

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

February 1, 2016

1:05 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Max Gruenberg
Representative Kurt Olson (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 221

"An Act relating to protective orders."

- MOVED HB 221 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 221

SHORT TITLE: ENFORCEMENT OF FOREIGN PROTECTIVE ORDERS

SPONSOR(S): REPRESENTATIVE(S) EDGMON

| | | |
|----------|-----|---------------------------------|
| 01/19/16 | (H) | PREFILE RELEASED 1/8/16 |
| 01/19/16 | (H) | READ THE FIRST TIME - REFERRALS |
| 01/19/16 | (H) | JUD |
| 01/29/16 | (H) | JUD AT 1:00 PM CAPITOL 120 |

01/29/16 (H) Heard & Held
01/29/16 (H) MINUTE (JUD)
02/01/16 (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
04/01/15 (H) Heard & Held
04/01/15 (H) MINUTE (JUD)
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
04/07/15 (H) <Bill Hearing Canceled>
04/13/15 (H) JUD AT 1:00 PM CAPITOL 120
04/13/15 (H) <Bill Hearing Canceled>
02/01/16 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

NICOLI BAILEY, Staff
Representative Max Gruenberg
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 147, answered a question regarding changes in Version D.

REPRESENTATIVE LIZ VAZQUEZ
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 147, offered testimony as prime sponsor and restated a question.

MEGAN WALLACE, Attorney
Legislative Legal Counsel
Legislative Legal and Research Services
Legislative Affairs Services
Juneau, Alaska

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

RONNIE ROSENBERG, Commissioner
Fairbanks Northstar Borough Commission;
Fairbanks Animal Shelter Fund
Fairbanks, Alaska

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

TRACEY WOLLENBERG, Deputy Director
Appellate Division
Central Office
Public Defender Agency (PDA)
Department of Administration (DOA)
Anchorage, Alaska

POSITION STATEMENT: During the hearing of HB 147, commented on Section 16 of the bill.

LAUREE MORTON, Executive Director
State Council on Domestic Violence and Sexual Assault
Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 147, testified regarding protective order provisions.

ACTION NARRATIVE

[1:05:35 PM](#)

CHAIR GABRIELLE LEDOUX called the House Judiciary Standing Committee meeting to order at 1:05 p.m. Representatives Claman, Keller, Lynn, and LeDoux were present at the call to order. Representatives Millett and Foster arrived as the meeting was in progress.

HB 221-ENFORCEMENT OF FOREIGN PROTECTIVE ORDERS

[1:06:05 PM](#)

CHAIR LEDOUX announced that the first order of business would be HOUSE BILL NO. 221, "An Act relating to protective orders."

CHAIR LEDOUX asked whether there were any questions or comments specifically related to HB 221. Seeing none, asked the wishes of the committee.

[1:06:55 PM](#)

REPRESENTATIVE GRUENBERG moved to report HB 221, labeled 29-LS1041\W, out of committee with individual recommendations and the accompanying fiscal note. There being no objection, HB 221 was passed from the House Judiciary Standing Committee.

[1:07:47 PM](#)

The committee took an at-ease from 1:07 p.m. to 1:10 p.m.

HB 147-ANIMALS: PROTECTION/RELEASE/CUSTODY

[1:10:33 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."

[1:10:54 PM](#)

REPRESENTATIVE LYNN moved to adopt CSHB 147, labeled 29-LS0302\D, Wallace, 1/27/16 as the working document.

CHAIR LEDOUX objected.

[1:11:28 PM](#)

CHAIR LEDOUX informed the committee she was using the electronic witness system for first time.

[1:11:57 PM](#)

REPRESENTATIVE GRUENBERG presented HB 147, Version D, as co-sponsor and noted that many co-sponsors are attached to the bill. He said that Representative Liz Vazquez and he were prepared to discuss the differences between [Version Y] and Version D, together with the major issues. He advised the title has been changed "in some cases" to conform to the new amendments.

REPRESENTATIVE GRUENBERG referred to Section 1 and advised it is a new section that provides that a peace officer may apply for a

search warrant, etcetera. He pointed to the change, replacing the word "take" with the word "seize" throughout the first part of the bill, and advised that if the government "takes" something that is illegal, or in this case not being cared for, it is technically a "seizure."

