delinquent minors;

making conforming amendments; and providing for an effective date."

CHAIR LEDOUX stated that public testimony remained open from the last meeting.

[2:15:01 PM](#)

MEGAN WEBB, Assistant Public Defender, Appellate Unit, Public Defender Agency, Department of Administration, [said she was available for questions.]

REPRESENTATIVE GRUENBERG asked whether the Public Defender Agency has any problems or comments on the bill.

MS. WEBB responded that the agency itself does not take a position on whether the committee should proceed with Version Q or Version T, as it is a policy decision for the committee. She said she echoes statements from Cynthia Franklin during the 4/6/15 committee meeting in terms of the importance of clarity for both the public and law enforcement in focusing all of the marijuana provisions in one area to reflect the manner Title 4 has treated alcohol. She suggested that the primary focus is ensuring that not only what is passed is consistent with the initiative, but also provides the most clarity.

[2:16:26 PM](#)

REPRESENTATIVE GRUENBERG surmised that it should be consistent with the initiative and also consistent with the alcohol provisions.

MS. WEBB replied "Yes," in terms of pulling marijuana out of the controlled substance and bringing it into its own regulatory scheme, such as that proposed by Ms. Franklin and discussed in previous testimony.

REPRESENTATIVE GRUENBERG gathered that she supports marijuana not being in AS 11.17, which is the Senate Judiciary Standing Committee theory rather than the Senate Finance Committee theory.

MS. WEBB reiterated that it is a policy consideration for the committee as to whether it wants to keep marijuana as a controlled substance or not. She opined that for clarity sake the scheme suggested by the Senate Judiciary Standing Committee certainly would mimic the regulatory scheme created in Title 4,

but she is aware there were policy considerations in Senate Finance Committee as to why they wanted to keep it in the controlled substance under Title 11.

REPRESENTATIVE GRUENBERG questioned whether there were any provisions of either version that she liked, did not like, or recommends the committee avoid.

[2:18:37 PM](#)

MS. WEBB referred the committee to Version Q, page 19, which addresses proposed bail conditions if someone is charged with misconduct involving marijuana.

CHAIR LEDOUX questioned whether she was talking about the CS which would basically be the Senate Judiciary Standing Committee version.

MS. WEBB answered in the affirmative.

[2:19:21 PM](#)

MS. WEBB pointed to [Version Q, Sec. 27, AS 12.30.016(g)(3)], page 19, lines 14-15 and lines 27-28, which read:

(g) In a prosecution charging a violation of AS 18.38.200 or 17.38.210, a judicial officer may order the person to ...

(3) provide a sample for a urinalysis or blood test when requested by a law enforcement officer;

[2:19:54 PM](#)

MS. WEBB explained that both the U.S. Supreme Court and the Alaska Appellate Courts have determined that an individual has a right to privacy with respect to blood tests and urinalysis. She noted that absent exigent circumstances would normally require a law enforcement officer to obtain a search warrant before they could require an individual to provide a blood or urine test. She explained that this provision would allow an officer, without a search warrant or probable cause, to simply ask someone who was released on bail to provide such a sample. She expressed concern that it would violate the person's constitutional protections under both the federal and state constitutions.

CHAIR LEDOUX questioned whether currently a judge can require, as a condition of bail, that a person provide the urinalysis.

MS. WEBB advised that it is not happening now and that this provision was added for bail conditions for marijuana. She noted it is a condition that appears in probation under the statutory provision for probation terms, but probation having occurred after conviction and during sentencing allows for a different constitutional analysis. Here, she explained, because it is only a bail condition, at that point the person is presumed not guilty of the charge and, therefore, has a fuller constitutional protection in place. She noted that the provision does not currently exist in the general bail provisions and thus is not something that could currently happen.

[2:22:29 PM](#)

REPRESENTATIVE GRUENBERG requested a written report supporting her position that this may be unconstitutional which provides her suggested changes, together with points and authorities, but not a legal research paper.

MS. WEBB said she would pass that request on to Quinlan Steiner, Director, Public Defender Agency, and with his approval will forward a report.

[2:23:42 PM](#)

REPRESENTATIVE GRUENBERG asked if there is another area she would like to point out.

MS. WEBB responded that Tracey Wollenberg, Deputy Public Defender of the Appellate Division, who in in the past has pointed out that with respect to the misconduct involving marijuana in the third degree that the committee might consider other exceptions on Version Q, page 32 ...

