

**ALASKA STATE LEGISLATURE**  
**HOUSE JUDICIARY STANDING COMMITTEE**

April 12, 2016

1:07 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  
Representative Jonathan Kreiss-Tomkins

**MEMBERS ABSENT**

Representative Kurt Olson (alternate)

**COMMITTEE CALENDAR**

HOUSE BILL NO. 200

"An Act establishing procedures related to a petition for adoption of a child in state custody; adding a definition of 'proxy for a formal petition'; amending Rule 6(a), Alaska Adoption Rules; and providing for an effective date."

- MOVED CSHB 200(HSS) OUT OF COMMITTEE

CS FOR SENATE BILL NO. 180(JUD)

"An Act relating to the temporary delegation by a parent or guardian of powers related to a child; relating to adoption; relating to nonprofit organizations that provide certain assistance to parents; relating to the distribution to a parent or guardian in a child protection situation of information on family support services; and providing for an effective date."

- MOVED CSSB 180(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 334

"An Act relating to visitation and child custody."

- MOVED HB 334 OUT OF COMMITTEE

CS FOR SENATE BILL NO. 174(FIN)

"An Act relating to the regulation of firearms and knives by the University of Alaska; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 112

"An Act establishing procedures related to a petition for adoption of a child in state custody; adding a definition of 'proxy for a formal petition'; amending Rule 6(a), Alaska Adoption Rules; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 200

SHORT TITLE: ADOPTION OF CHILD IN STATE CUSTODY

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

04/16/15	(H)	READ THE FIRST TIME - REFERRALS
04/16/15	(H)	HSS, JUD
03/29/16	(H)	HSS AT 3:00 PM CAPITOL 106
03/29/16	(H)	Heard & Held
03/29/16	(H)	MINUTE (HSS)
03/29/16	(H)	HSS AT 6:00 PM CAPITOL 106
03/29/16	(H)	Heard & Held
03/29/16	(H)	MINUTE (HSS)
03/31/16	(H)	HSS AT 3:00 PM CAPITOL 106
03/31/16	(H)	Moved CSHB 200(HSS) Out of Committee
03/31/16	(H)	MINUTE (HSS)
04/01/16	(H)	HSS RPT CS (HSS) NT 2DP 2NR
04/01/16	(H)	DP: TALERICO, SEATON
04/01/16	(H)	NR: TARR, WOOL
04/10/16	(H)	JUD AT 2:00 PM GRUENBERG 120
04/10/16	(H)	-- MEETING CANCELED --
04/11/16	(H)	JUD AT 1:00 PM GRUENBERG 120
04/11/16	(H)	Scheduled but Not Heard
04/12/16	(H)	JUD AT 1:00 PM GRUENBERG 120

BILL: SB 180

SHORT TITLE: PARENT-GUARDIAN/CHILD: TEMP. POWER OF ATTY

SPONSOR(s): GIESSEL

02/12/16	(S)	READ THE FIRST TIME - REFERRALS
02/12/16	(S)	JUD
02/24/16	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/24/16	(S)	Heard & Held
02/24/16	(S)	MINUTE (JUD)
03/02/16	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)

03/02/16 (S) Moved CSSB 180(JUD) Out of Committee  
 03/02/16 (S) MINUTE (JUD)  
 03/07/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
 03/07/16 (S) Moved CSSB 180(JUD), Rescinded Action  
 on Prior CS  
 03/07/16 (S) MINUTE (JUD)  
 03/11/16 (S) JUD RPT CS 1DP 3NR NEW TITLE  
 03/11/16 (S) DP: COGHILL  
 03/11/16 (S) NR: MCGUIRE, MICCICHE, WIELECHOWSKI  
 03/16/16 (S) TRANSMITTED TO (H)  
 03/16/16 (S) VERSION: CSSB 180(JUD)  
 03/18/16 (H) READ THE FIRST TIME - REFERRALS  
 03/18/16 (H) JUD  
 04/12/16 (H) JUD AT 1:00 PM GRUENBERG 120

BILL: HB 334

SHORT TITLE: CHILD CUSTODY; DOM. VIOLENCE; CHILD ABUSE

SPONSOR(S): MUNOZ

02/22/16 (H) READ THE FIRST TIME - REFERRALS  
 02/22/16 (H) HSS, JUD  
 03/22/16 (H) HSS AT 3:00 PM CAPITOL 106  
 03/22/16 (H) Heard & Held  
 03/22/16 (H) MINUTE (HSS)  
 03/24/16 (H) HSS AT 3:00 PM CAPITOL 106  
 03/24/16 (H) <Bill Hearing Rescheduled to 3/29/16>  
 03/29/16 (H) HSS AT 3:00 PM CAPITOL 106  
 03/29/16 (H) Heard & Held  
 03/29/16 (H) MINUTE (HSS)  
 04/05/16 (H) HSS AT 3:00 PM CAPITOL 106  
 04/05/16 (H) Heard & Held  
 04/05/16 (H) MINUTE (HSS)  
 04/06/16 (H) HSS AT 3:30 PM CAPITOL 106  
 04/06/16 (H) -- Continued from 4/5/16 Meeting --  
 04/07/16 (H) HSS RPT CS (HSS) 2DP 5NR  
 04/07/16 (H) DP: STUTES, VAZQUEZ  
 04/07/16 (H) NR: TARR, TALERICO, FOSTER, WOOL,  
 SEATON  
 04/09/16 (H) JUD AT 1:00 PM GRUENBERG 120  
 04/09/16 (H) Heard & Held  
 04/09/16 (H) MINUTE (JUD)  
 04/12/16 (H) JUD AT 1:00 PM GRUENBERG 120

BILL: SB 174

SHORT TITLE: REG. OF FIREARMS/KNIVES BY UNIV. OF AK

SPONSOR(S): KELLY

02/08/16 (S) READ THE FIRST TIME - REFERRALS  
02/08/16 (S) EDC, JUD  
02/16/16 (S) EDC AT 3:30 PM BUTROVICH 205  
02/16/16 (S) Heard & Held  
02/16/16 (S) MINUTE (EDC)  
02/17/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
02/17/16 (S) Scheduled but Not Heard  
02/18/16 (S) EDC AT 3:30 PM BUTROVICH 205  
02/18/16 (S) Heard & Held  
02/18/16 (S) MINUTE (EDC)  
02/23/16 (S) EDC AT 3:30 PM BUTROVICH 205  
02/23/16 (S) Moved CSSB 174(EDC) Out of Committee  
02/23/16 (S) MINUTE (EDC)  
02/26/16 (S) EDC RPT CS 2DP 1DNP 1NR SAME TITLE  
02/26/16 (S) DP: DUNLEAVY, HUGGINS  
02/26/16 (S) DNP: GARDNER  
02/26/16 (S) NR: GIESSEL  
02/26/16 (S) FIN REFERRAL ADDED AFTER JUD  
02/29/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
02/29/16 (S) Heard & Held  
02/29/16 (S) MINUTE (JUD)  
03/02/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
03/02/16 (S) Heard & Held  
03/02/16 (S) MINUTE (JUD)  
03/07/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
03/07/16 (S) Moved CSSB 174(EDC) Out of Committee  
03/07/16 (S) MINUTE (JUD)  
03/09/16 (S) JUD RPT CS (EDC) 2DP 2NR  
03/09/16 (S) DP: MCGUIRE, COGHILL  
03/09/16 (S) NR: MICCICHE, WIELECHOWSKI  
03/24/16 (S) FIN AT 1:30 PM SENATE FINANCE 532  
03/24/16 (S) Heard & Held  
03/24/16 (S) MINUTE (FIN)  
04/04/16 (S) FIN AT 9:00 AM SENATE FINANCE 532  
04/04/16 (S) Moved CSSB 174(FIN) Out of Committee  
04/04/16 (S) MINUTE (FIN)  
04/06/16 (S) FIN RPT CS 2DP 3NR 1AM NEW TITLE  
04/06/16 (S) DP: KELLY, DUNLEAVY  
04/06/16 (S) NR: MICCICHE, OLSON, HOFFMAN  
04/06/16 (S) AM: MACKINNON  
04/07/16 (S) TRANSMITTED TO (H)  
04/07/16 (S) VERSION: CSSB 174(FIN)  
04/08/16 (H) READ THE FIRST TIME - REFERRALS  
04/08/16 (H) EDC, JUD  
04/08/16 (H) EDC AT 8:00 AM CAPITOL 106  
04/08/16 (H) -- MEETING CANCELED --  
04/11/16 (H) EDC AT 8:00 AM CAPITOL 106

04/11/16 (H) Moved CSSB 174(FIN) Out of Committee  
04/11/16 (H) MINUTE (EDC)  
04/12/16 (H) JUD AT 1:00 PM GRUENBERG 120

**WITNESS REGISTER**

CHRISTY LAWTON, Director  
Office of Children's Services (OCS)  
Department of Health & Social Services  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing of HB 200, provided an overview and answered questions.

STACIE KRALY, Chief Assistant Attorney General  
Labor and State Affairs Section  
Department of Law  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing of HB 200, answered questions.

AMANDA MacADO  
Aleutian Pribilof Islands Association  
Anchorage, Alaska

**POSITION STATEMENT:** During the hearing of HB 200, offered support for the legislation.

CRISTY WILLER, Chief Operating Officer  
Cook Inlet Tribal Council (CITC)  
Anchorage, Alaska

**POSITION STATEMENT:** During the hearing of HB 200, offered support for the legislation.

MELANIE FREDERICKS, Community Member  
Association of Village Council Presidents  
Bethel, Alaska

**POSITION STATEMENT:** During the hearing of HB 200, offered support for the legislation.

ANDREW BEAVER, Tribal Administrator  
Native Village of Kwigillngok  
Kwigillngok, Alaska

**POSITION STATEMENT:** During the hearing of HB 200, offered support for the legislation.

MELANIE BAHNKE, CEO  
KAWEAK Incorporated  
Nome, Alaska

**POSITION STATEMENT:** During the hearing of HB 200, offered support for the legislation.

NICOLE BORROMEO, Executive Vice President and General Counsel  
Alaska Federation of Natives  
Anchorage, Alaska

**POSITION STATEMENT:** During the hearing of HB 200, offered support for the legislation.

KATHERINE MOSES  
Tribal Administrator  
Asa'carsarmiut Tribal Council  
Mountain Village, Alaska

**POSITION STATEMENT:** During the hearing of HB 200, Lorraine Mung spoke on behalf of Ms. Kathrine Moses and offered support for the legislation.

EVELYN PETERSON, Echo Worker  
Asa'carsarmiut Tribal Council  
Mountain Village, Alaska

**POSITION STATEMENT:** During the hearing of HB 200, offered support for the legislation.

DAPHNE JOE  
Asa'carsarmiut Tribe  
Mountain Village, Alaska

**POSITION STATEMENT:** During the hearing of HB 200, offered support for the legislation.

ELIZABETH STEVENS, Echo Worker  
Napaiap Tribal Court  
Napaiap, Alaska

**POSITION STATEMENT:** During the hearing of HB 200, offered support for the legislation.

DON SHIRCEL, Director  
Client Development  
Tanana Chiefs Conference  
Fairbanks, Alaska

**POSITION STATEMENT:** During the hearing of HB 200, offered support for the legislation.

DARLENE PETE, Tribal Administrator  
North Pole, Alaska

**POSITION STATEMENT:** During the hearing of HB 200, testified in support of the legislation.

APRIL FERGUSON, Senior Vice President and General Counsel  
Bristol Bay Native Corporation  
Anchorage, Alaska

**POSITION STATEMENT:** During the hearing of HB 200, testified in support of the legislation.

ELIZABETH MEDICINE CROW, President/CEO  
First Alaskans Institute  
Anchorage, Alaska

**POSITION STATEMENT:** During the hearing of HB 200, testified in support of the legislation.

MELVIN EGOAK

Atmauluak, Alaska

**POSITION STATEMENT:** During the hearing of HB 200, testified in support of the legislation.

ELIZABETH HENSLEY

General Counsel, Maniilaq Association  
Kotzebue, Alaska

**POSITION STATEMENT:** During the hearing of HB 200, testified in support of the legislation.

LORINDA WESTIN O'BRIAN

Bethel, Alaska

**POSITION STATEMENT:** During the hearing of HB 200, testified in support of the legislation.

MARY TUNUCHUK

Chefornak Tribal Council  
Chefornak, Alaska

**POSITION STATEMENT:** During the hearing of HB 200, testified in support of the legislation.

KARLE NORE, Staff

Senator Cathy Giesel  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented SB 180 on behalf of Senator Cathy Giesel, prime sponsor.

ANDREW BROWN, Senior Fellow

Child Welfare Reform  
Foundation for Government Accountability  
Naples, Florida

**POSITION STATEMENT:** During the hearing of SB 180, offered testimony.

ANDY COARY

Anchorage, Alaska

**POSITION STATEMENT:** During the hearing of SB 180, offered support for the legislation.

CHARITY CARMODY, President

Beacon Hill

Anchorage, Alaska

**POSITION STATEMENT:** During the hearing of SB 180, explained the workings of Beacon Hill.

MIKE COONS

Palmer, Alaska

**POSITION STATEMENT:** During the hearing of SB 180, testified in support of the legislation.

TRACY SPARTZ CAMPBELL, Deputy Director

Office of Children's Services

Department of Health & Social Services

Juneau, Alaska

**POSITION STATEMENT:** During the hearing of SB 180, answered questions.

CRYSTAL KOENEMAN, Staff

Representative Cathy Munoz

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** During the hearing of HB 334, offered testimony on behalf of Representative Munoz.

REBECCA SHIELDS, Executive Director

Kodiak Women's Resource and Crisis Center

Kodiak, Alaska

**POSITION STATEMENT:** During the hearing of HB 334, spoke in opposition to the legislation.

PAUL GRANT, Attorney

Juneau, Alaska

**POSITION STATEMENT:** During the hearing of HB 334, discussed current law and this legislation.

SARALYN TABACHNICK, Executive Director

Aiding Women in Abuse and Rape Emergencies (AWARE)

Juneau, Alaska

**POSITION STATEMENT:** During the hearing of HB 334, discussed the effects of domestic violence on children.

FRED TRIEM, Attorney  
Petersburg, Alaska

**POSITION STATEMENT:** During the hearing of HB 334, discussed legislative drafting.

SENATOR PETE KELLY  
Fairbanks, Alaska

**POSITION STATEMENT:** Presented SB 174 as prime sponsor.

JOE BYRNES, Staff  
Senator Pete Kelly  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing of SB 174, offered testimony and answered questions.

MICHAEL HOSTINA, General Counsel  
University of Alaska, Fairbanks  
Fairbanks, Alaska

**POSITION STATEMENT:** During the hearing of SB 174, answered questions.

MAC COOPER, Associated General Counsel  
Office of General Counsel  
University of Alaska  
Fairbanks, Alaska

**POSITION STATEMENT:** During the hearing of SB 174, answered questions.

KEN LANDFIELD  
Homer, Alaska

**POSITION STATEMENT:** During the hearing of SB 174, offered opposition to the legislation.

ERIN HOOD  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing of SB 174, offered opposition to this legislation.

SALLY RUE  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing of SB 174, strongly opposed this legislation.

FRANK RUE  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing of SB 176, strongly opposed this legislation.

CALLIE CONERTON, Student Government President  
University of Alaska Southeast  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing of SB 174, testified in opposition for the legislation.

JENNIFER McCLUNG, Instructor  
University of Alaska Anchorage  
Anchorage, Alaska

**POSITION STATEMENT:** During the hearing of SB 174, spoke in opposition to SB 174.

ROBIN SMITH  
Anchorage, Alaska

**POSITION STATEMENT:** During the hearing of SB 174, spoke in opposition to the legislation.

CAROLINE STORM  
Alaska PTA Advocacy Committee  
Anchorage, Alaska

**POSITION STATEMENT:** During the hearing of SB 174, discussed overreach.

PATRICK RACE  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing of SB 174, spoke in opposition to the legislation.

BRIAN JUDY  
Senior State Lobbyist  
National Rifle Association  
State of California Assemblyman  
Unknown Address

**POSITION STATEMENT:** During the hearing of SB 174, testified in support of SB 174.

STEVEN SAMUELSON  
Southeast Alaska

**POSITION STATEMENT:** During the hearing of SB 174, offered support for the legislation.

ALYSE GALVIN  
Anchorage, Alaska

**POSITION STATEMENT:** During the hearing of SB 174, spoke in opposition to this legislation.

BUTCH MOORE

Anchorage, Alaska

**POSITION STATEMENT:** During the hearing of SB 174, offered opposition to this legislation.

MIKE NEWBERN, Assistant Director of Public Relations

Buckeyes for Concealed Carry

National Rifle Association

Unknown City, Ohio

**POSITION STATEMENT:** During the hearing of SB 174, offered support for the legislation.

TOM BOUTIN

Juneau, Alaska

**POSITION STATEMENT:** During the hearing of SB 174, offered support for the legislation.

JENNIFER GLENN

Volunteer

Alaska Chapter, Moms Demand Action for Gun Sense in America

Anchorage, Alaska

**POSITION STATEMENT:** During the hearing of SB 174, spoke in opposition to this legislation.

MIKE COONS

Palmer, Alaska

**POSITION STATEMENT:** During the hearing of SB 174, offered support for the legislation.

DANIEL BELGRIZE

University of Alaska Anchorage

Anchorage, Alaska

**POSITION STATEMENT:** During the hearing of SB 174, offered support for the legislation.

RYAN SHERWIN-ALAKAYAK, Student

University of Alaska Anchorage (UAA)

Anchorage, Alaska

**POSITION STATEMENT:** During the hearing of SB 174, offered support for this legislation.

HANS RODVIK

Anchorage, Alaska

**POSITION STATEMENT:** During the hearing of SB 174, offered support for this legislation.

CEEZAR MARTINSON, Student  
University of Alaska Anchorage (UAA)  
Anchorage, Alaska

**POSITION STATEMENT:** During the hearing of SB 174, spoke in support of the legislation.

KELSI PULCZINMS, Student  
University of Alaska Anchorage  
Anchorage, Alaska

**POSITION STATEMENT:** During the hearing of SB 174, spoke in support of the legislation.

LAURA MIKO  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing of SB 174, testified against the legislation.