CHAIR LEDOUX asked Representative Gruenberg to explain the difference between taking something and seizing something.

REPRESENTATIVE GRUENBERG replied that seizure is usually performed by the government, and he opined that seizure is the current and more accurate term.

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NICOLI BAILEY, Staff, Representative Max Gruenberg, Alaska State Legislature, explained that within this part of the animal cruelty bill, it is usually the government that will seize the animals if neglected or treated cruelly.

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REPRESENTATIVE CLAMAN opined there has been much litigation over "takings" in recent years, he asked whether the seizure concept suggests some temporary nature to the "taking" in that "taking" appears more permanent.

REPRESENTATIVE GRUENBERG answered yes, because generally, as in Title 3, the animal is seized with a right to a hearing. He said there are provisions within the first section of the bill to modernize the provisions so that the seizing entity, or custodian humane society, can recompense the cost of care. He explained that there are three parts to the bill: the first part modernizes Title 3, the seizure of animals and cost of care; the second deals with domestic violence statutes; and the third deals with family law and a few other things.

[1:16:36 PM](#)

REPRESENTATIVE GRUENBERG referred to page 2, and said the definition is removed because all of the definitions are located at the end of the animal seizure section of Title 3. He then referred to Sec. 3, page 2 and advised that those definitions are found later in the bill.

CHAIR LEDOUX referred to AS 03.55.120 "Seizure of the animals" and pointed to "seize" in place of "removing." She asked

whether Representative Gruenberg actually wants to have removing here because seizing offers the impression that it is contraband, or the like, being seized where, actually, the goal is to remove the animals from a dangerous situation.

REPRESENTATIVE GRUENBERG noted that Chair LeDoux made a good point and said he had asked the bill drafter to conform the bill, and opined that it conforms. He referred to page 2, lines 20-25, which read:

Sec. 03.55.120. Seizure of animals. (a) A peace officer shall place an animal in protective custody before **seizing** [REMOVING] the animal from the location where it was found. If the animal is **seized** [REMOVED], the peace officer shall place the animal with a veterinarian licensed under AS 08.98 or, if a veterinarian is not readily available, with a responsible public or private custodian to be sheltered, care for, and provided necessary medical attention.

[1:18:43 PM](#)

REPRESENTATIVE GRUENBERG referred to page 3, lines 1-3, which read:

(1) the animal shall be considered a stray or abandoned; and
(2) the notice required in (b) of this section shall be conspicuously posted at the premises from which the animal was seized.

REPRESENTATIVE GRUENBERG said that was included to give an owner as much notice as possible. He then referred to page 3, lines 23-24, which read:

(d) ... An owner **or custodian** may prevent the animal's adoption or destruction by

REPRESENTATIVE GRUENBERG explained that an owner or custodian will have standing to petition the court in that the owner may have left the animal in a custodian's care and the custodian would want to file a petition.

REPRESENTATIVE GRUENBERG said they modernized this entire part of the law by deleting the language from page 3, line 27, and inserting it into a new section, Sec. 7 of the bill. In the

event an owner contests the seizure of the animal, upon a motion the court will be able to enter an order for the actual cost of care of the animal, he explained. [Seizure] can involve numerous animals and a long period of time for care which, he pointed out, is a financial problem for municipalities and shelters around the state.

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CHAIR LEDOUX noted that he had deleted the posting of the bond requirement.

REPRESENTATIVE GRUENBERG explained that the requirement moved to Sec. 7 of the bill. He said that the order may include a requirement that the owner post a bond or other security to cover the cost of care [page 4, lines 5-8]. He paraphrased page 4, lines 8-9, as follows: "If, without justifiable cause, the owner fails to comply with the order, the court may order that the animal be forfeited." He noted the animal could then be put up for adoption or other actions.