[2:24:35 PM](#)

REPRESENTATIVE CLAMAN interjected that he had a follow-up question and asked the committee to turn to [Sec. 27], AS 12.30.016(g), page [19, lines 21-26], which read:

(2) submit to a search without a warrant of the person, the person's personal property, the person's

residence, or any vehicle or other property over which the person has control, for the presence of marijuana, marijuana products, or marijuana accessories by a peace officer who has reasonable suspicion that the person is violating the terms of the person's release by possessing marijuana, marijuana products, or marijuana accessories;

REPRESENTATIVE CLAMAN questioned that if the committee is trying to treat alcohol and marijuana the same, why would marijuana be treated differently for bail purposes than the state is currently treating alcohol.

MS. WEBB answered that given the constitutional protection, particularly with blood tests, the U.S. Supreme Court and the Alaska Supreme Court has recognized what an invasion that is and that there is a potential constitutional claim that could be made with respect to the provision as it appears currently under AS 12.30.016(b)(4). In that regard, she explained, the same constitutional issue that exists under the new proposal would, under the prior ...

[2:27:15 PM](#)

CHAIR LEDOUX asked how long AS 12.30.016(b) has been in existence, and how many constitutional challenges have there been since it was enacted.

MS. WEBB responded that she does not know how long AS 12.20.016(b) has been in existence, but does know the number of appeals that arise with respect to bail conditions are fairly rare. She explained the reason being, in part, due to the way appeals come up as often times it does not make it to the appellate review level due to the nature of the proceedings.

[2:27:51 PM](#)

MS. WEBB referred to Version Q, Sec. 52, AS 17.38.220(b)], page 32, lines 27-31, which read:

(b) A person under 21 years of age does not violate (a)(2) of this section if the person enters and remains on premises registered under this chapter at the request of a peace officer, if the peace officer accompanies, supervises, or otherwise observes the person's entry or remaining on premises, and the

purpose for the entry or remaining on premises is to assist in the enforcement of this section.

MS. WEBB stated there is currently an exception under misconduct in the third degree for a person under 21 years of age to enter a licensed marijuana premises if it is at the request of a peace officer. She advised that the committee may consider extending that, particularly for individuals who are employed not by the marijuana establishment but by some other business, who are required to be on the premises for a short duration in the course and scope of their employment. For example, she noted, someone working for UPS or FedEx dropping off packages who through their natural business requirements would need to be on premises. She noted that under the proposed version that individual, if under 21, would be violating the law. She suggested adding an additional exception for someone who is simply engaging in the course of another legitimate business who is required to be on premises.

REPRESENTATIVE GRUENBERG asked that Ms. Webb prepare language for the committee.

[2:30:42 PM](#)

CHAIR LEDOUX asked what the [alcohol statutes] say when a UPS employee enters a bar and is under 21 years of age.

MS. WEBB advised that she is not familiar with Title 4 provisions and does not know the answer.

[2:31:18 PM](#)

REPRESENTATIVE GRUENBERG asked whether there is anything else the committee should consider.

MS. WEBB offered that those are their primary concerns, and that Ms. Wollenberg is available tomorrow and the rest of the week should the committee like to hear additional testimony.

[2:32:07 PM](#)

REPRESENTATIVE GRUENBERG asked that in the event her agency or [the Office of Special Prosecutions & Appeals] has any other suggestions, to please contact Chair LeDoux's office.

[Conversation from the audience between Staci Schroeder, Department of Law, or Nancy Meade, Alaska Court System, and

Chair LeDoux regarding answering whether identical language is required that involves someone going into a bar under 21 years of age, and what the law is with UPS employees.]

CHAIR LEDOUX opened public testimony.

[2:33:03 PM](#)

PETER MLYNARIK, Chief of Police, City of Soldotna, said he is testifying on behalf of the Alaska Association of Chiefs of Police. He advised it supports Version T, the categorization of marijuana as a controlled substance, and the felony provisions. He noted that without felony provisions and only misdemeanors, there is nothing to stop the black market or people from growing as many plants as they desire. He offered that he agrees the sky is not falling, although Alaska is not at a level where commercially grown marijuana is at any big degree other than the black market. In speaking with Colorado law enforcement he understands that they are basically flooded with marijuana and it is hard to keep up with the different issues related to that substance. He related that Colorado law enforcement recommends making regulations tighter to begin with and then loosening them up later because it is harder to go the other direction. He remarked that the big issue is that marijuana is regulated like alcohol, yet Alaska still has tremendous problems with alcohol abuse and its correlation with crimes.

[2:36:24 PM](#)

CHAIR LEDOUX advised that she understands his position with respect to the felonies and black market, and while she does not necessarily agree with him she understands where he is coming from. She expressed that she does not understand why, from a law enforcement point of view, Chief Mlynarik would think that keeping marijuana as a controlled substance would be better than the Senate Judiciary Standing Committee version.