#### **ACTION NARRATIVE**

[1:07:01 PM](#)

**CHAIR GABRIELLE LEDOUX** called the House Judiciary Standing Committee meeting to order at 1:07 p.m. Representatives Foster, Keller, Lynn, Claman, and LeDoux were present at the call to order. Representatives Millett and Kreiss-Tomkins arrived as the meeting was in progress.

#### **HB 200-ADOPTION OF CHILD IN STATE CUSTODY**

[1:07:56 PM](#)

CHAIR LEDOUX announced that the first order of business would be HOUSE BILL NO. 200, "An Act establishing procedures related to a petition for adoption of a child in state custody; adding a definition of 'proxy for a formal petition'; amending Rule 6(a), Alaska Adoption Rules; and providing for an effective date."

[1:08:23 PM](#)

CHRISTY LAWTON, Director, Office of Children's Services (OCS), Department of Health & Social Services, said she was available to testify.

1:08:40 PM

STACIE KRALY, Chief Assistant Attorney General, Labor and State Affairs Section, Department of Law, said she was available to testify.

1:08:45 PM

MS. LAWTON advised that she would present an overview of HB 200, as well as a detailed sectional analysis. The bill was primarily created to help increase the state's compliance with the Indian Child Welfare Act, enacted in 1978. The Act seeks to ensure that Alaska Native and American Indian children are, whenever possible, kept closest to home and with their family members, she explained. Cases involving foster care are heard in a Child In Need of Aid (CINA) proceedings in the superior court. Although, hearings involving foster children such as adoption, guardianship, and civil custody proceedings, are typically conducted in different courts with different judges outside of the CINA proceedings. This bill creates a "one judge, one family" model, whereby, all proceedings will be conducted under the same judge when a child is a dependent of the State of Alaska.

1:11:00 PM

CHAIR LEDOUX referred to the desire to keep a Native child with their family, and asked whether it works differently for non-Native children.

MS. LAWTON replied that she intends to speak to that issue later in the presentation. She advised that in developing the "one judge, one family" concept, the division worked closely with the Public Defender's Office, Office of Public Advocacy, and the Alaska Court System. This concept will save time and money for state entities and, more importantly, it will help all children get out of the foster care system faster. This legislation ensures that the proceedings are timely with appropriate judicial determinations made, because multiple judges and courts will not be involved, she said. Another important change in the bill involves Native and non-Native foster care adoption preferences in terms of how it looks to find people short-term or long-term to care for those children. The division looks at immediate family members first, then extend family, and then close family friends who have stepped up. She said that with regard to the Alaska Native children covered under the Indian Child Welfare Act, after the division has exhausted all

relatives, the division must also consider whether tribal members associated with the child may be interested.

[1:13:05 PM](#)

MS. LAWTON explained that this provision, in relation to a federal legal decision, puts a burden upon those people interested in the immediate and permanent placement of an Alaska Native child. She explained that those interested people must file a formal petition with the court for those preferences to be recognized. Currently, when the division looks at the temporary or permanent placement of a child, it reviews those preferences along the way, and continues to evaluate and search for relatives whenever possible, she said.

[1:13:44 PM](#)

CHAIR LEDOUX surmised that this is strictly with Alaska Native children.

MS. LAWTON replied that in both scenarios the division is always looking for relatives and trying to move children in with relatives whenever possible. When discussing Alaska Native children, once the division has exhausted looking for relatives, it also looks to the tribe and other tribal members who may be willing to care for the child. Under current law when the Indian Child Welfare Act applies, a formal petition must be filed to adopt for the adoption placement preferences to be preserved. People not covered under the Act do not have the same burden and requirement to file a petition or proxy to have their preferences preserved to advise they are a relative that should come before the division looks to non-relatives. She explained this bill tries to provide a simpler mechanism, such that those preferences can be acknowledged by the court and recognized. She explained "It doesn't make it be an automatic, you know, proceed to adoption that basically then requires us to do an evaluation and consider their suitability for adoption, long-term, as well as short-term placement." Under the division's current policy and Alaska Statutes, the provision continues to require that the division consider other people that come forward and looking at all of the options. She said, "This really just has us put that on the record for the court and then it would initiate a process moving forward."

[1:15:16 PM](#)

CHAIR LEDOUX asked her to explain what would be put on the court record.

MS. LAWTON answered that it would basically recognize, for the court, that under that Act there are specific adoption placement preferences that apply, that the court should consider in its final determination. She explained, it is not forcing the court to make a final determination one direction or another, it just reads that "it must at least be considered." [Under current law, a formal Petition to Adopt must be filed in order for the adoption placement preferences to be preserved], and this proxy does that, so [the relatives or members of the Alaska Native child's tribe] are not required to file the formal Petition to Adopt early on. Although, she pointed out, when the division and the court decide who should adopt the child, that person would, ultimately, file the Petition to Adopt because that mechanism is still required. It is just not required early on. She explained the reason to not file the petition early on is because the division may rule a person out, and filing the petition early on would have been for not, because the division had not yet evaluated them, she said.

[1:16:13 PM](#)

CHAIR LEDOUX asked whether, under current law, a grandparent desiring to adopt the [foster Alaska Native] child would have to file a petition with the division.

MS. LAWTON explained that, currently, for a grandparent desiring to adopt their grandchild covered under the Indian Child Welfare Act, they are required to file a formal Petition to Adopt so they can be considered a higher preference than a stranger to their grandchild. Under this legislation, the less formal process of using a proxy for adoption could be used, she explained.

[1:17:04 PM](#)

CHAIR LEDOUX opined that, under this bill, the grandparents would be allowed a less formal process of using a proxy for adoption. Currently, she asked, what precludes the division from considering the grandparents in the first place, because the grandparents or family members appear to be people the division would want to consider. She further asked why, in the first place, the division needs the bill to do the right thing.

MS. LAWTON responded that the division always looks at grandparents and relatives as a placement and a permanent placement, with or without this legislation. The bill is necessary due to a federal law that was changed that basically said in order for [the adoption placement] preferences to be recognized and considered by the court, a formal Petition to Adopt must be filed by the grandparent, family member, or someone in the category of people considered to have preference for adoption of a Native child. She referred to the scenario of the grandmother, and advised that once the case is ready for adoption, in order to ensure that the court recognizes the grandmother is the first preference placement because she is a relative, that information must be on the record. Without that information on the court's record, if a non-related person also wanted to adopt the child then the court would look at them almost equally, as opposed to the consideration that a relative should have a higher preference for consideration, she explained.

[1:19:09 PM](#)

CHAIR LEDOUX surmised that under federal law they still have to file the petition, correct.

MS. LAWTON agreed, and she advised they will eventually have to file the petition, they just don't have to do it early on so those preferences are recognized while moving forward.

CHAIR LEDOUX pointed out that since this is not changing federal law, why wouldn't the department help the grandmother early on to file this petition.

MS. LAWTON opined that it is partly because the division does not know, at that point, whether the grandmother would be the permanent person because it does an evaluation with approval from the court. Oftentimes, several relatives come forward and, as part of the division's process, it evaluates everyone. The division wouldn't want to invest the time, nor have the grandmother invest the time, with a more formal mechanism. The proxy basically says, "as we consider and as we move towards a permanent decision about where the child will go, the court has to recognize that there are preferred placement preferences for this child." The division would then evaluate the relatives to determine which relative is the best long-term plan, the other legal parties then get to weigh in on that, and the court then ultimately has to agree.

[1:20:50 PM](#)

CHAIR LEDOUX questioned why the division doesn't just do this, why is it taking this legislation to get the division to do something that it wants to do anyway.

MS. KRALY responded that the reason for the legislation is to create a system for both the courts, and the Office of Children's Services (OCS), to establish this "placeholder" for a relative or a priority preference placement. The system is that this proxy is issued and it provides a priority of preference if, and when, the case gets to adoption. While there may be merit to Chair LeDoux's statement about doing this informally, she noted, due to the complexities of these cases and the number of individuals involved, the legislation is necessary to create a formal recognition of these issues. In the cases that led to this legislation, the lack of the formal petition created enormous confusion within the system. She noted that members may recall news accounts that when permanency was decided, these family members and grandparents were not allowed to have the permanency placement of their grandchildren. The legislation creates the formal process whereby everyone, including the court system, the tribes, opposing attorneys, and the Office of Children's Services (OCS), all know who is interested in becoming a permanent placement. Technically, she commented, this could be done on an informal basis, but it doesn't create the efficient guarantee of avoiding the complexities that happen when the placeholders are not in effect at the time the case gets to permanency.

REPRESENTATIVE CLAMAN opined that the push for the revision to the adoption code is related to the litigation involving the Native Village of Tununak v. State of Alaska, Office of Children's Services, 303 P.3d 431.

MS. KRALY agreed.

[1:23:36 PM](#)

REPRESENTATIVE CLAMAN asked whether the state lost the Native Village of Tununak case.

MS. KRALY said the state lost the case.

[1:23:45 PM](#)

REPRESENTATIVE CLAMAN asked what the Native Village of Tununak case held and how these changes to the statute provide the problem does not arise in the future.

MS. LAWTON responded that under Native Village of Tununak II v. State of Alaska, 334 P.3d 165, the case was in the Alaska Supreme Court and involved a non-native, non-related foster family seeking to adopt an Alaska Native child. The other party was the child's Alaska Native grandmother. The court was litigating and trying to make a determination about that case, and at the same time the United States Supreme Court was hearing Adoptive Couple v. Baby Girl, 570 U.S. \_\_\_\_ (2013), out of South Dakota. In the Adoptive Couple v. Baby Girl, the United States Supreme Court was contemplating a non-native, non-relative foster family seeking to adopt the child. The other party was the child's biological father who was seeking to have his parental rights reinstated. He had been active military and when he returned to the United States, unbeknownst to him, his child was up for adoption. The United States Supreme Court basically concluded that in order for the adoption placement preferences, under the Indian Child Welfare Act, to be upheld and recognized, a person had to first file a formal petition to adopt. When that decision was made, the Alaska Supreme Court had no recourse except to rule in Native Village of Tununak II case on behalf of the foster family because they were the only party that had previously filed a Petition to Adopt that was being held in abeyance. The grandmother had not filed a petition nor was she required to file at that point, but they had initiated those proceedings and because they were the only party that had initiated, the Alaska Supreme Court decided the case in favor of the foster family and the child went to them for adoption.

[1:25:50 PM](#)

MS. LAWTON continued that this provision basically reads that in recognition of the United States Supreme Court's decision, Alaska wanted to create something less burdensome such that they wouldn't have to file a formal petition upfront. She pointed out that close to 60 percent of children in foster care are Alaska Native and half of them end up going to adoptions with non-related extended family members (NREFM). The division sorts out when the child should go, and where the child should go as it works on possible reunification. Relatives come in and go out because interest sometimes waxes and wanes. The [proxy] could serve as a placeholder that there are specific adoption placement preferences the court can't ignore when it gets to the

final decision. It does not mean that the court can't consider interested people, but the court must look at that with a little more weight in terms of the people identified.

[1:26:48 PM](#)

REPRESENTATIVE CLAMAN asked whether one of the issues under Native Village of Tununak case was that the grandmother had sent a letter or provided some notice to the Department of Health and Social Services that she was interested, but she had not filed the formal notice. He surmised that this statute change will provide that a person in the grandmother's position could send a letter to the department to protect their ability to go in later and formally seek to adopt because the department would have had notice they were an interested party.

MS. LAWTON said he was correct. The grandmother had informed the department orally, and in writing, of her interest, but she hadn't taken the step of filing the formal petition. Ms. Lawton related that the closest court to the grandmother was Bethel, which is an \$800 travel ticket away from her home, she didn't do that and she wasn't required to do that. She opined that the court had told her she didn't need to do that, but due to the United States Supreme Court's decision, the Alaska Supreme Court had to say that filing the formal petition is the only thing that matters now.

[1:27:58 PM](#)

REPRESENTATIVE CLAMAN noted that the department issued regulations allowing for the more formal notice as an interested party, and opined that those regulations have been in place for roughly a year.

MS. LAWTON agreed, and she commented that emergency regulations were enacted; however, they only apply to what the department does, it doesn't require the court to change any of their processes or system. Without the support of the legislation the regulations do not have the intended effect, she said.

[1:28:35 PM](#)

REPRESENTATIVE CLAMAN surmised that the regulations are working well after a year.

MS. LAWTON opined that she was unsure whether the department had seen it tested entirely. Although, she commented, it hasn't

heard of any cases where it has not worked. She described the regulations as being enacted backwards because usually the statutes come first.

REPRESENTATIVE CLAMAN offered that this legislation basically puts in place [a statute] where the Native Village of Tununak case won't happen again in Alaska.

MS. LAWTON answered, absolutely.

[1:29:07 PM](#)

CHAIR LEDOUX pointed out that federal law still requires the petition, so under the Village of Tununak case, the grandmother hadn't filed the petition, but she put the department on notice that she wanted to adopt the child. Under Native Village of Tununak, she asked whether the department went to bat for the grandmother.

MS. LAWTON related she was not familiar with the case in the early beginnings and she couldn't speak to why, or why not, the department did not pursue the grandmother earlier in that case.

[1:29:56 PM](#)

CHAIR LEDOUX asked whether there is an exception in federal law that says a person does not have to do the petition early if the state has regulations or a law allowing a placeholder.

MS. LAWTON explained that the formal petition will eventually occur, and this legislation is another mechanism, a temporary solution, of preserving those placement preferences until the petition is actually required. She reiterated there could be several family members or other members of the child's tribe coming forward, and as the division sorts out those folks, all but one are not viable options. The folks [not chosen] will never get to the step of filing a Petition to Adopt. This legislation, she explained, would provide for the recognition of where they fall in those placement preferences, and without the use of the proxy they would have been required to file the formal Petition to Adopt in order for the court to recognize and consider them.

[1:31:17 PM](#)

REPRESENTATIVE KELLER asked whether the Native Village of Tununak case had to do with filing by proxy, or not. He pointed

out that the inference made from that case was that Alaska needed to have a law changed to formalize this process. He queried whether without this law there can be an informal placement put in, such as a letter, telephone call, fax, or filling out a form, or whatever. He noted surprise that it is needed where it wasn't a direct corrective action in the lawsuit.

MS. LAWTON related that the inference earlier was that if under Native Village of Tununak II the provision for the use of a proxy wasn't in state law, then the grandmother, when she had identified herself to the court as someone interested in placement and adoption, would have preserved her right. When that decision was ultimately decided it wouldn't have mattered who had filed the formal Petition to Adopt because that would have still been considered, but it wouldn't have guaranteed the judge would have ruled in her favor. She offered that she doesn't know all of the facts of weighing the placement options, but she opined that if they don't file the proxy in a case involving a Native child, and later relative A comes forward saying they want the child, and foster family A also wants the child, the court does not have to recognize that there is a higher preference. This child is covered under the Indian Child Welfare Act and this is a relative of the child, the court could almost look at them as equal competing interested parties. Whereby, the division believes it is important for children to be with their families, and if they can't be with their families to keep them within their tribal communities or close to home and, she related, that is what this provision ensures the division do.

[1:33:42 PM](#)

CHAIR LEDOUX offered a scenario of the grandmother telling the division she wants the child, writes a letter, send an email, and orally puts it in on the division's record. She asked whether it is then the division's responsibility to make certain the grandmother files a petition, and without this law the division won't make sure the grandmother files the petition.

[1:34:12 PM](#)

MS. LAWTON explained that the division's responsibility would be, after the grandmother identifies her [desire to have the child], the division would [investigate], have a home visit and further conversations with the grandmother to evaluate her ability to take immediate placement. She said, "It's just, you

know, call me -- call me a year from now if things don't work out, you know, with the biological mom, but I'm willing to take the child now and permanently, if needed." The division is then required to provide a written report to the court advising what it learned about the grandmother. A court hearing would then take place to evaluate whether anyone has disagreements with this potential placement. Assuming she is suitable and willing to take immediate placement, the division would move forward from that perspective. The petition still would not necessarily need to be formally filed until, and if, reunification fails and the division must actually move to an adoption.

[1:35:05 PM](#)

CHAIR LEDOUX inquired as to why the division doesn't just do that, why a law is necessary to tell the department what to do, and if that is the best practice why hasn't the department been doing it.

MS. LAWTON responded that it has been the division's practice, and opined that the law is necessary in order to ensure that the adoption placement preferences are not ignored, or otherwise not considered by the court. She offered that it has nothing to do with the department's efforts to find relatives or evaluate the relatives, it has to do with a judicial determination that, without this legislation or a formal petition, may have family members or other tribal members not given the consideration they are due.