REPRESENTATIVE GRUENBERG referred to Sec. 8, [AS 03.55.130(f)] page 4, lines 11-15, which read:

(f) The state may not be required to reimburse a public or private agency, organization, or person that voluntarily assist with the seizure [A REMOVAL] of an animal or receives custody of an animal seized [REMOVED] under this section for the cost of care [COSTS OF SHELTER, CARE, VETERINARY ASSISTANCE, OR MEDICAL TREATMENT RENDERED TO] the animal.

REPRESENTATIVE GRUENBERG pointed to line 14, and explained that rather than define costs of care there, the definitions are in Sec. 10 of the bill.

[1:22:12 PM](#)

REPRESENTATIVE KELLER said, does it not require the use of a veterinarian and questioned whether page 4, line 10 ...

REPRESENTATIVE GRUENBERG interrupted and said that the provisions involving veterinarians are unchanged and do not appear in the bill.

REPRESENTATIVE KELLER continued asking his question and said that the state may not be required to reimburse, and yet the bill also requires the use of a veterinarian.

REPRESENTATIVE GRUENBERG agreed and said that the state is not required to reimburse - that is in existing law and unchanged.

REPRESENTATIVE KELLER requested of Chair LeDoux that no action be taken on HB 147 today, thereby allowing time to [review Version D].

CHAIR LEDOUX advised that she intends to hold HB 147.

[1:23:26 PM](#)

REPRESENTATIVE LIZ VAZQUEZ, Alaska State Legislature, restated Representative Keller's question and asked whether his concern was regarding the present law as stated in Sec. 8, AS 03.55.130(f), page 4, line 11, "the state may not be required to reimburse a public or private agency." She queried whether that was his concern, and noted that it is in present law.

REPRESENTATIVE KELLER responded that he had not thought it through that well, and advised that he saw the inconsistency in Sec. 2, [AS 03.55.110(c), page 2, [lines 3-6], regarding the requirement of a veterinarian, and he then read that there cannot be reimbursements. He said he saw the inconsistency, raised it, and hadn't gone any further than that.

[1:24:30 PM](#)

REPRESENTATIVE GRUENBERG referred to [Sec. 9, AS 03.55.130(g), page 4, lines 17-18], which read:

(g) Nothing in (d) or (e) of this section shall shift the burden of proof from the party who would otherwise have that burden.

REPRESENTATIVE GRUENBERG offered that the government seizing the animal has the burden of proof, as in any other similar case. He pointed out that the sponsors wanted it clear that nothing would be construed to the contrary.

REPRESENTATIVE KELLER referred to [Sec. 2, AS 03.55.110(c), page 2, lines 13-18], and asked the significance of deleting the definition of peace officer and reinserting it on page 4, lines 27-31.

REPRESENTATIVE KELLER asked Megan Wallace, Legislative Legal Counsel, to explain the ramifications and significance of the deletion of the definition of "peace officer" on page 2, lines 13-18, and the implications of the reinsertion on page 4, lines 27-31.

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MEGAN WALLACE, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Services, responded that the term "peace officer" is currently only defined in the bill in AS 03.55.110(c), and the term is also used in AS 03.55.120 and 03.55.130. She said in moving the definition from AS 03.55.110 to the definitions in AS 03.55.190, the same definition for "peace officer" will apply to all three sections. She summarized that definition is clarified to apply to sections AS 03.55.110 - 03.55.130 as opposed to just AS 03.55.110.

REPRESENTATIVE GRUENBERG moved to Sec. 11, [AS 11.56.740(a)] and described it as a grammatical clean-up of language in criminal law that deals with violating a protective order. He referred to a 12/24/15 memorandum from Megan Wallace to Representative Max Gruenberg which stated there is a possibility that the inclusion of this section may violate the single subject rule because it does not deal directly with animals. He advised that the sponsors discussed this issue and the possibility of excising this and inserting it in a different bill. He explained his desire to retain the provision in HB 147 because it is not uncommon for a legislator to receive a memorandum advising that a certain bill [drafting] violates the single subject rule. He further explained that it is seldom the Alaska Supreme Court actually uses that and holds that something is unconstitutional. In this particular case, he argued, it would be very unlikely that it would be raised in that it is simply a stylistic change. Also, he opined, it does not violate the single subject rule, and referred the committee to the 1/21/16 memorandum directed to "Other Legislators" from Representatives Vazquez and Gruenberg contained with committee packets.