CHIEF MLYNARIK responded that it is important to keep marijuana under the controlled substance because if marijuana is released and there are problems down the road, it would be harder to put marijuana back into that category. He opined there is a lot of unknown about marijuana, including concentrates. He highlighted a report from The Rocky Mountain High Intensity Drug Trafficking Area, and stated Alaska can only look to the states where marijuana is legal and review their issues.

[2:38:09 PM](#)

JASON HARDER advised that Copper Center is an area in an unorganized borough that will be opted out with no recourse to opt back in. He questioned how that provision can be in the bill without ending up in court since they are citizens of the State of Alaska. He offered that Glennallen, Copper Center, and Tok are not cities and do not have boundaries, and have never had a local election as there is no way to do that. He stated he was under the impression that Copper Center was opting in within the initiative. He offered that Senator Lyman Hoffman submitted the subject amendment, and Mr. Harder understands his worries regarding the villages not having police and troopers, but they have time to opt out before the commercial industry starts. He said that the Glennallen area has troopers and does not have the problems villages have with alcohol, and noted that alcohol is a problem everywhere in the state. He related that [alcohol and marijuana] need to be separated even though the state will try to regulate them somewhat the same. He explained that if Copper Center is opted out but eventually has a mechanism to opt in, it would put them behind the rest of the state as far as making money and competing in the commercial industry. He highlighted that rural Alaska is losing jobs due to the economy and that marijuana will provide a lot of jobs which it desperately needs. He pointed out that the House Judiciary Standing Committee appears to have the desire to implement the initiative in a manner that will not end up in court and cost the state money.

[2:40:57 PM](#)

REPRESENTATIVE GRUENBERG said he is concerned about the issues Mr. Harder raised and the problems of how this will operate in unorganized borough. He asked if anyone was available that could answer his questions.

[2:41:25 PM](#)

CHAIR LEDOUX advised that she was not sure there is today but someone could be available at a future time.

REPRESENTATIVE GRUENBERG requested the committee staff ascertain that prior to the above testimony, that Mr. Harder and anyone else involved be notified.

[2:42:04 PM](#)

ROSS MULLINS, said he 100 percent endorses [Mr. Harder's testimony] regarding unorganized boroughs. He referred to a tradition of roadhouses and other types of establishments on the road system in Alaska and stated that these types of enterprises, who do serve liquor, would be unable to serve marijuana due to automatically being opted out. He said it presents legal issues that would not be conducive to obtaining a good result. He then stated he would comment on the control board issue dealt with during the 4/6/15, HB 42 hearing with regard to a federal position on that board ...

CHAIR LEDOUX interjected that the testimony today is regarding CSSB 30, and that the Marijuana Control Board bill will be before the committee again.

[2:43:49 PM](#)

MR. MULLINS referred to CSSB 30 with regard to right of privacy and taking blood or urine and described the actions as invasive procedures that would require some type of warrant or court authorization so that a law enforcement officer could not "stab" anyone in the arm or force a urine test. He opined it is different from a blow test an officer can request from a DUI suspect in that there is a right to refusal, which can present a certain type of guilty inference from the refusal. The fact that law enforcement would be invading a person's body would be conditions for a lawsuit. Additionally, he related, with marijuana, as opposed to alcohol, there are metabolites that linger for up to 30 days in a person's body even though they may not have any psychoactive effects, and it could put the person in a tenuous situation legally. He commented that he would like marijuana removed from the controlled substance category. He opined that the intent of the initiative is to legalize it although it is a de facto removal from controlled substance to a misdemeanor category.

[2:46:17 PM](#)

CHAIR LEDOUX requested that Mr. Mullins start wrapping up as public testimony is limited to five minutes per person due to the number of people waiting to testify.

[2:46:20 PM](#)

MR. MULLINS offered that the main emphasis for him is the unorganized borough and hopes the issue is resolved. He stated that if Cordova is in an unorganized borough there would be a

lot of push back from the area. He said he favors the Senate Judiciary Standing Committee version and that Senator Hoffman's concerns regarding "opt in/opt out, wet/dry" could be treated like alcohol where a village has an option to opt out.

[2:48:06 PM](#)

LIEF ABEL stated he supports almost all aspects of the Senate Judiciary Standing Committee's version of SB 30 in removing marijuana from controlled substances as it is the right thing to do. He offered that through personal experience and research that marijuana should not be classified as a schedule one narcotic which is in line with the intent of the initiative. He related that he appreciates that the Senate Judiciary Standing Committee took the initiative and put it into law in a manner that mirrors alcohol. He further related that it is an infringement into the privacy of the people of the state to tell them how they are going to extract their medicine at home and how hash oil is extracted as it should be left alone and not be determined in SB 30.