[1:35:55 PM](#)

REPRESENTATIVE KELLER asked whether she was saying that the court would ignore a letter that was on file and managed by the division. He further asked the difference between "what we're doing" and information the division receives through whatever means that there is a potential placement out there. He queried whether the courts would take that into consideration,

MS. LAWTON answered that in Native Village of Tununak it was exactly seen that the court didn't take that into consideration even though that request and notification had occurred. Except, by the letter of the law, the grandmother had not filed the formal Petition to Adopt and court said the grandmother's actions were not good enough, she explained.

[1:36:49 PM](#)

CHAIR LEDOUX surmised that if this legislation had been the law and the grandmother still hadn't filed a formal Petition to Adopt, that would not have been good enough either.

MS. LAWTON responded that if the grandmother didn't file the formal Petition to Adopt and the division didn't have the proxy provision, and a family member came forward at some other later date, the court would not have to recognize the adoption placement preferences. For example, if the child was residing with a non-related extended family member (NREFM), the court could look at them equally, weigh the pros and cons, and make a determination as to who would best meet the child's needs and not give consideration to a relationship with the child, per se.

[1:37:32 PM](#)

REPRESENTATIVE FOSTER surmised that the state lost the Native Village of Tununak lawsuit and the state is attempting to fix that. He referred to the committee packets and offered that they include information in which First Alaskans, AFN, and many tribes and Native Corporations show support for the state's proposal to fix it. He then voiced support because he is comfortable where the bill is going with this issue.

[1:38:29 PM](#)

The committee took a short at ease.

[1:38:42 PM](#)

CHAIR LEDOUX listed the names of witnesses available to answer questions, and hearing no requests opened public testimony.

[1:39:49 PM](#)

AMANDA MacADO, Aleutian Pribilof Islands Association, offered the Aleutian Pribilof Islands Association's support of the legislation. After listening to the confusing discussion, she stated the Child In Need of Aid (CINA) process can be a long and confusing process for communities and villages across Alaska. These are formalities that many Native individuals do not understand. Allowing these families to express their interest in the CINA proceedings, not having to wait until the permanency goal where the parents have already terminated their rights and wait until probate, gives them an opportunity to have time to prepare, time to have a full understanding of what will happen and what will take place, rather than waiting until the end.

She explained, once it goes to the point of permanency and adoption, it is similar to a race and not easy for someone out in the village, who does not understand the process and possibly the families don't speak English, this gives them more time. It also gives ECHO workers more time to help the families understand the process and have their voices heard. The Aleutian Pribilof Islands Association supports this bill 100 percent and the committee would be doing a great service to not only Alaska's children but to their extended families by approving this bill.

[1:42:22 PM](#)

CRISTY WILLER, Chief Operating Officer, Cook Inlet Tribal Council (CITC), said she serves as Chief Operation Officer for the Cook Inlet Tribal Council (CITC) and it offers strong support for HB 200. This bill provides an important correction to the Alaska Supreme Court decision in the Native Village of Tununak case. Within CITC's child welfare services there is a broad continuum of care, from intensive in-home case management to supervised visitation. It is especially proud of the work within its Father's Journey Program where 90 percent of the parents have increased contact with their children within 90 days. She advised the CITC works closely with OCS and with families for these results. House Bill 200 removes barriers for Alaska Native families who want to adopt these children who are connected to them by family or tribal membership. The legislation makes the process realistic and understandable, and remove obstacles that have resulted in children unnecessarily being disconnected from their families. Unfortunately, she noted, currently well over 40 percent of Alaska Native children are adopted annually by non-Native non-family members. The bill will increase the number of Alaska Native children to reach permanency with their family culture and traditions, and will reduce litigation based on lack of compliance with the Indian Child Welfare Act. This bill seeks to eliminate procedural barriers in the adoption process for children in custody and Alaska Native families can be considered for adoption through the CINA proceedings rather than through an entirely different proceeding held in probate court. As a result, children in an out-of-home placement would reach permanency more quickly, lessening the burden on the Alaska Office of Children's Services (OCS). She thanked the committee for its support in keeping Alaska's children with their families and in their own home communities.

[1:45:01 PM](#)

REPRESENTATIVE MILLETT asked whether the current ratio is disproportionate in terms of Native and non-Native children in foster care. Statistics, she stated, there is a disproportionate number of Native children and this legislation is a way to move children into tribes and this is way to move to a more proportionate number.

MS. WILLER opined the ratio is approximately 60 percent of Alaska Native children, and this bill would allow that permanency to be achieved more quickly and reduce the inequality.

REPRESENTATIVE MILLETT surmised that the legislation is geared toward better placement and better opportunities for the disproportionate population to find permanent homes.

MS. WILLER agreed.

[1:46:31 PM](#)

MELANIE FREDERICKS, Community Member, Association of Village Council Presidents, offered support for HB 200 because currently Alaska Native families, in her region, encounter many challenges and barriers throughout the life of a Child In Need of Aid (CINA) case. The barriers can include language because often English is the region's second language. These barriers cause complications and confusion such that paperwork is often discouraging and confusing, and they often do not receive the help or undivided attention they need because advocates and social workers may not reside in their communities. Relatives, especially those living in rural communities, often feel intimidated and confused with the court system which could potentially deter family members from moving forward with issues such as the formal Petition for Adoption. In passing this legislation the State of Alaska would ensure removal of one of these many barriers for families and children in her region to gain permanency, and the opportunity to take care of one of their relative children, she said.

[1:48:41 PM](#)

ANDREW BEAVER, Tribal Administrator, Native Village of Kwigillngok, said they strongly support HB 200 because it makes it easier for families to work with OCS and also lets the court know that the Native Village of Kwigillngok is willing and able to take care of its families in their village. He expressed

there shouldn't be complicated paperwork when everyone is already aware that a family member is willing to adopt their own relative. He described this bill as "making a lot of sense" and noted it can prevent a lot of grief for children and families. He thanked the legislature for honoring the Native Village of Kwigillingok's volunteer child protection team with an Alaskan sealed certificate on March 26, 2010, signed by the Speaker of the House, the President of the Senate, Bob Heron and Senator Lynn Hoffman as prime sponsors, and 57 other co-sponsors. He expressed appreciation for recognizing the child protection team.

1:50:54 PM

MELANIE BAHNKE, CEO, KAWEAK Incorporated, advised that English is her second language and she would prefer giving her testimony in Yupik simply so the committee could get a sense of what the court system can feel like from the other end of the spectrum. She remarked that Child In Need of Aid (CINA) proceedings and the court system may as well all be held in Chinese. She echoed support for the legislation and stressed that Chair LeDoux hit the nail on its head when she asked why people can't just do the right thing in the first place without requiring a law. She expressed her wish that people and systems would automatically do the right thing, but they don't always. The current Department of Health and Social Services, Division of Office of Children's Services administration has been good to work with from her end of the tribal partner's perspective, but administrations come and go, people come and go, judges come and go, and that is why things need to be put into regulation, and placed into law. "You represent 20 percent of the overall population in the state" she said, and yet its children represent 60 percent of children in OCS custody, and half of its children are adopted out to non-Native people. She implored the committee to do the right thing in the first place and enact this law. She reiterated barriers such as language and the court system, and offered that the OCS system can be intimidating, confusing, and a total power imbalance. Even she as a highly educated person, she said, she can be intimidated by the process. The legislature should be looking to reduce barriers wherever possible for her people to take responsibility and take care of their own people.

MS. BAHNKE referred to the question asking why the legislation only applied to Alaska Native children, and commented that if this bill would be killed because it only addresses Alaska Native children, then she urged the committee to look at

expanding the scope. The State of Alaska claims authority over children's matters, court matters, and it needs to fulfill its responsibilities, which includes compliance with federal laws. In this case, the Department of Health and Social Services is earnestly working to reduce barriers for Native people to adopt Native children, and she asked that the committee do the right thing and pass this bill.

[1:54:46 PM](#)

REPRESENTATIVE FOSTER remarked that Ms. Bahnke is a good friend [of his]. She is also the CEO of his regional Native nonprofit representing Little Diomed Island. He described Little Diomed as small, with no roads, no railroad, no airplanes, and the only transportation is by helicopter. Therefore, the challenges for someone living on the small island include the possibility that two weeks may pass before someone can leave the island, there are telephones but working face-to-face is more effective, especially when it comes to a situation like this where adoption is involved, and not understanding the legal system. He said the bill is good because distance is an issue and added that there are many more challenges.

[1:56:14 PM](#)

CHAIR LEDOUX expressed to Ms. Bahnke that she was not thinking the bill should die because it may only apply to Alaska Native children, she was thinking that the idea of family reunification and reunifying with other relatives should be applied along the gamut for all children.

MS. BAHNKE related that she had that sense from Chair LeDoux, she just didn't want "perfect be the enemy good." She suggested that possibly this could be considered a starting point and then see how things develop.

[1:57:15 PM](#)

NICOLE BORROMEO, Executive Vice President and General Counsel, Alaska Federation of Natives, said there is a lot of support for the bill within the Alaska Native community and the Alaska Federation of Natives (AFN). The AFN has been heavily involved in the bill since it originated since AFN drafted it in close partnership with OCS and the governor's office, she explained. She said she echoes Chair LeDoux's words relating to people just doing the right thing and said that, unfortunately, for all the

reasons previously identified, that doesn't happen and this legislation is necessary to protect the right thing.

[1:59:09 PM](#)

KATHERINE MOSES, Tribal Administrator, Asa'carsarmiut Tribal Council, was not available and Lorraine Mung spoke on her behalf. Ms. Mung advised that they live in Mountain Village, and support HB 200 for the same reasons previously mentioned, and many people in villages, communities, and cities throughout the state agree. She asked the committee to understand the importance of the legislation to Native families, and to not make the process complicated for a family care for their own relatives in situations where good family members are ready to adopt.

[2:00:35 PM](#)

EVELYN PETERSON, Echo Worker, Asa'carsarmiut Tribal Council, said she lives in Mountain Village. She said she agrees with Ms. Mung's reasons for supporting this legislation, and asked that the bill pass.

[2:01:35 PM](#)

DAPHNE JOE, Asa'carsarmiut Tribe, said she lives in Mountain Village and fully supports HB 200. She pointed out that too many of their tribal members have been adopted out of their families, when there are families that want to take them in. This legislation will make it easier for family members to let the court know they are willing to raise their relatives, or children, by changing it to only one judge following the case. She remarked that that will save a lot of time and importantly keep children close to their families, communities, and culture.

[2:02:46 PM](#)

ELIZABETH STEVENS, Echo Worker, Napaiap Tribal Court, said she works with the Association of Village Council Presidents (Avcp) in Bethel and with OCS workers. She stated she supports HB 200, and if this bill passes it will be easier for members.

[2:04:13 PM](#)

DON SHIRCEL, Director, Client Development, Tanana Chiefs Conference, offered strong support for HB 200. He said that as a social worker who spent the last 33 years working for the

Tanana Chiefs Conference and working closely with OCS, he recognizes the practical implications and significant contributions this bill could make toward improving the Office of Children's Services, and the court system. He opined that HB 200 makes possible a common sense approach that could easily fix a problem, potentially save time, effort and money by consolidating and streamlining court processes. Most importantly, he said, it could provide more children traumatized by abuse, a safe, healthy, nurturing and permanent home that is fully connected to their family, community and culture. This legislation could significantly help the state comply with the spirit, intent, and letter of the law regarding the Indian Child Welfare Act by ensuring that a relative willing to adopt a family member will always have their voice heard. He commented, it is one of those bills that just makes sense for all of Alaska's children who won't have to wade through another court process to have a permanent home. The bill also makes sense for all of Alaska's families that are ready, able, and willing to provide a home right now. He asked that the committee actively support the passage of this bill this session.

[2:06:22 PM](#)

DARLENE PETE, Tribal Administrator, said she fully supports the bill because too many of her tribal members have been adopted out of their families and communities when they have family willing to take them in. She related that it is heartbreaking that many children have been adopted out and are sometimes nowhere to be found by other family members. This bill would make it easier for a family member to let the court know they are willing to raise their relative by changing it to one judge following the case. Money will be saved, and most importantly, it will keep their children close to their family, community, and their culture, she said.

[2:07:59 PM](#)

APRIL FERGUSON, Senior Vice President and General Counsel, Bristol Bay Native Corporation, said that she has served as Senior Vice President and General Counsel to the Bristol Bay Native Corporation, and she chairs the AFN litigation and legislative committee. Hard work has gone into this bill by a number of experts having experience in all areas of the state. She noted that every process needs periodic review and this bill contains a number of corrective fixes that will help streamline the process in moving forward, and save the state money.

The foster care system in this state is in desperate trouble and the state must utilize all of its resources to do the best for the children. She asked that the House Judiciary Standing Committee become a champion for this cause, and she asked that the committee support the bill.

[2:10:14 PM](#)

ELIZABETH MEDICINE CROW, President/CEO, First Alaskans Institute, said she supports this bill and for the past twelve years, First Alaskans Institute has had the honor, privilege, and responsibility in helping develop its community's leadership. The First Alaskans Institute has touched the lives of over 8,000 children, young people, youth, and young adults from across the state. Throughout this time, it has seen its young people seek to strengthen families or already have a deep cultural connection to who they are through relationships with their families and communities. These young people have an inherent ability and capacity to lead their people and contribute to Alaska. She related that, "At the root, of the root, of the root of this bill" is common sense, practical application, and experience of all Alaskans to place children in families and communities within their culture, where they have the best chance of thriving." She said that all people of Alaska have that responsibility. The First Alaskan Institute thanks the sponsors of this bill in supporting and fighting for children's rights, she said.

[2:12:22 PM](#)

MELVIN EGOAK said he fully supports HB 200. He said he has seen too many tribal members adopted out even though families advised OCS and the court, that families are willing and able to "take care of our family right here in our villages." He related, paperwork shouldn't be necessary when everyone is already aware that the family members are willing to adopt their own relative. This bill can relieve families of heartbreak, please pass this bill, he asked.

[2:13:42 PM](#)

ELIZABETH HENSLEY, General Counsel, Maniilaq Association, said the Maniilaq Association is a consortium of the twelve tribes of Northwest Alaska. She related that she is preparing to take the children, in the emergent school, ice fishing this week, and while fishing, will speak their native language. The fish will then be taken back to the classroom, cut up, viewed under a

microscope to identify various parts of the fish, and then cooked and eaten. She said that what she described is some of what Kotzebue children do at home, and these children would not receive that education any place else. She requested the passage of HB 200, and keep children home in their communities across the state so they can be enriched in the beautiful cultures thriving throughout Alaska. She noted that she comes from a family wherein her aunties and uncles were raised in four different communities, she did not know them growing up, and she does not know their children. She asked that the process of adopting their children be as simple as possible, to help keep children at home, and save the state money.

[2:17:36 PM](#)

LORINDA WESTIN O'BRIAN pointed to the importance of HB 200, and related it is all about [children] knowing who they are, and grown adopted people want to know where their family is located. Although, she remarked, some children will never know, [where their family is located] due to sealed records. She acknowledge that information may seem separate, but it is relevant to a person knowing who they are. Clearly, this legislation is in line and connects to the federal intent of the Indian Child Welfare Act, keeping children with their families and communities, and keeping those children connected to their heritage.

[2:19:41 PM](#)

MARY TUNUCHUK, Chefnak Tribal Council, said she is "all in" for HB 200, and echoes the support from prior witnesses. She asked the committee to understand the importance of HB 200 to Alaska's families and not making it complicated for a family to take care of its own relatives. There are situations, she said, where good family members are ready to adopt in order that the child is not misplaced outside their village, and raised not knowing their blood line.

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

[2:21:46 PM](#)

REPRESENTATIVE MILLETT asked Ms. Lawton to walk the committee through the 60 percent - 40 percent population, and discuss the difficulty of finding adoption for Alaska Native foster children.

2:22:34 PM

MS. LAWTON responded that currently there are just under 3,000 children in foster care, and of that amount, approximately 55 percent are Alaska Native. She referred to difficulties to adoption that this bill will help improve, and noted that sometimes, due to workloads and other reasons, OCS struggles to identify all of the family members in the beginning. There is federal and state law and policy governing how much family searching is taken on, and at which point it continues to search. Although, she said, as the case moves along, often family members come forward late in the game, and sometimes parents are not always willing to tell OCS all of their family members in the beginning, which can cause delays. Sometimes, she pointed out, given the historical context the Alaska Native population has experienced in Alaska, and around the country, there is some caution and concern about "jumping on board" to work with OCS. Particularly, she said, when OCS asks a relative to be in a position where they may see that as "they're kind of being an agent of the state," because if they are caring for the child, OCS will tell them what the rules are in terms of contact with relatives. She described that as a difficult place for a relative to be in when working with the state, working with the authority that comes from working with OCS, and the historical distrust. She opined that sometimes relatives are nervous about stepping forward early, and OCS believes the bill will help because it allows its colleagues in tribal child welfare to have earnest conversations with relatives and advise that this is their opportunity. Also, the Office of Children's Services (OCS) will explain that they can't wait until they see that reunification fails, because that is when the state gets into terrible situations where the children have become attached, and the foster families have fallen in love with them. This bill not only requires that the party is interested in permanent placement, but it also requires that they are willing to take immediate placement. She related that that will help to promote earlier decision making to get people on board with families within their tribal communities earlier.

2:25:19 PM

REPRESENTATIVE KELLER moved to report CSHB 200, Version 29-GH1262/H, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 200(HSS) moved from the House Judiciary Standing Committee.

[2:25:40 PM](#)

The committee took an at-ease from 2:25 p.m. to 2:31 p.m.