REPRESENTATIVE VAZQUEZ interjected that the memorandum was signed by Representatives Vazquez and Gruenberg expressing their opinions. She pointed out that they are both attorneys, and members of the Alaska Bar Association.

1:31:09 PM

REPRESENTATIVE GRUENBERG offered that it is the sponsors' opinion this did not add another subject, but rather cleans up some language, and he characterized it as a technical change. The remedy, he further offered, if something does violate the single subject rule is ... under Title 1, he paraphrased, a statute says that "every bill, unless it says otherwise, shall be held to contain a severability clause which says that so much of it as ... does violate the single subject rule, or whatever, is just taken out of the bill." He surmised that the only remedy would be that this provision would be deleted and the current language would remain in. He offered the sponsors' belief that despite the possibility of violating the single subject rule [contained within Ms. Wallace's memorandum] and in using this as an example, it is important to establish some precedent. He offered his intention to state on the floor that this would not be a violation [of the single subject rule] or would change the bill. He noted he would like to see the committee not shy away as in some cases it would require passing a whole new bill.

CHAIR LEDOUX questioned whether this issue has anything to do with the bill that the committee heard last year, or is this trying to make the law in general a better thing.

REPRESENTATIVE GRUENBERG responded that he was not exactly sure when it was put in, but the intent is to help make the law better in dealing with this body of law. He opined that the issue was at least to have some precedent in this area, and that it can be removed.

CHAIR LEDOUX commented that most people don't Christmas tree their own bills, but if that is his desire.

REPRESENTATIVE GRUENBERG characterized it as "winterizing."

[1:33:44 PM](#)

REPRESENTATIVE KELLER expressed that the discussion does open up the possibility, with that section of law open, that something can happen in a later committee that may not be noticed. He described it as significant and stressed that he likes the single subject law, and wants to keep it as tight as possible. He indicated his discomfort in intentionally violating it.

REPRESENTATIVE GRUENBERG answered that he would be the last person someone would accuse of letting something slide by, and

at some point a committee member may want this as a precedent. He reiterated that it can be removed.

[1:34:42 PM](#)

REPRESENTATIVE MILLETT said she has bills she would like to receive Representatives Gruenberg and Vazquez' legal opinion. She pointed out that she "haven't seen a bill come through when legal opinions from the attorneys within our body as legal opinions from the legislature." She described it as a very unique situation.

REPRESENTATIVE GRUENBERG reminded the committee that a few years ago the governor tried to do "something with the budget that was very strange," with an attorney general's opinion on the subject. He noted that he had prepared a memorandum and ultimately the governor removed the "something strange."

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REPRESENTATIVE KELLER referred to the issue of paying veterinarians and noted that when a bill is open it is a good time to clean up the act.

He offered the scenario of his dog barking, the neighbor calls the police, and the police come and orders a veterinarian. He asked whether he pays under the existing law, which would mean that a neighbor can incur a debt for the owner. He suggested fixing that section of law while it is open.

REPRESENTATIVE GRUENBERG responded "I won't comment on that until I know what you're talking about."

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REPRESENTATIVE GRUENBERG referred to Sec. 12, [AS 11.61.140(a)(2), page 5, lines 19-21], which read:

(2) has a legal duty to care for the animal and, with criminal negligence fails to care for an animal and, as a result, causes the death of the animal or causes severe physical pain or prolonged suffering to the animal;

REPRESENTATIVE GRUENBERG advised that AS 11.61.140(a)(2) deals with criminal negligence and whether it could apply to just anyone. For example, a person notices their neighbor's dog is

starving and doesn't do anything about it, the question is whether the person will be criminalized. He advised that a recent court of appeals decided that the legislature had not defined who was subject to the law as it was not in the statute. The court of appeals took the common law approach and decided that it would only apply to a person with a legal duty to care for the animal - either owning the animal or someone entrusted with the animal's care. He opined, this case involved someone in the Matanuska-Susitna area with a number of horses "terrifically neglected," and the sponsors believe it should be included within the statute itself and, thereby did not require researching a court of appeals opinion.