[2:50:41 PM](#)

DEBRA KIRK said she is a member of the school board and addressed the findings found in [Version T], page 2, lines 24-25, which read:

(2) several hundred adults and children are admitted into treatment each year in Alaska for marijuana use, with nearly 46 percent being children under 20 years of age;

MS. KIRK pointed out that the implications for Alaska's education system are huge and that Alaska must raise the bar for education. She offered that a lot of education funding is tied to being able to teach kids at a higher level than they've been required to learn previously. She opined that with the legalization of marijuana the number of children using it will go up. She referred to [Version T, Sec. 2], page 3, lines 15-16, which read:

(7) about 40 percent of the adults arrested in this state who commit violent offenses have marijuana in their system at the time of arrest.

[2:52:34 PM](#)

MS. KIRK stated that crimes will go up because if 40 percent of adults are arrested with marijuana in their system there is a tangential cause and effect. In that regard, she noted, money is spent that Alaska can't put into education, health and social services, or anything else because Alaska is forced to deal with the complications of a legalized substance. She offered that keeping it as a controlled substance would increase the perception among children that there is a risk to using this drug. She related that her biggest focus is what the kids are thinking while watching what adults are doing and noted that Alaska desperately needs to educate its children to not use the substance as it affects their IQ. With regard to the issue of blood tests, she pointed out that the legislature is charged with protecting the rest of Alaskans who did not vote for legalization of marijuana. She expressed that they need protection and to know when driving their kids to soccer games that the roadways are safe. She expressed that the people who want the substance legalized should be willing to submit to a blood test and be honest and allow their blood and urine taken if driving. She said she is turning the tables and asking where is her protection of freedom and would definitely like to see something along those lines. She remarked that she does not advocate for someone under the age of 21 being allowed in a marijuana establishment. She referred to hash oil and marijuana products and stated that individuals should be allowed to read the THC content on the package as the state requires with alcohol.

[2:55:57 PM](#)

MIKE COONS referred to the question regarding [people under the age of 21 allowed to enter a marijuana establishment] such as a UPS driver. He related that a marijuana establishment is the same as a UPS driver going into a bar to drop off a package, he drops off a package, does not consume any alcohol, and leaves. As far as the two versions are concerned, the bills are letting a genie out of a bottle that should never have been let out and stated that he voted against the initiative. He noted that to determine anything over an ounce is illegal as a misdemeanor, how will the state get marijuana violations back to a felony if serious problems arise. He recommended keeping it as [Version T] and advised that he is a retired paramedic and has seen what happens in automobile accidents. If someone is drinking and driving they can still get a blood alcohol test. He opined that a needle in someone's arm to get a little bit of blood is a less invasive procedure than a 2,000-3,000 pound vehicle crashing into his wife because they are stoned out of their mind on

marijuana. He pointed out that every person he asked "would you still go along with strengthening laws for drinking, smoking, and driving" said they drive better stoned. He expressed that is not acceptable and if someone hits him that has been drinking and driving, "the cops better get him before I do."

[2:59:23 PM](#)

BRUCE SCHULTE, Coalition for Responsible Cannabis Legislation, mentioned that he forwarded a letter to the House Judiciary Standing Committee today and that he would speak to the two versions. Although, he noted, he may have misidentified them in his letter as Version F and Version T. He referred to the Senate Judiciary Standing Committee version and the Senate Finance Committee version and pointed out that the "first" version was a joint effort between the Senate Judiciary Standing Committee and House Judiciary Standing Committee which, he described, was a productive effort that led to very solid legislation. The fundamental difference is that [Version T] continues to treat marijuana as a controlled substance wherein alcohol is not. He said it criminalizes the products and substances rather than the behavior surrounding them. He explained that the intent of the initiative was to legalize marijuana and if the committee continues to keep it as a controlled substance that is contrary to the initiative. That being said, he offered, that he understands the members of the Senate Finance Committee have good reasons for some of the things they were trying to achieve, such as sideboards to establish appropriate sanctions for conduct outside of the realm of a normal regulated business. He opined that it is not necessary to keep marijuana as a controlled substance to achieve that. It has become an ingrained cultural imperative that marijuana is in the controlled substance yet there has been no evidence to suggest it ever should have been there in the first place. A witness testified that marijuana should be in the controlled substance just in case and did not offer any specifics as to where it really needed to be. He suggested that possibly it would be appropriate to go back and look at that earlier version, consider what activities were not addressed adequately to determine whether that bill could be developed further to achieve results. He said that version of the bill was a very good effort and got everyone where they needed to be.

[3:02:40 PM](#)

CHAIR LEDOUX announced CSSB 30 will be held in committee.

3:02:49 PM

**ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:02 p.m.