**SB 180-PARENT-GUARDIAN/CHILD: TEMP. POWER OF ATTY**

[2:31:03 PM](#)

CHAIR LEDOUX announced that the next order of business would be SENATE BILL NO. 180, "An Act relating to the temporary delegation by a parent or guardian of powers related to a child; relating to adoption; and relating to the distribution to a parent or guardian in a child protection situation of information on family support services."

[2:31:30 PM](#)

KARLE NORE, Staff, Senator Cathy Giesel, Alaska State Legislature, said that SB 180 is commonly referred to as Safe Families for Children. An issue considered when drafting this legislation was to preserve families, which are the core unit of society, because [families] are the best environment for children. She remarked that life has challenges, such as loss of work, divorce, homelessness, struggling with addiction, medical emergencies, military deployment, or incarceration. Not all Alaskan families have someone to care for their children, who need a safe place while they solve these issues, she pointed out. These parents do not necessarily want, or need, government to take their children, and the bill establishes a safe and healthy alternative to placing a child into the foster care system. She said SB 180 allows parents to execute a power of attorney over their minor child, for no more than one year, to another family in order to prevent the child from entering the foster care system. This legislation allows the parent, or guardian, to retain all of their parental rights inside the power of attorney. Either parent can revoke the power of attorney immediately, at any time, regardless of who implemented the power of attorney. Birth parents retain all rights and responsibilities of the child, she said. It allows parents, or guardians, struggling to seek help with unemployment, homelessness, and/or eviction, without concern of losing their children, or without being accused of abandonment, abuse, or neglect of the child while these family challenges are resolved. There are provisions in the bill allowing for military parents, or guardians, as well as incarcerated parents, to execute a power of attorney for their children's care. This bill creates an exemption allowing for nonprofit organizations that help find

temporary care for children in struggling families. She explained that it exempts the nonprofit from having a variance in order to operate, and it is getting government out of the way at the heart of these issues.

[2:34:29 PM](#)

CHAIR LEDOUX listed witnesses available to answer questions and asked Ms. Nore to point out significant portions of the sectional.

MS. NORE explained that the heart of the bill is the robust version of the power of attorney that gives more stipulation, and allows for military parents to execute the power of attorney for the length of their active duty plus 30 days.

MS. NORE referred to the exemption for non-profit organizations, and pointed to Sec. 7, AS 47.32.020, page 8, lines 3-6, which read:

(c) If a nonprofit organization operates a program that assists parents to find temporary care for a child, the nonprofit organization is exempt from the licensing and other requirements of this chapter when operating the program.

[2:35:47 PM](#)

REPRESENTATIVE MILLETT described this as the "safe, soft, surrender bill," when families are experiencing temporary crisis they can find suitable parents to intervene for them while the parent gets their life back together. She asked whether that is the gist of the entire bill.

[2:36:28 PM](#)

MS. NORE agreed, and she said there was testimony within the Senate Judiciary Standing Committee by a mother who utilized the Safe Families for Children in Alaska program, which is operated by Beacon Hill. This mother was facing an extended hospital stay for several weeks and did not have anyone to care for her children. She asked Safe Families for Children for temporary care for her children; the children were temporarily placed, and once she was healed regained custody of her children.

REPRESENTATIVE KELLER expressed gratitude for the work the sponsor put into the bill, and noted he is the sponsor of HB 201, which is the House version of SB 180.

[2:37:30 PM](#)

CHAIR LEDOUX opened public testimony.

[2:37:40 PM](#)

ANDREW BROWN, Senior Fellow, Child Welfare Reform, Foundation for Government Accountability, said the Foundation for Government Accountability is a nonprofit nonpartisan organization dedicated to promoting better lives for individuals and families through improving health and welfare programs nationwide. He advised that Safe Families for Children is working in Alaska by rallying the local communities to come along side families in crisis before problems get to the point of OCS intervention. Statistically, he said, the majority of children in foster care are there due to poverty and neglect, rather than physical or sexual abuse. These children are there because their families often have nowhere to turn to get the help they need, and he related stories from his past. The concept of Safe Families for Children is simple, it is neighbors helping neighbors during times of trouble. It organizes through the local community to recruit, screen, and train volunteer host families to temporarily care for children while their parents receive help. He noted that the families do not receive compensation. Beacon Hill is overseen by professional staff and it is often done through existing private child welfare agencies to ensure the safety of all placements. When a parent, in crisis, seeks the help of Safe Families for Children, they are introduced to a host family willing and able to take care of their children. In the event that parent is comfortable, the parent authorizes the host family to care for their children through a power of attorney. He described this arrangement as unique, because the parent retains full legal parental rights throughout the duration of the placement. It is important, he pointed out, that this legislation allows parents to address issues without fear their family will be torn apart.

[2:42:32 PM](#)

MR. BROWN pointed to Sec. 2, AS 13.26.023(h), page 5, lines 13-17, which read:

(h) Except as otherwise determined under another statute, the execution of a power of attorney by a parent or guardian does not constitute abandonment, neglect, or abuse of the minor child or ward under AS 47.10.013 - 47.10.015, unless the parent or guardian fails, after the power of attorney terminates, to retake custody of the child and does not execute a new power of attorney.

MR. BROWN continued that the provision means that the parents loving choice to ask for help cannot be held against them, as opposed to being a bad parent and neglecting their child. He said he has been told by families in crisis that they would not go to the state for help due to fear the state would take their children away from them. Safe Families for Children is an important tool, this legislation is critical to get out in front and help OCS do the work they are already doing to protect children in Alaska. Nationwide, he explained, the Safe Families for Children network is active in 27 states, it has served over 20,000 children, and of those children 90 percent successfully returned home within an average of 45 days, never to enter the child welfare system. Nationally, when comparing a child in the foster care system, they have roughly a 50-50 shot at ever coming home, and an average time in foster care is over 700 days. He explained that this bill is inspired by best practices perfected by the Safe Families for Children organization over the last 14 years, and SB 180 gives families the safe option to provide for temporary care of their children while they get the help they need to achieve stability. The program keeps the children close to their communities and creates an environment where someone in that child's school district, or local church, or local community, comes forward to help the family and take the children in. He said that frontline OCS workers are stretched thin, they are overwhelmed and need better pools of resources to help them respond to the needs of children and families.

[CHAIR LEDOUX passed the gavel to Vice Chair Keller.]

[2:46:55 PM](#)

VICE CHAIR KELLER advised that Chair LeDoux passed the gavel to him because she has a bill in another committee.

[2:47:11 PM](#)

ANDY COARY said he is in favor of the bill because it makes sense, and will enable movements, such as Safe Families for Children, to operate in Alaska and keep children from entering the foster care system. Also, he pointed out, by doing that, there is reduced financial strain on the state, and it allows non-state resources to step in and care for these children in need. He opined that the bill has the proper protections in place for parental rights, because it is a voluntary arrangement between a parent and a caregiver, and the parent maintains the right to revoke the power of attorney at any time. On a personal note, he offered that he has seen the benefits of the Safe Families for Children movement in Anchorage, because close friends have taken in children, and those children did not have to enter foster care. He described this as an ongoing effort to reduce the number of children entering foster care, and SB 180 will assist in reducing the number of children in state foster care.

[2:49:15 PM](#)

CHARITY CARMODY, President, Beacon Hill, explained that Beacon Hill is a foster care and adoption community resource center, and is the arm of the faith based community seeking to provide aide to children going into foster care, or children at risk of going into foster care. In 2003, the Safe Families for Children national movement began, and is in seven different countries. Beacon Hill is the implementer for Safe Families for Children, with the blessings of OCS, because it believed the system would work in Alaska, especially within rural communities, because it does go back to the tribal way of the community taking care of itself, she said. Although, she commented, Beacon Hill did not want to become a child placement agency with regulations attached, although, it does operate in that manner, it prefers to operate outside of the state system. Therefore, Beacon Hill requested legislation that would help eliminate the need for Beach Hill to be a child placement agency, and also, that the host families are not required to be licensed foster families. She explained that the families within the movement are not families with any current OCS investigation, she stated, and if abuse was happening, the parents would be referred directly to OCS. These are families calling about other forms of crisis. She said that Beacon Hill began operating Safe Families for Children in Alaska on January 1, [2016], and since that time 12 children have entered Safe Families for Children in Anchorage and the Matanuska-Susitna Valley who have not entered foster care. She explained that Beacon Hill, and the host families, come alongside the parents, surround them with a whole community

of people that helps keep them on track, provides for their needs and the needs of the host families, and creates a social network that didn't exist for those families before. She commented that Beacon Hill has a wonderful relationship with OCS, under its current leadership, but administrations change and it wants to help protect the people willing to volunteer their time and lives for this movement.

[2:53:32 PM](#)

MIKE COONS said he was speaking as a former non-commissioned officer in charge of medical readiness at Wright-Patterson Air Force Base, Ohio. He offered that his duties included determining what to do with the children of the families if the United States went to war, with many logistical issues. From a deployment standpoint, he opined, there is a timeframe wherein deployment orders come in so an airman can work on those issues. Although, he explained, in the event of Desert Shield and Desert Storm, the deployment happened fast, and being in Alaska it was difficult to get the grandparents to the children. He opined that this legislation will help the military community with those deployments and rapid deployments that occur and save those children from trauma in the foster care system. He related that he is not a fan of the state foster care system, and he supports this legislation moving forward.

[2:56:05 PM](#)

VICE CHAIR KELLER after ascertaining no one further wished to testify, closed public testimony.

REPRESENTATIVE MILLETT remarked that this is a good bill and she would like to see it move out of committee to avoid some children entering into the state foster care system, and save money for the state.

VICE CHAIR KELLER added that having a strong family as a result [of this legislation] is a great bonus.

REPRESENTATIVE CLAMAN asked the administration's position on this bill.

VICE CHAIR KELLER advised that Ms. Tracy Campbell can speak to his question. He related that he has spoken with OCS on several occasions and his impression is that OCS is positive.

[2:57:35 PM](#)

TRACY SPARTZ CAMPBELL, Deputy Director, Office of Children's Services, Department of Health & Social Services, responded that the Office of Children's Services (OCS) has positive feelings about this program; however, the administration's official position on the bill is neutral.

[2:57:58 PM](#)

REPRESENTATIVE CLAMAN moved to report CSSB 180(JUD), Version 29-LS1431/I out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSSB 180(JUD) passed out of the House Judiciary Standing Committee.

[2:58:16 PM](#)

The committee took an at-ease from 2:58 p.m. to 3:00 p.m.

**HB 334-CHILD CUSTODY; DOM. VIOLENCE; CHILD ABUSE**

[3:00:56 PM](#)

VICE CHAIR KELLER announced that the next order of business would be HOUSE BILL NO. 334, "An Act relating to visitation and child custody."

[Before the committee was HB 334, Version 29-LS1409/I.]

[3:01:05 PM](#)

REPRESENTATIVE MILLETT moved to adopt HB 334, Version 29-LS1409/H as the working document. There being no objection, Version H was before the committee as the working document.

[3:01:28 PM](#)

CRYSTAL KOENEMAN, Staff, Representative Cathy Munoz, Alaska State Legislature, said Version H is the original version of the bill introduced by Representative Munoz modifying visitation in child custody statutes. Currently, AS 25.24.150 allows for a rebuttable presumption to be utilized if there is a history of domestic violence. She advised that history is defined as one serious incident, or more than one incident of domestic violence as identified by the judge. This legislation seeks to change that language from "a history of domestic violence" to "a conviction of domestic violence," she said.

VICE CHAIR KELLER opened public testimony.

3:02:50 PM

REBECCA SHIELDS, Executive Director, Kodiak Women's Resource and Crisis Center, said she has worked in the field of domestic violence and sexual assault for 25 years, and within her experiences, has come to learn that domestic violence is an isolated and secretive crime that happens behind closed doors and is; therefore, hard to prove in a court of law. Currently, with the state's budget crisis, its district attorney's office, law enforcement offices, and courts are suffering from budget cuts and understaffed with reduced working hours. The threat most often heard from victims is that their abuser told them if they leave the relationship, the abusive partner will take the children, or sue for custody. She related that the threat is already all too real for victims, because the abuser is oftentimes the main wage earner in the household with the money to fight for custody. She said that victims stay or return to their violent relationship because, in their minds, it is the only way to keep custody and protect their children. This legislation will validate the victims' greatest fears, to not be able to protect their children in court protected or custody cases, would be realized. The most undeserved victims of domestic violence incurring the greatest harm are children who grow up in violent homes. Alaska has 1.4 times the national rate in child abuse, and this legislation disregards the rights of children's safety as priority. The consequence of HB 334 is that children would be sentenced to living in violent households either as witness to, or direct recipients of, violence. The Alaska Network on Domestic Violence and Sexual Assault (ANDVSA) worked hard with the legislature to pass the current rebuttable presumptive law in 2004 to protect Alaskan children. She explained that under the law prior to 2004, parents and children were killed during custody disputes, that current law saved lives, and the legislature should not mess with that. She advised she is strongly opposed to HB 334, and urged the committee to not move the bill forward.

3:06:30 PM

PAUL GRANT, Attorney, said he has practiced law in the domestic violence and sexual assault field over 25 years. In his experience, he related, the current law frequently destroys relationships between children and parents who are not violent, and have not committed any physical violence or psychological violence against the children. Under current law, once the

court is forced to impose supervised visitation there are many barriers to supervised visitation being effective contact. He explained that those barriers can include, costs, unavailability of a batterer's programs in remote communities, lack of qualified supervisors, and any number of problems. He expressed, current law needs to change, and addressed the differences between the original bill (Version H), and the committee substitute (Version I), and noted his personal preference for Version I. He explained there are two ways to approach the problem, but they both come down to making sure that the people subjected to a presumption or supervised visitation, are people who are causing harm to children. He said, often there are technical violations, such as an accidental encounter in a grocery store, which leads to a violation of a protective order, which then triggers the presumption, and from there all of the consequences roll downhill.

[3:09:17 PM](#)

MR. GRANT suggested requiring a conviction of the crime before imposing the presumption, which makes clear this person actually committed some act of violence that caused harm to the children of that marriage. The committee substitute approach was different in that it establishes the highest civil level of proof, clear and convincing, in order for there to be a history of domestic violence. In the event there was an act of domestic violence, the court must take that into consideration in the custody determination. Or, he said, under the committee substitute, "conviction of a crime." He explained there are two ways to get to the history of domestic violence. The most beneficial aspect of the committee substitute is that it gives the court discretion.

MR. GRANT pointed to Sec. 2, AS 25.20.061, page 1, lines 13-15 and page 2, lines 1-4, which read:

If visitation is awarded to a parent who the court finds by clear and convincing evidence has a history of perpetrating [COMMITTED A CRIME INVOLVING] domestic violence or been convicted of a crime involving domestic violence, against the other parent, [OR] a child, or a domestic living partner [OF THE TWO PARENTS], within five years preceding the award of visitation, the court may set conditions for the visitation, including

MR. GRANT explained that it gives the court a checklist of [conditions it can set] to protect the child in a case where it has found domestic violence. He explained that when the court finds there is domestic violence committed by the accused, there are then eight different protections the court can put into place in that particular case. The conditions do not, necessarily, involve removing the child from the parent, whereas, under current law the court really has no choice. For example, he said, if there is a finding of domestic violence, the conditions can include: supervised visitation; possibility of a batterer's program if available; alcohol or drug restrictions; paying the costs of supervised visitation; and a number of other conditions.

[3:12:28 PM](#)

MR. GRANT opined, the most important factor is giving the trial courts the discretion to make reasoned decisions as to whether this person is a danger to these children. Under current law, under the presumption, that [discretion] does not happen. He explained that the court does not have a choice to determine whether this person is a danger to these children, and opined that the court does not want to destroy the relationship between a child and their parent. He said his preference is taking the presumption out and making it a clear and convincing finding by the court, which would then trigger the protections the court can impose. He pointed out that either version gets the law moving in the right direction, which is to not destroy relationships between parents and children in the absence of a concrete showing of harm to the child involved.

[3:14:08 PM](#)

REPRESENTATIVE KREISS-TOMKINS asked how often the rebuttable presumption has been invoked in these custody cases, in Mr. Grant's experience.

MR. GRANT opined, it is invoked approximately 10-15 percent of the time, wherein possibly 20 percent of the time there would be a couple of incidents of domestic violence when discussing the entire universe of custody cases. Another problem, he said, is that due to the way the law is structured, if the parent contemplating suing for divorce wants to obtain custody of the children, and that parent is able to convince the court there were two incidents of domestic violence, then that parent has immediately put their ball in the five yard line of the other team. He advised he has often seen the tactic of invoking the

rebuttable presumption used in cases where there is no danger to the child. The presumption is invoked because it gives that parent an advantage in the unfolding custody litigation. He opined that he could not offer a statistical number, other than it is pretty substantial, but he could say there are a number of cases in which he has seen the tool applied.

[3:16:40 PM](#)

The committee took an at-ease from 3:16 p.m. to 3:17p.m.

[3:17:05 PM](#)

VICE CHAIR KELLER advised that Chair LeDoux had returned, but he would continue as chair through the conclusion of Mr. Grant's testimony.

REPRESENTATIVE KREISS-TOMKINS asked Mr. Grant, as a family law attorney, which side of these cases he finds himself on.

MR. GRANT responded that he has represented both parties a relatively equal amount of time. He pointed out that it is more common the mother invokes the presumption; however, he has recently been involved in a couple of cases in which the mother was the perpetrator. Although, he related, it certainly is not a gender exclusive phenomenon and he finds himself on both sides of the issue, and both sides of parents of both genders.