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REPRESENTATIVE KELLER questioned whether determining who has the legal duty is something new in that it isn't defined, except possibly by case law.

REPRESENTATIVE GRUENBERG commented that there is a body of case law "that does this, it's not a new concept." He reiterated that it includes an owner or someone entrusted with the care of the animal.

REPRESENTATIVE KELLER pointed out that if it is not in there now, by putting this in there will that cause more determination on who has the legal duty.

REPRESENTATIVE GRUENBERG replied that it doesn't seem to, in that it seems to have been the first case ... no other case has been cited in Alaska that has determined this, although it does cite a number of cases from other jurisdictions. He said, "This is clearly the majority view." He characterized the legislature's work on statutes as cryptic, and said the statute is then interpreted and fleshed out by judges in the common law.

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CHAIR LEDOUX surmised that this section basically codifies the common law.

REPRESENTATIVE GRUENBERG agreed, and cited Sickel v. State of Alaska, 363 P3d 115 (2015).

CHAIR LEDOUX asked whether that was the subject of the case.

REPRESENTATIVE GRUENBERG answered "Yes it was."

CHAIR LEDOUX questioned whether someone was prosecuted for failing ... when they had no legal ...

REPRESENTATIVE GRUENBERG explained that a person owned many horses and had entrusted the horses to another person. That person was prosecuted, who alleged that "I am not within the ambit of subsection (2) because I didn't own the horse ... the horses." The court said no, that the person was entrusted with the horses, and; therefore, had a legal duty not to neglect them. He expressed that the situation was so bad the horses were frozen to the ground, and one horse was not saved. He remarked that the proper person was prosecuted, appealed on that point, lost, and the conviction was affirmed.

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CHAIR LEDOUX referred to the section "has a legal duty to care for the animal" and said she was unsure what it does exactly.

REPRESENTATIVE GRUENBERG offered that it makes clear to anyone reading the statute, such as an Alaska State Trooper in the bush or a judge, that the law remains the same. He explained it gives public notice of an important holding, and it is not necessary to perform legal research "to get there."

[1:42:34 PM](#)

REPRESENTATIVE KELLER restated that a lot of court action is invited to determine and define the legal duty in caring for an animal. He said there is nothing in the bill that references the case to make that definition, and questioned whether there should be a definition in statute.

[1:43:05 PM](#)

The committee took an at-ease from 1:43 p.m. to 1:45 p.m.

[1:45:53 PM](#)

CHAIR LEDOUX asked the sponsors to present their bill and take questions at the end of the presentation.

REPRESENTATIVE GRUENBERG referred to Sec. 13, [AS 18.65.520(a), page 6, beginning line 5] and said it involves domestic violence, and various shelters expressed concern. Considerable negotiation ensued, he said, and there is an email stating that

they now support what has been done. He explained that Sec. 13 is in Title 18, and it defines "essential personal items to include pets, regardless of the ownership of the items." In that regard, he said, they are not adjudicating who will own the animal, but who will have the animal during the period of the domestic violence order, which includes pets in the person's care.

REPRESENTATIVE GRUENBERG referred to [Sec. 13, AS 18.65.520(a)(12), page 7, lines 28-31] which read:

(12) require your abuser to pay support for you, [OR] a minor child in your care, or a pet in your care if there is an independent legal obligation of your abuser to support you, [OR] the child, or the pet;

REPRESENTATIVE GRUENBERG explained that the provision allows the court to enter an order for the animal's support and, for example, if the animal is being abused the order can include veterinarian bills. He offered that the sponsors taught a class at the University of Alaska, Anchorage Justice Center, and Assistant Professor Kristin Knudsen asked students to suggest amendments. He noted a student's suggestion that if the court is allowed to award an order for possession of the animal, the order should include support of the animal.

[1:49:30 PM](#)

REPRESENTATIVE GRUENBERG referred to Sec. 14, [AS 18.65.590, page 8, lines 22-25], which read:

(2) "pet" means a vertebrate living creature maintained for companionship or pleasure, but does not include dogs primarily owned for participation in a generally accepted mushing or pulling contest or practice or animals primarily owned for participation in rodeos or stock contests.