[3:18:56 PM](#)

REPRESENTATIVE KREISS-TOMKINS referred to the court finding that the domestic violence had occurred and the presumption attached with the notion of a technical violation, and asked how technical a technical violation can be. He further asked Mr. Grant to illustrate two technical violations from his prior cases, how uncommon it can be that someone who, in his view, does not pose a danger to a child can be found of two infractions of domestic violence, and the presumption be invoked upon them.

[3:20:01 PM](#)

MR. GRANT offered the example he presented within his written testimony for the previous committee, and advised that the facts were modified slightly so the people involved couldn't be identified. During an argument the father slammed a door in the house and broke the door frame, and the police were called but

never did anything about that. Although, technically speaking that is malicious destruction of property or some sort of an assault. The court found, on request for a short-term restraining order, that incident constituted enough of a showing to obtain a short-term restraining order. Subsequently, the father ran into the mother in the grocery store, and not having consulted with counsel yet, asked the mother what they were doing, can't they stop this, and figure out some other way to work it out. At some point the conversation got a bit heated and the father finally walked away. The mother called the police, he was arrested for violating the 20 day restraining order, supervised visitation followed, and he didn't see his children for a long time. He pointed out that that is the type of case that concerns him. An argument can be made that the father is a perpetrator because he slammed the door during the argument and the child heard it, and that's domestic violence that children are exposed to. He opined that no reasonable person would say that is a situation where a father should lose his relationship with his children, and that is the type of issue the bill needs to address in whichever version is taken up by the committee.

[3:22:36 PM](#)

REPRESENTATIVE CLAMAN offered that several of the folks previously testifying discussed the challenges in domestic violence cases, and that reporting is a large issue. He pointed out that this discussion is not the slamming of doors in anger cases, but rather cases wherein people are physically assaulted and those children put in danger. He also pointed out, there are domestic violence orders not resulting in prosecutions for any number of reasons. Previous testimony indicated that this legislation makes it harder to reverse the trends in domestic violence cases if the legislature changes how these domestic violence orders are managed. He asked how Mr. Grant responds to that critic of both versions of the bill, not focused on the slamming of the door scenario where people are potentially abusing the domestic violence protective order statute. He asked Mr. Grant how he balances those issues due to the issue of domestic violence in this state.

[3:24:38 PM](#)

MR. GRANT responded that the problem Representative Claman posited is that it is an "either or" situation, either the perpetrator gets away with it, or potentially the protections are abused. He opined, the solution is judicial discretion, the

judge's ability to look down at these parties and relate what he believes happened, and what should happen to protect the children or the other spouse. Thereby, giving the judge the ability to prevent destruction of a parent-child relationship unnecessarily, and [Version I] does that. Although, he noted, at the end of the day there probably will be hard cases where a choice has to be made as to the unnecessary destruction of parent-child relationships. The criminal system is set up to provide those kinds of protections, he remarked, and whether it does so, or not, he couldn't speak to how often prosecutors roll over on a case that should be prosecuted. He suggested there are other things to do about that, such as educating prosecutors, make referrals to prosecution easier, and other ways to approach that. He conceded there is a tension there, and [Version I] probably addresses that better by making it either a conviction of a domestic violence, or a finding of domestic violence.

[VICE CHAIR KELLER passed the gavel back to Chair LeDoux.]

[3:27:44 PM](#)

The committee took a short at ease.

[3:27:57 PM](#)

SARALYN TABACHNICK, Executive Director, Aiding Women in Abuse and Rape Emergencies (AWARE), said she has worked at the Aiding Women in Abuse and Rape Emergencies (AWARE) Center for 29 years, and during that time has worked with children who have experienced domestic violence or sexual abuse. She clarified that a slammed door doesn't, necessarily, mean that these people are a domestic violence offender. She pointed out that she does not want to minimize what domestic violence is, and described it as an ongoing pattern of behavior wherein people live in fear of an intimate partner in their home abusing power and control over them. She offered that children live in fear and slamming doors can be very fearful, it's not an isolated incident. She clarified, this is not about destroying relationships between parents and children, it's about keeping children safer, and the legislation does not keep children safer. In order for a conviction to occur, someone has to call the police, and in order for someone to call the police, they have to not be afraid of calling the police and not be afraid of getting the perpetrator in trouble. The [victims] must be willing to take that step. She continued that there has to be an arrest and a conviction. It is uncommon that there are consistent

convictions in domestic violence, because quite often charges are pled down to disorderly conduct, and then there is no domestic violence.

[3:30:51 PM](#)

MS. TABACHNICK related that under current law, rebuttable presumption requires a judge to find a history of domestic violence. She referred to previous testimony as to leaving it to the judge's discretion, and advised that current law protects Alaska's children exposed to domestic violence by requiring courts to consider that. The presumption is rebuttable, which means an accused domestic violence offender has the opportunity to come forward and contest it. She related that knowing all of this, the rebuttable presumption law puts faith in Alaska's judges to rely on collateral sources to determine a finding of domestic violence. In the event a history is found, the court has discretion to decide whether unsupervised, or supervised, visitation is best, and require the perpetrating parent to participate in some sort of programming. She explained that this does not mean an offending parent can't see their children, and when people say the father hasn't seen his children for a year, that is not because the court didn't allow it, she remarked. She stated, it means the parent made a choice to not see their children, because the court requires [certain] conditions to keep a child safe, generally a supervisor being present. She pointed out that this has also been helpful in assisting parents to get help, and Alaskan judges do not take that responsibility lightly. She urged the committee to let judge's do what they do best and what Alaskans trust them to do, look at all of the evidence, and make an informed decision about domestic violence in a given relationship. Current law is based upon language from a model code drafted by the National Council on Juvenile and Family Court Judges. She said that Alaska is one of twenty-four states to have a rebuttable presumption against giving custody to parents with a history of domestic violence, and that is something to be proud of, rather than looking to change.

[3:32:56 PM](#)

MS. TABACHNICK advised, more often than a rebuttable presumption protecting children, AWARE sees children ordered by the court to spend unsupervised time with an abusive parent, a parent they have seen be hurtful to their mothers, a parent they are afraid of, and a parent who may be directly abusive to them as well. More often than a rebuttable presumption protecting children,

AWARE hears mothers trying to protect their children, mothers whose hearts are wrenched put as they send their crying and pleading children to be with a parent they are terrified of. Then, she stressed, when their children return, they have nightmares, are angry or anxious or bed wetting for days until they are able to be soothed and calmed only to have this pattern repeated the next weekend. She said that Alaska is raising children who are learning that their needs and feelings don't matter, that their boundaries are not to be respected. Therefore, she said, they learn that they are not allowed to have boundaries and thus have no skills in either setting boundaries or believing they have rights to boundaries. Alaska, as a society, set up the most vulnerable children to be harmed again and again. She related that she finds HB 334 to be one of the most disheartening bills she has ever spoken to in her 27 years at AWARE. If anything, Alaska needs laws that further protect children, not laws that make it more difficult to keep them safe, she related.

[3:34:58 PM](#)

REPRESENTATIVE KREISS-TOMKINS asked what kind of supervised visitation programs exist in a community such as Juneau, how available are those kinds of programs in different parts of Alaska, and what cost would they have to the supervised parent. He asked her to provide her perspective on the realities of supervised visitation.

MS. TABACHNICK responded, there is one local agency offering supervised visits, and she was unsure whether other venues were available or arrangements could be made with the court in terms of finding a supervisor that is agreeable to all. She advised that when she hears about parents not seeing their children for a year, she stated that it is not because they couldn't find a supervisor or couldn't afford to pay for one, it is because they don't want to be told by the court or anyone that there has to be a supervisor, and they put that in front of their relationship with their children. She said that is also not unusual to see when domestic violence has occurred and the problem is not the presumption. She remarked that she hoped people would look more at justice than [using the rebuttable presumption as a tool and] winning.

[3:37:51 PM](#)

REPRESENTATIVE KREISS-TOMKINS surmised that in situations Ms. Tabachnick has seen, indignation and righteousness is a barrier

for the parent seeing the child and not necessarily the external barriers, such as cost or lack of services.

MS. TABACHNICK agreed.

REPRESENTATIVE CLAMAN clarified that Mr. Grant said he had considered using it as a tool but never actually done so, although he may have misheard him.

MS. TABACHNICK thanked Representative Claman because she is happy and relieved to be corrected on that.

REPRESENTATIVE CLAMAN related that doesn't mean that others, not represented, may not use it in that way. He referred people who may use slamming a door as a basis for a domestic violence petition, and the court may or may not approve the ex parte petition. He said those are contrasted with cases involving horrific instances of domestic violence that anyone would agree was awful by anyone's approach. He asked whether she has seen cases where it appears someone is using a single incident to push forward their domestic violence petition. He offered that he was trying to get the breadth of her experience in what she sees coming into the shelters.

MS. TABACHNICK answered that she does not do a lot of direct service, and she does not believe AWARE receives many people coming in just to look for a protection order, because the AWARE center looks for certain elements necessary to receive a protection order. Therefore, AWARE is looking for those elements and not looking to abuse or use the system, but it may ask someone why they are coming for AWARE's services if the issue is not one that puts them in fear.

CHAIR LEDOUX advised that Fred Triem is next and pointed out that she normally does not allow people to testify under public testimony twice, and she is making an exception in this case because the bill being heard today is different than the bill heard a couple of days ago.

[3:41:15 PM](#)

FRED TRIEM, Attorney, advised that the task before the committee is a task of legislative drafting, and that it is better to use a precise word or term in preference to a vague, amorphous, or uncertain term. He explained, this bill does a good job of replacing vague, amorphous, and imprecise terms with exact precise language. For example, under Version H, page 1, line 5,

and the phrase "committed" as in committed a crime, is replaced with the phrase "been convicted of a crime." He pointed out that when reviewing the second, third, and fourth pages of the bill this legislation is improved in eight different places by replacing the vague phrase of "a history of perpetrating" with a precise phrase "convicted." He described this as the best bill he has seen because it will improve Alaska's law, it will save the court system a lot of time, and it will eliminate a lot of expensive hearings.

MR. TRIEM referred to judicial discretion, and pointed out that the problem is that it requires time, requires a hearing, and a trial. The language of the bill eliminates the need for judicial discretion because discretion took place in an earlier proceeding wherein a defendant had their trial and exercised their due process rights. He remarked, this bill will not give free rein to child abuses as it simply protects Alaska's judicial system, the people involved in domestic violence, streamlines the process by requiring precise language, and eliminates time consuming and expensive proceedings. Given the late date of the session, he suggested that a good bill now is better than a perfect bill weeks and weeks from now.

[3:46:23 PM](#)

REPRESENTATIVE KREISS-TOMKINS asked whether he supports changing the eighth criteria listed on page 5, lines [1-7], to a conviction of drug use or drug abuse to similarly achieve a precise and clear definition that the court does not need to exercise discretion.

MR. TRIEM responded, he is not advocating a court should not use discretion. The language contained in Sec. 8, addresses the topic of different programs, some of which are not available in small towns. He stated he is not advocating doing away with discretion for a court to determine whether the defendant is abusing alcohol or psychoactive drugs. He reiterated that those are the kinds of conduct that have already been adjudicated and determined in a fair judicial proceeding. If a defendant has been convicted of abusing alcohol or using psychoactive drugs, a person can go to CourtView to determine whether there has been a conviction. He described it as a precise process wherein a determination is easily made, as opposed to having days and days of hearings to determine whether the person does, or does not, have a history of this misconduct.

[3:48:19 PM](#)

REPRESENTATIVE KREISS-TOMKINS surmised that Mr. Triem is saying he wants to see a conviction of domestic violence, and asked why he does not want to see a conviction for drug possession or drug use also.

MR. TRIEM replied he is not saying he does not want to see convictions. He explained that a conviction of misconduct is a result of a judicial process in which the defendant has had an opportunity to present his defenses in an orderly process, usually with a jury trial. Whereas, these cases that go before district courts and superior courts without a jury do not afford the accused the full range of their constitutional protections. In his experience, it is almost invariably a male who is being excluded by this process, because it is almost always men who lose custody of their children because they are accused of having a history of domestic violence, he said.

[3:49:45 PM](#)

MS. KOENEMAN pointed to Representative Kreiss-Tomkins's question regarding substance abuse, and whether or not there is support for conviction. She offered, the language in the bill, both in current statute and Version H, doesn't contain a rebuttable presumption language regarding substance abuse, like it does with domestic violence. There is specific language, "if there is a history, they are guilty until proven innocent," which is why the sponsor hasn't addressed that issue, or why there isn't clear and convincing evidence regarding substance abuse. She explained that it is a factor the judge can consider, but there is not an automatic loss of the person's children unless they complete a batterer's program or alcohol treatment abuse program.

MS. KOENEMAN pointed to a question related to supervised visitations. She explained that she has found seven programs across the entire state for supervised visitation. The cost for one program in Palmer, is a \$35 orientation fee and \$50 per hour. There was a 2011 Alaska Judicial Council report on the batterer's intervention programs that went through some of the stakeholder observations. She referred to the report and advised she would get copies of the report should members so desire. Ms. Koeneman said that page 6 of "that report" talks about barriers to referral, enrollment, and completion of the batterer's intervention programs, which she said states, "enrollment programs was often hindered by a lack of transportation, lack of money to pay for programs, and defendant

transiency." She said the report further lists suggestions, such as "examine the need for more programs statewide; look into ways to use technology to broaden the programs to rural locations, to women, and to ease transportation difficulties; examine ways to lower program costs, and to communicate payment options to offenders at the time of the referral; develop state protocols for transferring offenders from [Batterers' Intervention Program] BIPs to another in a different location; consider ways to promote batterer's intervention programs completion by teaching offenders life skills as part of the BIP course prior to entry."

MS. KOENEMAN pointed to the comment there are people attending batterer's intervention programs, or people who don't complete it, or people who choose not to. She opined there are many other reasons why, and she said, "I don't think it's just a sheer, 'I don't want to see my kids and I wanna fight,' you know, and 'I don't think I need to go.'" She opined there are true reasons as to why people are unable to complete those programs, as outlined by the Alaska Judicial Council.

[3:54:02 PM](#)

REPRESENTATIVE KELLER moved to report HB 334, Version 29-LS1409/H out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 334 moved from the House Judiciary Standing Committee.

[3:54:25 PM](#)

The committee took an at-ease from 3:54 p.m. to 4:04 p.m.

**SB 174-REG. OF FIREARMS/KNIVES BY UNIV. OF AK**

[4:04:38 PM](#)

CHAIR LEDOUX announced that the final order of business would SENATE BILL NO. 174, "An Act relating to the regulation of firearms and knives by the University of Alaska."

[4:05:35 PM](#)

SENATOR PETE KELLY advised there was a conflict between the Board of Regents policy, the Constitution of the State of Alaska, and Alaska's Statutes. In 2003, he related, under House Bill 102, it became legal to have a concealed carry in this state. He described it as a blanket legislation. He said that

subsequent to that law, the University of Alaska put into policy that concealed carry was not allowed, put up red signs advising that no one could have a gun on campus, and there was a campus-wide restriction on the carrying of weapons. He stated that the state constitution is specific about the right to keep and bear arms in the State of Alaska, and it is more strongly specified than the Constitution of the United States. The Constitution of the State of Alaska reads that the right to keep and bear arms is an individual right. Currently, he said, there are 150 campuses in the United States allowing concealed carry, and eight states put that into specific legislation. This legislation was originally drafted to mirror a piece of legislation that had gone through the process a couple of years ago. The University of Alaska pointed out their concerns and, he noted, that a couple of unique concerns involved the fact that the university deals with domestic violence disputes, employee and student disputes, investigations of those disputes, assaults, and it has dormitories. Changes were made in the bill allowing the university to restrict weapons in specific areas where the university handles disputes, and that the firearms must be secure in the dormitories. Essentially, he explained, the legislation makes it so the university has to be in line with other places in the state. Alaskans have the right to defend themselves and, he described the current university policy as a red sign saying bad guys don't carry weapons here, which does not meet any test it would put forward to provide safety, if that is its intent. He related that it unduly restricts the constitutional rights of Alaskans and it does not have the authority to do that, because the authority rests within the legislature and the provisions of the Constitution of the State of Alaska. That is essentially what this bill does, he said.

[4:10:10 PM](#)

SENATOR KELLY reiterated that this bill recognizes that Alaskans have the right to keep and bear arms. He explained that a motivation for the legislation was the San Bernardino shooting, and multiple shootings in the United States over the past few years. Since 1955, all but two of the mass public shootings in the United States have happened in gun free zones. When a person that normally has the right to defend themselves is told that they cannot defend themselves in these areas they become soft targets for the bad guys. He related that one of the items on the shooters plan, at the Virginia Polytechnic Institute and State University (Virginia Tech) shooting, was that it was a gun free zone. He said, with regard to the Century movie theater in

Aurora, Colorado shooting, there were eight other theaters in that city, but that particular theater was posted as a gun free zone. The choices made by the people who will do violence do it in places where they do not have people shooting back, they don't want to be interrupted in their mission by people defending themselves and, he commented, that many of those people will ultimately commit suicide. He opined the University of Alaska has made itself a large target, not only for people who are unstable, but also members of ISIS that have gained more and more strength in the country. When ISIS comes to Alaska, the sponsor wants to be certain Alaskans are prepared, and able, to defend themselves, and are not breaking the law when they carry out their "god given right," he said. He stated that the University of Alaska is against this bill on, probably, a philosophical basis, or it does not think it is able to manage a citizenry carrying out its constitutional rights. He noted the university's complaint that it is not able to restrict someone's right to carry if they are a threat to themselves or others, and said that currently exists in law, under a Title 47 hold. Senator Kelly advised Chair LeDoux that he had to leave ...