REPRESENTATIVE GRUENBERG explained that the "domestic violence folks" asked that the term "pet" be used in these provision for domestic violence as opposed to "any animal" because the current police and court forms are limited to pets.

[1:50:00 PM](#)

REPRESENTATIVE GRUENBERG referred to [Sec. 15, AS 18.66.100(c), page 8, beginning line 26], and said they tracked AS 18.66, which involves stalking as a form of domestic violence, and the same language appears throughout Sec. 15. He pointed out that provision AS 18.66 is defined the same way in Sec. 17.

REPRESENTATIVE GRUENBERG referred to Sec. 16, [AS 18.66.990(3)(I), page 10, lines 30-31], which read:

**(I) cruelty to animals under AS
11.61.140(a)(5)if the animal is a pet;**

REPRESENTATIVE GRUENBERG explained that the added provision was suggested by [Anchorage attorney] Allen Bailey who is a nationally recognized authority on domestic violence. He referred AS 18.66.990(3), which read:

(3) "domestic violence" and "crime involving domestic violence" mean one or more of the following offenses or an offense under a law or ordinance of another jurisdiction having elements similar to these offenses, or an attempt to commit the offense, by a household member against another household member:

REPRESENTATIVE GRUENBERG said that Mr. Bailey pointed out that AS 18.66.990(3) which defines the crimes, one of which must be proven in order to be eligible to receive a domestic violence order, did not include cruelty to animals under AS 11.61.140(a)(5). He said AS 11.61.140(5) discusses torturing or killing an animal to terrorize someone else which is direct domestic violence. The provision is to protect the human and animal victims, he related.

[1:51:47 PM](#)

REPRESENTATIVE GRUENBERG referred to Sec. 18, [AS 22.15.030(a)(11), page 12, lines 3-4], which read:

**(11) over cases involving cruelty to or
seizure, destruction, adoption, or cost of care of
animals under AS 03.55.100 - 03.55.190.**

REPRESENTATIVE GRUENBERG pointed out that the district court is a court of limited jurisdiction, and that the current VAWA does not have jurisdiction over cases under AS 03.55.100-.190, which was dealt with at the beginning of the bill. He explained that no superior court is readily available in areas of Alaska where

this occurs. Therefore, he pointed out, the sponsors added that a provision that district courts would be allowed to hear these cases. Over the last 20-30 years, Alaska has consistently expanded the jurisdiction of the district court and that this appears appropriate, he said.

REPRESENTATIVE GRUENBERG related that Sec. 19 and the following sections amend the divorce and dissolution statutes to allow a court to enter an order. He referred to [Sec. 19, AS 25.24.160(a)(I)(5), page 14, lines 5-6], which read:

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

REPRESENTATIVE GRUENBERG explained that an order can be entered for the ownership of the animal or joint ownership, taking into consideration the animal's well-being. Traditionally, he noted, this is not a time consuming process and courts are getting into this because many Alaskans have pets that are considered members of the family, but it is a property. He said there is an Alaska case discussing a type of seisin property - a live non-human being, unlike ownership of a car.

[1:53:58 PM](#)

REPRESENTATIVE GRUENBERG advised that the continuing sections, generally use the same language, and track it throughout the divorce and dissolution statutes. He referred to Sec. 26, [AS 25.24.990, page 17, lines 20-21], which read:

Section 25.24.990. Definition. In this chapter, "animal" means a vertebrate living creature not a human being.

REPRESENTATIVE GRUENBERG explained that it allows any animal with a vertebrate to be the subject of such an order.

[1:54:40 PM](#)

The committee took an at-ease from 1:54 p.m. to 1:56 p.m.

[1:56:33 PM](#)

REPRESENTATIVE GRUENBERG called the committee's attention to a 1/31/16 letter contained within the committee packet, directed to Representative Max Gruenberg from Professor David Favre,

J.D., Professor of Law, Michigan State University, College of Law, East Lansing, Michigan, who complimented HB 147. Representative Gruenberg characterized Professor Favre's comments as a "pretty good piece of work."

[1:56:53 PM](#)

CHAIR LEDOUX asked the committee whether there were any questions specifically regarding HB 147, Version D. There were no questions.

CHAIR LEDOUX removed her objection, and pointed out that she will speak with the sponsors before the bill again comes before the committee.

CHAIR LEDOUX opened public testimony.

[1:57:44 PM](#)

RONNIE ROSENBERG, Commissioner, Fairbanks Northstar Borough Commission; Fairbanks Animal Shelter Fund, advised she was testifying as a 20-year commissioner on the Fairbanks Northstar Borough Commission, and as a founding member and president of the Fairbanks Animal Shelter Fund which is the support group for the Fairbanks Northstar Borough Animal Shelter. She offered that over the years they have spent many thousands of dollars on seized animals due to neglect and domestic violence cases. She said they very much support the ability to be reimbursed for monies expended for veterinary care and supplies for abused and neglected animals. Moreover, she pointed out, in the last six months the Federal Bureau of Investigation (FBI) considers animal abuse to be a high priority and; therefore, animal abuse is moving to a federal focus. She said her organizations may see more animals coming in as a result of this, and that it is necessary to receive reimbursement at the time of seizure and to allow a judge to order that the defendant reimburse. She opined that having been a lawyer and having worked with domestic violence victims in North Dakota and Minnesota it is apparent that perpetrators will hold the animal as a pawn either to keep or terrorize the person. Although, she pointed out, when that can't be done they will inflict injury on the animal as a control mechanism, which is not an exception. She asserted that it is unfortunate Alaska law does not include non-vertebrates in its animal protection statutes as many people are attached to their reptiles and fish. She offered a case wherein someone was flushed fish down the toilet as a mechanism to control the

victim. She supports this bill and hopes it passes with bi-partisan action, she stated.

[2:01:35 PM](#)

TRACEY WOLLENBERG, Deputy Director, Appellate Division, Central Office, Public Defender Agency (PDA), Department of Administration (DOA), referred to Sec. 16, [AS 18.66.990(3)(I)], page 10, lines 30-31, which read:

**(I) cruelty to animals under AS
11.61.140(a)(5) if the animal is a pet;**

MS. WOLLENBERG pointed out that cruelty to animals under AS 11.61.140(a)(5) provides that a person commits that offense if, with some exceptions, the person knowingly kills or injures an animal with the intent to intimidate, threaten, or terrorize another person. Her concern, she stated, is that including this provision wholesale into the definition of crime involving domestic violence, even limited to situations where the animal is a pet, is overly broad and goes beyond the common understanding of domestic violence. Essentially, she explained, as currently written the persons referred to in AS 11.61.140(a)(5), which is the relevant cruelty to animal's provision, need not be household members as that term is defined in AS 18.66.990. She offered a scenario that if a person knowingly injures another's pet, for example on the Coastal Trail in Anchorage, with the intent to intimidate, threaten, or terrorize that other person, that offense would constitute cruelty to animals under AS 11.61.140(a)(5), but it would also be characterized as a domestic violence offense under this proposal even though the two people had never met before the confrontation. Essentially, she explained, the proposal in Sec. 16 scoops into the definition of domestic violence persons who commit a certain type of animal cruelty in an effort to harass or threaten others even if the people involved have no pre-existing domestic relationship. She opined that the intent of the provision; however, was primarily to prevent a person from harming a pet with the intent to intimidate, threaten, or terrorize another person with whom there is a pre-existing domestic relationship. That intent can be clarified not only by limiting animals as pets but also by limiting the persons who are the target of the intimidation or threatening to household members. She added that household member is also defined under the existing statute AS 18.66.990(5). She further opined that in order to effectuate what she assumed is the intent of the committee, the provision could define domestic violence or crime

involving domestic violence of including cruelty to animals under AS 11.61.140(a)(5), not only if the animal is a pet, but also if the person who is the subject of intimidation, threatening, or terrorizing, is a household member under subsection (5).