[4:14:28 PM](#)

CHAIR LEDOUX interjected that while she realizes he is a busy man, there are three questions she would like to ask. She referred to secured guns in the dormitories, and asked why that would not be constitutionally prohibited because the dormitories are the student's living area. She referred to the Senate Finance Committee zeroing out the fiscal note, and asked for the rationale. She then referred to letters from the public pointing out that people with guns are not allowed in the Juneau Capitol Building where the legislature resides. The public has asked why the people working at the University of Alaska have to deal with people with guns when they are not allowed in the legislative building.

[4:15:32 PM](#)

SENATOR KELLY responded, with regard to the dormitories, the bill reads that people must keep the weapon in a lockbox with a self-locking mechanism.

CHAIR LEDOUX asked what good is having the gun in a lockbox if someone breaks into the dormitory.

[4:15:47 PM](#)

SENATOR KELLY answered that the bill provides that a person either has it on their person, or it's in a lockbox. It would be against the rules for a person, leaving their dormitory for a long period of time, to leave it in there where it could be stolen. The idea is that with responsible gun ownership, certain things are wired into gun owners, such that the person has control of their weapon or has secured their weapon. Although, he related, the gun can remain in the lockbox if they are going shopping, or gone for a short period of time. Senator Kelly said he does not want people leaving their guns in their dormitories for a long period of time.

CHAIR LEDOUX asked whether the gun has to be in a lockbox if a person is in their room in the dormitory, or whether it is alright if they are in their room with the gun.

SENATOR KELLY replied that the gun has to be on their person or in the lockbox, which is basic responsible gun ownership.

SENATOR KELLY referred to zeroing out the fiscal note and offered that other states had put forward large fiscal notes, but those fiscal notes were never funded because they were not necessary. He offered that the red signs do not work, but areas where the university is investigating a domestic violence situation in a certain room, it is reasonable for the university to restrict weapons from that area. He described it as a simple matter that does not require wands and magnetic metal detectors, "it allows them to restrict in that manner." Similarly, he noted, courts do not allow weapons and the courts have magnetic metal detectors, but he does not feel that is necessary for the university because it will not be dealing with heightened levels of criminality that the courts deals with on an hour-by-hour basis.

[4:18:23 PM](#)

SENATOR KELLY referred to the difference between the university and legislators [and restricting people with guns], and responded that this bill is not about the legislature. If there is a desire for another bill, he commented that he just might sponsor that bill. This bill is regarding the university campus and he unsure about adding it to the bill because there may be complications he is unaware of at this late date, he remarked.

[4:18:58 PM](#)

REPRESENTATIVE CLAMAN referred to the lockbox idea and asked whether it would be in a student's room or on the main floor, and whether a lockbox is like a safe.

SENATOR KELLY advised that the lockbox would be in the student's room, and a lockbox is similar to a safe except it is smaller. Although, he explained that a safe could be used because the gun would be even more secure. He further explained that the lockbox is safer, and the bill specifies that it must be made of metal.

REPRESENTATIVE CLAMAN referred to the Constitution of the State of Alaska providing a greater right to possess arms than the Constitution of the United States, and asked whether he is aware of any Alaska Supreme Court case making that finding.

SENATOR KELLY advised that he is mostly tracking court cases for the Alaska Supreme Court where there has been an argument that the right to keep and bear arms is a general right in Alaska. When reading the Constitution of the State of Alaska on this matter, it reads that it is an individual right, he said.

[4:20:37 PM](#)

REPRESENTATIVE CLAMAN referred to Ravin v. State, 537 P.2d 494 (Alaska 1975), involving marijuana where the court found there was a greater right to privacy than in the federal constitution, and asked whether he was aware of an Alaska Supreme Court case that makes a similar finding.

SENATOR KELLY said, no.

[4:20:50 PM](#)

REPRESENTATIVE CLAMAN referred to his statement regarding the constitutional right to bear arms, and asked whether a homeowner has the right to tell his dinner guests that guns are not allowed in the house and to leave them in the car.

SENATOR KELLY responded that that issue is not contemplated in this bill, this involves the university.

REPRESENTATIVE CLAMAN said that he asked the question in terms of Senator Kelly's conception of the right to bear arms and how it weighs on other constitutional rights. He then reiterated the question and asked whether the neighbor can say that guns are not allowed in his house, and whether that would be within

his constitutional right to tell the guest to put the gun in the car.

SENATOR KELLY responded that the property owner, absolutely, would have the right to say that guns are not allowed in his home.

CHAIR LEDOUX pointed out that the neighbor's house is not a public building.

REPRESENTATIVE CLAMAN agreed, and he referred to the comparison between the Alaska Court System, which has taken the position that it can bar weapons from the public courthouse, he asked why it is not within the university's right, as the owner of that public space, to make these same determinations. He further asked how the university differs from the court system.

SENATOR KELLY responded that there is somewhat of a wall between the legislature being able to impose rules on the courts, although, there is some authority to do that, but there is a separation of powers between the legislature and the court. The right to keep and bear arms has evolved over time. The right of the court to say that the court is in session and guns are left outside the courthouse has been part of the American culture, and it is accepted by gun advocates. He noted he is unaware of anyone that supports guns in the courtroom due to the criminal nature, contentious nature, and adversarial nature of court.

[4:23:36 PM](#)

JOE BYRNES, Staff, Senator Pete Kelly, Alaska State Legislature, referred to the fiscal note and advised that the University of Alaska requested \$1.3 million because it referenced the same amount as the University of Idaho system had requested in order to implement its campus carry system. The State of Idaho legislature never funded the University of Idaho's request, and he said, "they found that the fiscal note, and I think we feel likewise to the fiscal note, on -- the university has offered on SB 174, um ... it was an attempt to oppose the bill." Although, he said, the University of Idaho system did implement long overdue security changes. Currently, he commented, all of the University of Alaska campus security forces are armed, and are actual peace officers. He questioned, why allowing law abiding citizens to carry concealed handguns on campus would require a sudden increase in security if the university currently believes its policy adequately protects its campus. He then offered to go through the sectional of the bill.

CHAIR LEDOUX asked that he focus on the most important aspects of the bill.

[4:25:44 PM](#)

MR. BYRNES agreed, and referred to Section 1, page 1, lines 6-10, which read as follows:

FINDINGS AND INTENT. The legislature finds that the individual right to keep and bear arms is a constitutionally protected right under art. 1, sec. 19, Constitution of the State of Alaska, and may not be abridged by the Board of Regents of the University of Alaska. The legislature reserves to the state the authority to regulate firearms, except as specifically provided in AS. 14.40.173.

MR. BYRNES advised it adds the findings and intent language to uncodified law.

MR. BYRNES advised that Sec. 2 amends the University of Alaska Community College statutes under Title 14, and makes explicit that the authority to regulate firearms and knives is reserved to the state, except as provided in statute, the Board of Regents may not regulate firearms and knives. He explained that the Board of Regents may regulate, through this legislation, includes: open carry firearms; restricting the discharge of firearms on land where there is a reasonable likelihood people, animals, or property will be in jeopardy; the possession of firearms or knives in posted restricted access areas, defined as an area beyond a secure point where visitors are screened and does not include common areas of ingress and egress open to the public; and may include university designated rooms where sexual assault, sexual harassment, or domestic violence are investigated and victim assistance is provided; and in university-designated rooms during adjudication of staff and student disciplinary issues and disputes. He continued that the Board of Regents may regulate the carrying of firearms in dormitories or shared living quarters; however, those regulations must require that the handgun is either carried on the person or secured in an owner provided lockbox. Persons living in dormitories must declare to the university their intention to store a weapon in their dormitory room. He noted that the university may privately collect and store that information for no more than one year, and use it for making housing decisions for students who have expressed they do not

want to share a dormitory room with a person who possesses a firearm.

[4:27:38 PM](#)

MR. BYRNES explained that the sponsor is trying to balance the rights of students who wish to carry their right to privacy, and the rights of students not desiring to share their dormitory room with a person possessing a firearm. Furthermore, he advised, the bill prohibits the following: the university creating a database or registry of persons who possess a firearm on campus; requiring permission before a person may possess a firearm on campus; or adopting implied consent policies on campus. The bill also contains a civil liability immunity section that states the university is immune from civil liability for any act or omission resulting from a policy or regulation adopted or enforced under this section of law. He offered that the University of Alaska requested that provision.

MR. BYRNES explained that Sec. 3, adds an effective date for the bill of August 1, 2016, to address the university's concern for enough time to promulgate conformed regulations before the upcoming semester. He then listed individuals available to answer questions.

[4:29:24 PM](#)

REPRESENTATIVE CLAMAN pointed to his reference about restricted access areas, and asked where it is located within the bill itself.

[4:29:35 PM](#)

MR. BYRNES responded that restricted access areas are mentioned on page 2, line 16, and are defined on page 4, lines 3-5. He explained that the restricted access area is a secure point beyond which visitors are screened, and does not include areas of common ingress and egress open to the public. He noted that this exact language is also found in Title 29, Municipal regulation of firearms statutes, because municipalities are not allowed to regulate firearms beyond what is found in the law, but are allowed to erect these restricted access areas.

REPRESENTATIVE KREISS-TOMKINS advised that he spoke with friends who had hunted since they were young children, and also trusted police officers. He advised that his hunting friends, one of which had taken a marksmanship course at the University of

Alaska Fairbanks, advised that stress can affect aim, and the police officers advised that in high stress and dangerous situations it is difficult to identify hostiles versus friendly people. He then referenced Senator's Kelly's comments regarding several mass shootings and opined that the clear implication is that this is seen as legislation that will advance the right to self-defense. He asked what precedence exists of attempted mass killings, cut short by intervention from everyday people who may carry concealed weapons, and that their actions directly resulted in a better outcome.

MR. BYRNES responded that he does not have a study at his disposal, although, he offered that FBI statistics indicate that retaliating people have an overwhelmingly better chance of getting out of their ordeal better than if they didn't retaliate. Although, he acknowledged, that statistic didn't have examples of how the people retaliated. Anecdotally, he said, there are many cases where armed citizens have de-escalated situations by having a gun. He pointed out that when it comes to violence on campus and the fear that more armed persons on campus will cause an increase in violence or increase in suicide, that burden of proof rests with people who wish to deny the right to begin with. He said that in all of the concealed carry campuses there has not been a marked increase in violence or suicide. Therefore, he commented, the evidence shows that, overall, this would not be an issue.

[4:36:05 PM](#)

REPRESENTATIVE KREISS-TOMKINS referred to the active shooter training provided at the Capitol Building, and noted that the basic take away was that defensive retaliation is appropriate. He said he agrees there has probably not been an increase of gun violence or suicides on campuses adopting concealed carry, but he would like to know what insurance companies think in evaluating the risks, and how it may, or may not, affect policies, which is a market based test.

[4:37:56 PM](#)

MR. BRYNES answered that he does not have any actuarial analysis from insurance providers, but there has not been an increase in violence. He added that the four instances that occurred have been accidental discharges from irresponsible use with non-life threatening injuries. He commented that concealed carry is for the self-defense of the person who is carrying, and not to protect other people. He advised that the sponsor does not

contemplate or encourage creating amateur armed SWAT teams roaming around campuses to take out the bad guys in mass shooting, and described it as irresponsible behavior. In many situations, he commented, where a person has been threatened, the mere brandishing of a gun may have de-escalated that situation, and currently on campus that is not allowed.

CHAIR LEDOUX pointed out that Europe does not have concealed carry due to stringent gun control laws, and it is highly unlikely the people in Brussels or Paris were carrying guns. Alaska, she said, has a fairly broad concealed carry law and Alaska could be the only area a study could take place.

[4:41:24 PM](#)

CHAIR LEDOUX turned to Michael Hostina, University of Alaska Fairbanks, and noted that, currently, guns are not allowed on campus, but Alaska has a broad concealed carry law in general. She asked how he would know whether someone is carrying a gun, because they are not required to go through metal detectors and they are not frisked.

[4:42:07 PM](#)

MICHAEL HOSTINA, General Counsel, clarified that weapons are permitted on campus under certain circumstances and students may have their weapons stored in secure storage. There are various events on campus to which weapons may be carried, such as gun shows, the rifle team where people may check in and check out their weapons, and people in faculty and single housing are permitted to store weapons. Weapons are not permitted in the dormitories and concealed carry is not generally permitted on campus. He explained that the university becomes aware of someone carrying a weapon when they act in an inappropriate manner, such as threatening someone, demonstrating their weapon, or the weapon is mishandled and falls out. When the university becomes aware of a person carrying a gun it takes steps to administratively remove those weapons from campus.

[4:43:33 PM](#)

REPRESENTATIVE CLAMAN referred to the restricted access areas listed in the bill and asked his understanding of what the university would be required to do, to create those areas.

MR. HOSTINA responded that a sign is not sufficient to establish a restricted access area, and currently the university, by

policy, may limit weapons in areas such as, a disciplinary hearing or an investigative meeting. With the passage of this bill, the university would not be able to enforce a policy unless it had established a secure point beyond which visitors are screened. In order to regulate weapons in those areas, the university would have to establish the restricted access area and, he said, that's the definition of a restricted access area.

REPRESENTATIVE CLAMAN asked whether that involves metal detectors or a guard sitting at the secure access point using a hand wand to check for weapons.

MR. HOSTINA answered that that is not clear and, he pointed out the best way to set up the university's restricted access area is not clear. Therefore, he explained, the fiscal note has an expense associated with it, which is now limited to the cost of a security analysis.

REPRESENTATIVE CLAMAN asked whether the university could have a secure access point, without having something different, screening for weapons. Or, he asked, would the university have to have something that screens for weapons to make it qualify as a restricted access area.

[4:45:49 PM](#)

MR. HOSTINA opined that someone disadvantaged by the university's enforcement of a restricted access area, that did not include some type of screening, would certainly have an argument that the university had not complied with the law. The university's ability to enforce requires it to establish some form of secure point, and some form of screening, otherwise it will not be able to enforce that aspect of the law.

[4:46:29 PM](#)

CHAIR LEDOUX noted that, currently, the university basically does not allow any guns on campus, and asked why it does not have a wand to test everyone. She then asked why, if the university is now allowing guns on campus, that people would have to go through the wand exercise. Clearly, she pointed out, a good portion of the university is in Fairbanks and there must be many people carrying guns in Fairbanks.

MR. HOSTINA replied that he does not know whether that is the case or not, or whether it is more likely in Anchorage, or not.

CHAIR LEDOUX interject that the university doesn't know whether a person is carrying because a wand is not used; therefore, if it is so important to check everyone, why isn't the university using the wands now.

MR. HOSTINA explained that it is a matter of being able to respond when the university becomes aware of an issue. Currently, he said, if the university becomes aware of someone violating its policy, the university can do something about it. Under this bill, the university would not be able to do something about someone carrying on campus unless the university had established a restricted access area. He pointed out that the bill establishes a restricted access area to prevent weapons from being involved in adjudications or investigations.

REPRESENTATIVE CLAMAN asked whether, currently, the university is involved in investigations of sexual assault, sexual harassment, domestic violence, and providing victim assistance.

MR. HOSTINA responded that the university is involved in investigations and assistance on a daily basis. He explained there are issues such as, sexual harassment, sexual assault, other assaults, student disciplinary issues, staff disciplinary issues, disputes involving student grades, and removal from programs. Those adjudications and investigations take place on a daily basis on the campuses of the university, he reiterated.

[4:48:53 PM](#)

REPRESENTATIVE CLAMAN surmised that, under this bill, the university would be required to create something akin to the courthouse wherein people are screened prior to entering the courthouse. He said that under this bill, the university would no longer assume people were obeying the rules of the campus and not carrying weapons.

MR. HOSTINA agreed.

CHAIR LEDOUX asked why the university would currently assume that people are not carrying weapons just because a sign is posted that says "no guns." She continued that the courthouse does not assume that people do not have guns.

MR. HOSTINA opined that the university does not assume that people do not have guns, but it does let people know that that is the policy of the university. The university can ask them to declare whether they have a firearm, and can ask them to remove

it from the campus. Alternatively, he noted, with younger people who carry, many may be responsible, but there will be some who will brag to their friends or roommates [about the gun], or possibly try to intimidate someone. Currently, when the university becomes aware of that [behavior], it can take action. Although, he said, that would not be the case under this bill, it would have to occur in a secure area.

REPRESENTATIVE KREISS-TOMKINS asked for clarification that if someone was brandishing a gun, intimidating, or showing off, asked whether anyone would have any recourse, or whether that become the new norm.

MR. HOSTINA asked whether that was a question for the university.

CHAIR LEDOUX answered yes, because he is the general counsel for the university.

MR. HOSTINA responded that, under SB 174, if someone was brandishing a gun there may be an issue of some type of threat, assault, or intimidation. There is a difference between a criminal and university proceeding, and the university could conduct an administrative proceeding if someone were intimidating someone with a weapon, he said.

[4:52:08 PM](#)

REPRESENTATIVE LYNN noted that a person can intimidate without having a gun, and whether currently the university would act if someone was intimidating someone else on the campuses.

MR. HOSTINA replied, absolutely. He then asked Chair LeDoux whether he could offer brief remarks because there may be a misapprehension that the university is in direct opposition to this bill, which is not the case. The university is seeking an amendment to this bill to manage firearms in specific situations, and it does not believe the current language allows it to do that effectively.

CHAIR LEDOUX agreed, opened public testimony, and advised Mr. Hostina that he could testify.

[4:53:26 PM](#)

MR. HOSTINA advised that the Board of Regents is seeking six amendments to SB 174, the Senate Education Standing Committee

Substitute included four of the amendments sought by the Board of Regents, and this bill only includes two and creates additional issues. He pointed out that the amendments sought by the university are grounded in existing state policy and existing state law. Those amendments would apply to situations similar to those situations in state law or under legislative policy where weapons are prohibited. For example, he advised that weapons are precluded under state law in the Capital Building, concealed carry is precluded for people under the age of 21, concealed carry in residences without the express permission of an adult resident, loaded firearms in places where intoxicating liquor is served, possession in childcare facilities, possession in court system facilities, possession in domestic violence and sexual assault shelters, and possession in schools from pre-school through secondary school. These existing policies in law, he explained, are constitutional for the reasons Antonin Gregory Scalia, Associate Justice of the Supreme Court of the United States noted in District of Columbia v. Heller, 554 U.S. 570 (2008), which involved sensitive places for government property, and were based on sound public policy. For the same reason, the University of Alaska's amendments, would be constitutional, they wouldn't criminalize conduct, are narrowly tailored to achieve the same public safety goals, would not exclude weapons from campus, but the amendments would permit the Board of Regents to manage specific high conflict, high risk situations common on its campuses. He mentioned there are two problems the current language of SB 174 creates, such that it does not adequately address secure storage of handguns and does not address storage of rifles or knives. It also technically allows concealed carry of rifles, as well as open carry of knives.

[4:56:05 PM](#)

MR. HOSTINA referred to risk of harm to self or others, and noted previous testimony offered that Title 47 takes care of that. He said that Title 47 is a high threshold to meet, because it involves committing someone involuntarily to a hospital and essentially imprisoning them. It happens rarely, he said it is not a useful tool for the university to use in dealing with students and employees, and it simply is not a good way to go when dealing with a student population the university is trying to help and support, or an employee population. He referred to the testimony regarding mass shootings on campuses, and noted that those are still fairly rare events, but suicide in Alaska is not a rare event. He explained that suicide is one of the leading causes of death among persons 15-24 years of age,

and referred to the memorandum he provided to the committee earlier. Suicide attempts by firearms are a more successful means because people can't change their minds after the trigger has been pulled. The university believes that the time to act is when behavior indicates a risk of harm to self or others, and that Title 47 does not provide an effective answer. He said the university would appreciate an amendment allowing it to deal with this as the Senate Education Standing Committee [Version N] provided.

4:58:19 PM

MR. HOSTINA explained that Amendments 2 and 3, involve health, counseling services, or other services, related to sexual harassment or violence located within the facilities used for adjudication of student and employee disciplinary issues or disputes. The university appreciates that this bill allows it to establish restricted access areas to address weapons in these areas, but doing so will involve some expense. He said, the issue will have to be addressed to create those restricted access areas, and make the rules enforceable as disputes are being adjudicated, or dealing with people possibly involved in domestic violence or sexual assault.

4:59:09 PM

MR. HOSTINA advised that the fourth amendment is regulation in student dorms and other shared living quarters. To be clear, he explained, the university is not seeking authority to regulate single family dwellings or individual apartments, but rather in shared living quarters. He advised that the discussion is concrete living, RA's manage these areas, and impose discipline. The dormitories themselves and shared apartments involve shared facilities, such as bathrooms and lounges. He referred to allegations that the university has few students under the age of 21, and clarified that 40 percent of the students in the dorms are over 21. Therefore, there will be a mix of people legally permitted to conceal carry, and those who are not. He pointed out there are transient visitors in dorms, the rooms are sometimes frequently visited by other students, alcohol is present, and allowing concealed carry in dorms and other shared housing results in concealed handguns and knives being accessible in a volatile environment, unlike any private residence. He said the lockbox portion of the bill provides that the students provide their own lockboxes, it is not clear how that will solve a problem since lockboxes have to be installed and the bill does not provide for that. The bill also

does not provide technical specifications for lockboxes, some of which are easily defeated with a paperclip or simply dropping them upside down. On the other hand, he commented, installing quality lockboxes in every room is a complex and expensive issue. He noted that another issue in this area is that the committee substitute appears to inadvertently provide for storage of long guns in university housing, it doesn't make any provision allowing the university to require secure storage of long guns in university housing. He asked that the committee amend this bill to allow the university to regulate weapons in shared housing and dormitories.

5:01:46 PM

MR. HOSTINA explained that the fifth amendment involves K-12 dedicated programs on campus, it does not include K-12 students occasionally being on campus, visiting a museum, or happening to walk across campus. This amendment relates to dedicated programs, and is a narrow amendment that only applies to portions of the facility used for K-12 dedicated programs, and only while the program is occurring. He explained that these all involve programs where the university assumes the role of a parent or guardian, and does not bear any resemblance to public places where children just happen to be present and accompanied by their parents. He advised that the ability to regulate in these areas, where dedicated K-12 programs are going on, would be consistent with current law on K-12 property. It would avoid potential accidents, and the university would be able to apply the same standard of care for K-12 as is the case on K-12 property.

5:03:06 PM

MR. HOSTINA related that due to the nature of the university premises, it believes that a conceal carry permit is useful. He point out that of the eight states requiring a public university to allow concealed carry, six require a permit, and two of those require an enhanced concealed carry permit. He reminded the committee that the university operates in close quarters, classrooms, laboratories, libraries and other communal space, and related it is appropriate that students have some training and knowledge about gun safety and applicable law. The permit would also exclude certain individuals with criminal convictions, including class A misdemeanors for domestic violence or stalking, from carrying concealed weapons on campus. He noted that the university asks the committee to adopt the Senate Education Standing Committee Substitute for SB 174 in

place of the version passed by the full Senate, and to also include the two additional amendments which provide for regulation for K-12, and a permit.

5:04:20 PM

REPRESENTATIVE KREISS-TOMKINS asked whether insurance will rise in any manner if this bill passes.

MR. HOSTINA replied that insurance companies often give insurance company type answers to that question. The university is self-insured for the first \$2 million in claims against the university. The university's excess carrier indicated it will let the university know the impact of this bill when the final bill is in place, and the policies and regulations of the university are in place, after the bill is passed, he said.

5:05:07 PM

REPRESENTATIVE KREISS-TOMKINS asked whether he had spoken with other universities in jurisdictions where similar legislation was passed, and if so, how that affected their insurance premiums.

5:05:29 PM

MR. HOSTINA said he was unsure whether the university asked about insurance premiums with other universities, although, it has asked about increased costs. He opined that the University of Idaho implemented screening procedures for its stadiums and added additional police. He referred to the earlier comment that all three of the University of Alaska campuses have armed police forces, and clarified that the Southeast campus does not have a police force.

REPRESENTATIVE LYNN asked why a person should be required to have a permit to carry on campus if they are not required to have a permit walking down the street.

MR. HOSTINA responded that the university has specific responsibilities for its students and employees on its campuses, in the event it doesn't respond when someone behaves irresponsibly, liability may result. Whereas, municipalities are not responsible for certain events taking place on public streets.

5:07:12 PM

CHAIR LEDOUX asked whether part of the bill exempts the university from liability.

MR. HOSTINA agreed that part of this bill does exempt the university, except "lawyers live for finding ways around provisions like that under certain civil rights actions." While it would prevent simple negligence type claims, it is not a guarantee, he said,

CHAIR LEDOUX asked whether there is any guarantee there wouldn't be claims brought against a municipality when someone is walking down a street.

MR. HOSTINA responded that in terms of a shooting incident, the municipality wouldn't ordinarily be subject to a claim. Obviously, he pointed out, if the police were called and they failed to respond, or responded inappropriately, a claim could arise but not the simple event itself. Whereas, he stated, on a university campus the university would likely be viewed as somehow responsible for failing to ensure safety.

[5:08:37 PM](#)

MR. HOSTINA, in response to Chair LeDoux as to whether he was aware of any other university being dinged for that, answered the University of Alaska was dinged many years past, in a negligence action. He agreed with Chair LeDoux that the bill exempts the university from negligence actions.

[5:09:12 PM](#)

REPRESENTATIVE CLAMAN referred to the fiscal note describing a need for a consultant to estimate what is necessary to create a secure area, and asked reason Mr. Hostina could not provide a ballpark range.

MR. HOSTINA explained that, at this point, the university believes it best to not attempt a guess.

In terms of the university trying to be fiscally restrained, it would be best to obtain professional advice on how to arrange sensitive areas involved in issues, such as investigation and disciplinary actions, to minimize the cost, potentially, of establishing secure restricted access areas, he explained.

[5:11:13 PM](#)

MAC COOPER, Associated General Counsel, Office of General Counsel, University of Alaska, responded that the university's rough estimate on the cost of a metal detector ranges from \$5,000 - \$10,000 per unit - with wands costing a few hundred dollars per unit, and a full-time security guard at approximately \$50,000 - \$80,000 per year. The University of Kansas is addressing the secured access issue in response to a law effective in July, 2017. The University of Kansas advised if it secured every building in its system, it would be beyond its financial means to do so. Mr. Cooper remarked that the University of Kansas is currently preparing the same type of study to determine what buildings and areas of buildings should be secured.

[5:12:21 PM](#)

REPRESENTATIVE KELLER made a point of order that the committee is far afield from debating the bill, and offered to make a motion to zero out the fiscal note.

CHAIR LEDOUX advised the conversation is allowed to continue, and subsequent to public testimony, the fiscal note debate can take place.

REPRESENTATIVE CLAMAN said he would hold his questions until the fiscal note debate so the public would have a chance to testify.

CHAIR LEDOUX noted the public testimony list is fairly long, and asked Mr. Cooper whether he would be available tomorrow.

MR. COOPER said he would be available tomorrow.

CHAIR LEDOUX opened public testimony, and advised she is limiting testimony to two minutes per person to allow time for all witnesses.

[5:13:32 PM](#)

KEN LANDFIELD related that he occasionally takes classes at the Katchemak Bay campus of the Kenai Peninsula College, and shared the Constitution of the State of Alaska, Article VII Section 3, which read:

The University of Alaska shall be governed by a board of regents. The regents shall be appointed by the governor, subject to confirmation by a majority of the

members of the legislature in joint session. The board shall, in accordance with law, formulate policy and appoint the president of the university. He shall be the executive officer of the board.

MR. LANDFIELD said that beyond the Board of Regents and the president of the University of Alaska, there are chancellors responsible for their respective campuses, not to mention various branches with their own directors and respective administrations. He asked whether these officials and administrations are not the proper avenue for establishing university policy in general, and in particular. While there is a state policy allowing concealed carry statewide, he related that weapons are not allowed in public places, such as the legislature and the court system. He suggested that this legislation is a clear case of state government overreach and questioned why, in the face of a crippling budget crisis, the legislature is spending precious time on an expensive, non-urgent, non-issue, outside of its constitutional jurisdiction. He asked that the bill not be enacted.

[5:16:45 PM](#)

The committee took an at-ease from 5:16 p.m. to 5:28 p.m.

[5:28:54 PM](#)

ERIN HOOD said he is testifying on his own behalf, teaches at the University of Alaska Southeast (UAS), and opined that one of the main justifications for this bill is righting some sort of constitutional wrong. Article I, Section 19 of the Constitution of the State of Alaska was amended in 1994 to confer broader gun rights, he said, and then read the instruction to voters, "This amendment 'quote' would not overturn or invalidate state laws restricting access of possession of firearms in school building." Therefore, people voting in 1994 were told this amendment was still in accordance with banning firearms in school buildings. He said he would read from an Alaska Supreme Court decision, as follows: "In limited respects as, 'quote,' the Board of Regents is, 'quote,' co-equal rather than subordinate to that of the executive or legislative arms of government." That language "in the constitution," implies that there should be deference to the Board of Regents with regard to policies within the University of Alaska's campuses. He explained that the University of Alaska, Board of Regents voted nine to two against this bill, and in working at the university and talking with students, staff, and administrators, the nine

to two vote is representative of the amount of support the bill has on campus, with approximately 80 percent against the bill, he remarked. He pointed to the idea of government overreach and related that the people of King Cove are angry and disrespected because they can't build a road to the airport because the federal government is ignoring their particular concerns and overruling them. The university campus is overwhelmingly against this bill and its concerns are being ignored. From a practical standpoint, the focus has been almost entirely on school shootings, 30,000 shootings in the United States every year, of those, two-thirds are suicides, one-third are homicides, and less than one percent are justifiable homicides. Therefore, there is no reason to think that by putting guns on campus will doing anything except increase suicides and homicides, he related.

[5:32:06 PM](#)

REPRESENTATIVE CLAMAN asked the subject he teaches at UAS.

MR. HOOD responded, Environmental Science.

REPRESENTATIVE LYNN referred to his statement that the students on campus are 80 percent ...

MR. HOOD interjected that that is his personal opinion after speaking with student and other staff about guns and hunting, and opined that the support is almost negligible between staff, the administration, and students.

REPRESENTATIVE LYNN asked whether his opinion is primarily based upon students in the environmental science classes.

MR. HOOD advised that he teaches all majors in his introductory education classes.

CHAIR LEDOUX referred to his statement that he has no reason to believe this bill will do anything other than increase suicides and homicides, and asked whether he was familiar with the other schools that have now initiated the guns on campus system. She opined there has been no uptick in homicides or suicides.

[5:33:42 PM](#)

MR. HOOD answered that only 8 states out of [50] allow guns on school campuses, and school shootings and justifiable homicides are a tiny fraction of the total number of shootings in the

United States. He remarked that it is more important to ask why 42 states do not want guns in their school, and to consider, in this budget crisis, whether the legislature wants to attract students from out-of-state, and to consider parents being told guns are in the dormitories where people are drinking.

5:34:50 PM

SALLY RUE said she is a long-time resident of Alaska, is speaking on her own behalf, and urged the committee to oppose this bill. She offered that she grew up in a hunting family, is a gun owner, has enjoyed hunting and passing on the tradition to her children, and she is not against guns. Although, she pointed out, she is against the legislature forcing the Board of Regents to allow guns almost everywhere on campus. Currently, the university allows weapons on campus in a reasonable manner that is not in conflict with the Second Amendment of the Constitution of the United States. Restricting firearms in government buildings and schools has been recognized by the courts, and the Alaska legislature, as presumptively lawful and outside the scope of constitutional protections. The right to bear arms is not the same as the right to carry arms all of the time and anywhere. This bill is trying to address a problem that does not exist, she opined. Alaska's university system is first and foremost a place of learning where students, faculty, and staff need to feel safe to freely discuss ideas and explore differences. She described it as a place where young people are growing into adults, where they experience the ups and downs of adolescence and young adulthood. This often includes experimenting with alcohol and drugs, navigating romantic relationships and breakups, and sometimes dealing with a mental health crisis. The students live in dorms and close quarters where friction can occur, and mixing firearms into this volatile environment does nothing to increase safety, and does everything to make it inevitable there will be avoidable tragedies. Alaska has the highest rates of suicide, gun violence, and sexual assault in the nation, and there is no evidence this bill will do anything to lessen that and, it could likely worsen it. During this time of Alaska's budget crisis, the university is facing huge cuts to its budget, cutting academic programs and up to hundreds of faculty positions and, she remarked, this legislation would divert even more resources from academics and student support. Alaska and the Alaska legislature face momentous choices this session that will determine the future health and welfare of the entire state, she said. This bill is not needed, potentially harmful to Alaska's young people and the

university system, and does nothing to focus on its biggest issues. She urged the committee to oppose SB 174.

5:37:59 PM

FRANK RUE said he lives in Juneau, and is a long-time Alaskan hunter and gun owner. He related that he is aware of a suicide that took place because the gun was left unlocked, and once the decision is made to pull the trigger it can't be un-pulled. Allowing concealed weapons on campus will not make campuses safer, but rather more depressed suicidal students will have the means to kill themselves, and firearms will be readily available at that moment of no return. He commented that rather than students being hungover and seeking help from a counselor there will be more dead students. The same is true, he noted, for those moments when a student is angry about being dumped by their girlfriend or given a bad grade by a professor. He opined that rather than an incident of assault or harassment, counseling, and/or legal proceedings, there will be dead girlfriends and faculty. The same runs true for someone drunk on alcohol and a fight. He pointed out that the most promising students and faculty are the people likely to go elsewhere due to the presence of concealed weapons on the University of Alaska's campuses. He advised that the same is happening elsewhere in the country where weapons on campus legislation is passed. For example, he pointed out that the dean of the highly touted University of Texas Architecture School left Texas to become the Dean of the University of Pennsylvania Design School in large part, because the newly passed Texas law allowed concealed guns on campus. He pointed to the sponsor's remark to people with the same above decisions, "Don't let the door hit you on the ass on your way out the door," or words to that effect, he said. He related that most people, who care about the University of Alaska system, disagree with that sentiment, and agree that Alaska keeping its best students and faculty will improve the experience and education for all students. He related that President Mark Hamilton remarked, as follows: "The 10 percent free tuition to 10 percent greatest highest students was the one thing that made the -- increased the academic rigor of the university because now you had the very best students in Alaska." Mr. Rue reiterated that, that one thing alone raised the academic standards of the university, and he opined that this bill will drive some of those students away.

5:40:48 PM

REPRESENTATIVE CLAMAN referred to his mention of other universities enacting these laws, and asked whether those state schools saw a change after they added the concealed carry provisions in terms of students applying to go to those schools.