2:05:48 PM

REPRESENTATIVE GRUENBERG indicated that the sponsors will work with Ms. Wollenberg as their intent is to limit it to the people subject to domestic violence orders.

2:07:01 PM

LAUREE MORTON, Executive Director, State Council on Domestic Violence and Sexual Assault, paraphrased her written testimony as follows:

Thank you for hearing the bill today. My remarks go toward the protective order provisions of the bill. People who choose to commit acts of domestic violence use whatever they perceive as effective means of control to coerce the people they victimize. All too often pet abuse is one of those means. They may refuse to allow the pet to be taken to the vet for care, they may threaten to harm or kill the pet, they may actually harm or kill the pet, they may target pets of family or friends, they may blame the disappearance of the family pet on a victim to create a wedge between her or him and the children, they may file theft charges if the victim leaves with pets or may enter into custody battles over pets. Bonds between pets and their owners are very strong. Sometimes victims are hurt trying to protect their pets. Sometimes they wait to leave because they don't have anywhere to go with their pets. Sometimes they return because of the fear of what will happen to their pets.

In a national study, over 71 percent of women who sought shelter ... were concerned with leaving their pets at home, or whether or not they would have a place to safely take them. Animal abuse also functions as an indicator of high lethality. Research has found that batterers who abuse pets are more dangerous than those who don't. In fact, pet abusing batterers employ more controlling behaviors, more

sexual assault, marital rape, emotional violence, and stalking. Other studies have revealed that a history of threatened or actual pet abuse is one of the four most significant risk factors for becoming a domestic violence abuser. It is important to offer protections for pets to increase safety tools for victims to use as they attempt to flee the violence perpetrated against them. In Alaska, victims who choose to file petitions for protective orders may include pets in the order now. There is a general provision to allow any other kind of order ... the relief the court deems necessary in order to further that protection. This bill; however, adds the specific language of pets and I think helps victims and petitioners understand that that's a readily available remedy to them. In addition, there are shelters in Alaska. We fund 18 ... of those programs. Many of them are able to offer places for pets to stay on the premises, if they're not, they help the petitioner or victim who needs that service to find other places ... safe places, maybe with veterinarians. One regional shelter has worked with Safe Homes so that the pet can go into a home of a person who would foster the pet, for example. So we appreciate the opportunity to have pets included in the language for protection orders and think it will make it a stronger protection for victims as they escape violence.

[2:10:33 PM](#)

MS. MORTON referred to [Sec. 16], page 10, line 19, and opined that the previous speaker may have misunderstood the list of crimes involving domestic violence. She referred to page 10, line 19, and said the offense must be committed by "a household member against another household member." She further opined that if the previous speaker's comments were correct in that sense, then none of these crimes would work right.

[2:11:39 PM](#)

MS. WOLLENBERG apologized to the committee and said it was an oversight on her part. Her only concern, she related, is that there are two potential victims under the AS 11.61.140(a)(5) crime. She said that the animal is the subject, "knowingly kills or injures an animal." The intent provision is to intimidate, threaten, or terrorize another person. She remarked that she would want the legislative history, if that were the

intent, language to be clear that the person referred to in the animal cruelty provision is really the household members discussed and not the pet.

REPRESENTATIVE GRUENBERG acknowledged, it was not a fair question on his part. He then asked "the two of you" to get together with his staff to determine the language and bring it back to the committee.

[2:13:21 PM](#)

REPRESENTATIVE LYNN offered a scenario of a person having a pet and asked "is it joint property ... the one who acquires the cat or dog and brings it home." In the event a pet is being abused for the purpose of intimidating the other member, can either person take the cat or dog to a safe place without permission of the other, he asked. He said that at the proper time he would appreciate clarification.

[2:14:22 PM](#)

REPRESENTATIVE GRUENBERG asked that a law professor from the Council for the Humane Society in New York possibly be allowed to testify at some point.

[2:15:28 PM](#)

CHAIR LEDOUX closed public testimony after ascertaining that no further wished to testify. She added that if there is someone in particular the sponsors would like to invite to testify, it is something that can be discussed.

[CSHB 147 was held over.]

[2:15:54 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:15 p.m.