MR RUE answered that he was not aware of any.

[5:41:19 PM](#)

CHAIR LEDOUX referred to his concerns about dead girlfriends, dead boyfriends, suicides, and so forth, and pointed out that many students live off campus. The university doesn't make it a condition of attending UAA, UAF, UAS, that no students are able to live off campus and have guns. She advised she does not see the distinction between living on campus and living off campus.

MR. RUE opined that situations can evolve quickly. He offered the scenario of people drinking in dorms, suddenly they are pushing each other, and a fight breaks out. Students are in close proximity to each other in a dorm, which is far more volatile than someone living in a house five miles off campus, he opined.

[5:42:49 PM](#)

CALLIE CONERTON, Student Government President, University of Alaska Southeast, advised she is a student at the University of Alaska Southeast (UAS), and serves as student government president, and as the statewide coalition of student leader's vice-chair. She commented that there are multiple reasons she opposes SB 174, campus is no place for guns. Contrary to what the committee has been told, there are fiscal impacts and Alaskan students cannot afford it. Major stakeholders from the university, including its president, the Board of Regents through the school faculty have opposed this dangerous and expensive legislation. A campus is no place for guns because, especially in dorms, guns and alcohol leads to impaired judgement about whether to shoot a gun, and impairs the aim when firing. A Columbia University study found that one-half of United States students binge drink or abuse illegal or prescription drugs. She said there is also an elevated risk for a firearm suicide as it is a one-shot deal and suicide attempts with guns are more successful than other suicide attempts. Alaska has huge problems with Seasonal Affective Disorder (SAD) which also leads to depression in students, people age 18-20 represent 4.4 percent of the total United States population but those people commit 17 percent of all gun homicides. Some

students may be responsible gun owners; however, there are often situations where they are in close proximity with students who do not have the knowledge or responsibility of gun handling and think of guns as a toy. Two weeks after the State of Idaho passed a bill allowing guns on campus, during class a professor literally shot himself in the foot accidentally, and she questioned whether Alaska wants that in its lecture halls and classrooms. She pointed out that students will end up paying for guns on campus, and with the current budget crunch it is irresponsible to pass a bill that will cost students money. She asked the committee to vote no on SB 174, and asked whether a responsible gun owner at a party will lockup the gun, or continue playing beer-pong.

[5:45:57 PM](#)

JENNIFER McCLUNG, Instructor, University of Alaska Anchorage, said she is an instructor at the University of Alaska Anchorage (UAA), and is opposed to the bill, because one of the premises on which the bill was written is false. The FBI released a study of active shooter incidents in the United States between 2000-2013, including shootings in schools, movie theaters, business districts, commercial areas, gun free zones, and areas allowing concealed weapons. The study found that less than one percent of active shooter events were resolved by an ordinary citizen with a firearm. She continued that out of 160 incidents, over a 14 year period, only one was stopped by a good guy with a gun. In contrast, that study stated that 21 incidents ended by unarmed civilians. Therefore, good people without guns, actually had more successful endings in active shooter incidents than good guys with guns. On the other hand, she commented, Alaska has a suicide problem and its college students are not exempt. During the last two years, there have been 18 suicide attempts at UAA alone, and likely some of them would have completed if they had access to a firearm, because suicide attempts with a firearm are almost always fatal. She opined that by increasing student access to firearms, especially in the dorms, there is a real risk more students will be enabled to take their own lives, and that risk is not worth a less than one percent chance of a good guy with a gun ending a mass shooting that may, or may not, ever occur.

[5:48:17 PM](#)

ROBIN SMITH said she opposes the bill. She offered that if she knew someone in the classroom had a gun, it would impact how she acted and that she would hesitate to approach the person or

engage in a conversation. Particularly, she related, not a divisive conversation, and it would have a chilling impact on their dialogue. Unfortunately, she remarked, guns are everywhere and society has not found a way to prevent individuals with mental illness, violent histories, or criminal histories, from accessing guns. She indicated that this bill buys into the myth that a good guy with a gun could resolve a shooting incident earlier than the police response. She referred to an FBI report, released in 2014, which counters that myth, and written by a special operations military person who had recently retired. She related that he said, "There are groups of individuals, special operators both military and law enforcement, who train for years to be good at close quarters shooting. Shooting with discernment, keeping your head clear, and making snap decisions before you pull the trigger, all while being shot at by the enemy. After dedicating their lives to being good operators in those extreme circumstances, even those professionals make mistakes." In some cases, she said, a good guy with a gun can neutralize the threat and help save lives, but it doesn't happen often. She related that people need to know it is a fallacy to believe that the everyday gun owner can be expected to make all of the right choices in a dangerous, fast moving situation like a mass shooting with high powered weapons. She referred to the FBI report offered by the previous witness that the [shootings] took place at schools because the shooters were associated with the schools, and not because they were gun-free zones. She remarked that in many cases [the shooter] did not know that they were gun-free zones. She asked that the committee oppose this bill.

[5:51:28 PM](#)

CAROLINE STORM, Alaska PTA Advocacy Committee, described this bill as, effectively, overreaching from the legislature to the Board of Regents. She opposes this bill, she said, because the Board of Regents believes this legislation is unsafe for its campuses, and the legislature does not have the right to make a decision for the people who know what life on campus is all about.

[5:52:34 PM](#)

PATRICK RACE advised he lives in Juneau and described himself as "another soft target" testifying against this bill. While listening to the sponsor's testimony, he said he was amazed the sponsor had no relatable statistics and relied entirely on anecdotes about "dudes with crowbars." He said he has a

computer science degree from UAF, and is the third generation in his family to graduate from Alaska's university system. He described his freshman roommate as an unstable, unhealthy young man who pulled a knife on him in the heat of the moment. He noted that he was unsure whether he would be testifying today if the roommate had instead pulled a handgun. Mr. Race related that he is concerned about what is being created here with no upside to it, except the possibility of increased campaign funding. This bill begs the question of whether the University of Alaska is violating the Constitution of the State of Alaska, and he reminded the committee that this is a question for the courts. It shouldn't be settled through a patchwork quilt of legislation, one bill for the university, another bill for the Capitol Building, and another bill later on down the road for K-12, and he asked that the committee discard this bill.

5:54:09 PM

REPRESENTATIVE KREISS-TOMKINS asked Mr. Race to describe the incident during his freshman year.

MR. RACE responded that his roommate fancied himself as a "mob boss" kind of guy, he watched a lot of "Good Fellas" type of entertainment, listened to Frank Sinatra, and had knives and probably guns, but not in their room. They got into an argument over a Nintendo game, and as young men are wont to do, it escalated into shoving. Eventually the roommate pulled out a knife and threatened to slit his throat while he was sleeping, he described. Mr. Race said he started down the hallway and due to the noise, many people were in their doorways. He then ran past the crowd, the crowd closed in behind him [blocking the roommate], and he moved into a different room after the incident. The incident he described is not uncommon, he pointed out, there are many fights and violence on campus that is not reported, there is a lot of drinking, events happen, there is a lot of miscommunication, and introducing guns into this environment will not help anyone. If this bill is passed out of committee and someone kills someone, the committee will have to live with that. He offered the scenario of someone coming at him with a knife, and "I pull out a gun, now I've killed him. How does that change my life?"

REPRESENTATIVE LYNN responded that Mr. Race's life would be changed by being alive.

MR. RACE agreed that he is alive, and fortunately has not had to murder anyone.

5:56:31 PM

BRIAN JUDY, Senior State Lobbyist, National Rifle Association, State of California Assemblyman, said he has a lot to unpack in two minutes, and he is the Alaska liaison for the Alaska National Rifle Association speaking in support of SB 174. He said that self-defense is a fundamental right and under existing law there is an arbitrary line, on one side of that line is a law abiding adult, age 21 years and older, that can choose to carry a firearm for self-protection on one side of the line, but they can't on the other. He explained that this bill is about not removing that line, but shrinking the line tremendously, shrinking the gun-free zone that is currently in effect. He referred to the question asking the university what it is doing now, and he said the university is not doing anything. He continued that if it is not doing anything now, then nothing will change in allowing law abiding adults to choose to provide a means of self-protection. He said it will not create the tremendous, disastrous, catastrophic, situation the committee has heard.

MR. JUDY said that this issue comes down to emotion versus facts and, he described "the emotion is pretty astounding in this committee room and I appreciate your indulgence." Gun free zones have proven to be a public policy failure, and every mass killing has happened in a so-called gun free zone. He remarked that criminals do not obey gun free zones, they are only respected by law abiding citizens. He said that the reality of designating an area as a gun free zone, doesn't create a gun free zone, it creates an area where only the victims will be disarmed.

5:58:31 PM

MR. JUDY referred to the eight states discussed in previous testimony, and said there is not a problem. This may, or may not, make campuses safer, but the evidence is that it won't make campuses more dangerous. He noted that the committee has heard dire predictions of catastrophe, and said it didn't happen in 1993 when Alaska passed the concealed weapon permit law, or when Alaska went permit-less carry, or in 2013 when Alaska passed a "no duty to retreat" bill. He commented that these same arguments are heard each time a bill passes in other states and the campuses are not becoming dangerous areas. There was testimony regarding Alaska's tremendous fiscal problems, and he commented that if there are security issues associated with

irresponsible people and their firearms, that's a problem now and the money needs to be spent, under the current circumstances, because this bill is not going to make the situation any worse. The states that have chosen to pass laws and allow law abiding adults to carry a means of self-protection haven't experienced any problems. Mr. Judy suggested a negative fiscal note associated with this bill because it will dramatically shrink the area the university will have to enforce a gun free policy, and he urged no amendments to SB 174.

6:00:56 PM

REPRESENTATIVE CLAMAN asked whether he was saying that by dramatically shrinking the authority of the university to control a campus, it will save the university millions of dollars.

MR. JUDY disagreed, and he said he did not say it would save the university millions of dollars.

REPRESENTATIVE CLAMAN argued that Mr. Judy said it should have a negative fiscal note, and he asked for an estimate of how much the committee should think about in his view of the estimated negative fiscal note.

MR. JUDY replied "I don't know, a dollar, five dollars, a thousand dollars?" He said in the State of Idaho, the observation by the legislature was that the fiscal note was unfounded and bloated. He opined that the fiscal note should be zero, and the bill should be passed out.

6:02:43 PM

STEVEN SAMUELSON said he supports the bill due to the reasons previously stated, and he could see how having guns on the university campuses could be contentious. Although, with the fiscal notes, this bill pertains to people who are already responsible gun owners who want to know that they can have their concealed weapon on a campus with adults. Alaska, through history, has held strong on access to guns due to subsistence rights and personal use rights, and he described this as just another level. He advised that he briefly attended UAA and was more afraid of the moose keeping him in his car than someone potentially having a gun on campus. He then mentioned that he had been in the areas of Moses Lake, Washington, and New Town, Connecticut, at the time of the shootings and they were eye

openers. He opined that Governor Frank Murkowski moved to permit-less concealed carry and nothing came of it.

6:05:08 PM

ALYSE GALVIN advised she has children who have taken classes at the University of Alaska Anchorage, (UAA), and described them as bright children younger than 18 years of age. She expressed that she would not allow her children on campus if it allows guns so freely, and opined that many parents agree with her. She asked whether the legislature was, currently, in a place where it listens to people from out-of-state, and allows those people to tell Alaskans what to do, or will the legislature listen to the people of Alaska. She said that, up until now, the state has been good at dictating its own future and she is hopeful the state is not moving to a new place. It is important, she pointed out, to recognize that children younger than 18 years of age are frequently on campus taking classes and in dorms. She remarked that having a gun in a lockbox is not the same as a gun in a safe. Alaskans believe they should be able to hunt and do the things important to them as Alaskans, and the Alaskan hunters she knows use a gun safe. She pointed out that the entire amount of time spent on this bill rather than the state's big problem is a concern, and she opposes the bill.

6:07:50 PM

REPRESENTATIVE LYNN commented that the legislature addresses many issues and frequently experts from out-of-state testify.

MS. GALVIN stated she appreciates that experts would sometimes testify, but that is different from paid lobbyists.

CHAIR LEDOUX related that the committee offers the opportunity for people from all over to testify, and noted the mail she has received from Alaskan is tilted toward favoring this bill rather than opposing this bill.

6:08:58 PM

BUTCH MOORE advised that in 2014 there were 145 gun deaths in Alaska, and none of those deaths occurred on college campuses. He said his daughter, Bree, was murdered, in 2014, by her boyfriend, she was a 20-year old UAA student, and her boyfriend was 21 years old. Within the majority of the 145 gun deaths in 2014, 79 percent were suicide, and the majority of all of those

were ages 18-26. The sponsor of this bill does not have any statistics that Alaska has a problem. Mr. Moore said within his research of mass shootings in Alaska, he could not find a mass shooting in Alaska until he researched back to 1984, at Manly Hot Springs. Alaska does not have a problem with guns on campus and this bill is not necessary. He advised that Bree Moore was proficient in the use of all weapons, was an active sporting shooter, and he supports the country's Second Amendment rights. If this bill passes, the young adult who turns 21 years old can walk into Fred Meyer and buy a handgun having had no training. He stressed that guns for people with no education on the use of guns is not needed in Alaska's communities which is a community-wide safety concern. He stressed this bill is not needed to protect Alaskan's constitutional rights, and to let the bill die in committee to protect the kids. He continued that a person has a greater chance of being struck by lightning than being shot on a college campus in the United States.

[6:12:25 PM](#)

MIKE NEWBERN, Assistant Director of Public Relations, Buckeyes for Concealed Carry, National Rifle Association, said he is in support of the campus carry bill, then referred to previous testimony advising this bill will not make college campuses any safer, and responded that it could not be said that SB 174 will make campuses any less safe. He related that shootings in the street did not happen when Alaska passed the concealed carry bill in 1993, and the same for the State of Ohio in 2004. The State of Ohio recently "got restaurant carry" and people were worried about blood pouring out of the bars where alcohol is served, and that hasn't happened. He mentioned a Texas A&M University study found no increase in crime with respect to campus concealed carry. He said Texas just passed a law, and other universities are coming up with policy to deal with campus conceal carry. He advised the working group at the University of Texas, Austin found no instance of violence with respect to campus conceal carry. He then referred to the comments regarding the ability to recruit students and/or faculty and/or staff. Admittedly, he offered, there have been a couple of faculty members in Texas who left, but the administrator that came to Texas from Utah when it enacted its conceal carry law in 2006, Michael Young, is currently the President of the Texas A&M University who said that initially in Utah there was some uproar when they got campus concealed carry in 2006, but in 2008-2011 the University of Utah saw record enrollment. The concerns regarding not being able to recruit students, faculty, or staff doesn't play out, and neither do the predictions of violence.

[6:15:14 PM](#)

TOM BOUTIN advised he is speaking for himself and that he supports the bill because it is good legislation for the world that Alaska finds itself in today. Gun free zones appear to encourage crime, and encourage nuts cases causing mayhem, he said.

[6:15:56 PM](#)

JENNIFER GLENN, Volunteer, Alaska Chapter, Moms Demand Action for Gun Sense in America, advised that Moms Demand Action for Gun Sense in America is a grass-roots movement of American parents in Alaska, and across the country, fighting for public safety measures respecting the Second Amendment and reducing gun violence. She advised that she and her husband own several guns, but she is opposed to this bill. In the event the bill becomes law, Alaska would join the ranks of only two other states that currently force colleges to allow all permit holders to carry guns on campus. She described the bill as assuming that anyone carrying on campuses will be a responsible gun owner; however, it is known that not all of those carrying a concealed weapon, or have a gun, are responsible gun owners. She asked how a student, rooming with another student, would know how responsible their roommate is, and whose responsibility it becomes when that gun owner takes it upon themselves to step into a dispute using their gun. She opined that SB 174 assumes many things. Amy Thompson wrote an article for the Journal of American College Health, entitled "Reducing firearms related violence on college campuses-police chiefs' perceptions and practices," which states that 89 percent of university police chiefs oppose policies that allow guns on campuses. The student community also echoes this sentiment wherein, "79 percent have said that they would not feel safe if faculty, students, or visitors, were allowed to bring concealed guns on campus." She said she attended UAF and graduated at UAA, and had there been a law allowing guns on these campuses, she would have considered attending another university or going to an online program. While working at the Municipality of Anchorage, at a recreation center, a shooting occurred. Thankfully no one was injured, but her experience tells her that arming citizens to protect other citizens is not an answer to this problem, she related. She opined that this bill goes against common sense when everyone knows often there is a mix of alcohol, drug use, and highly stressful situations on campus and dormitory rooms. She urged the committee to vote no.

6:19:13 PM

MIKE COONS said he is speaking as a member of the NRA and requested extra time because the "anti-gun crowd" gets extra time. He related there has been testimony that First Amendment rights, freedom of speech, will be infringed upon because teachers and students will be afraid to discuss controversial subjects with students due to fear they may be carrying a concealed firearm. He said he does not agree, and argued that the university has free speech zones, or the only place views considered non-politically correct, based on the liberal intolerance by faculty and student body, are allowed. He said, the assumption is that no person, unless they are liberals, can contain themselves in debating the issues of the day and, he said that is an affront to him and any American who values freedom of speech. Alcohol and drugs are another red herring, and he advised it's against the law to use a firearm while intoxicated. In the event he were a student, he said he would take grave offense to the attack that students are a bunch of drunks and illegal drug users that can't contain themselves. He described mental health as a huge red herring that paints students as not being able to handle stress, and he takes grave offense for the vast majority of students who are responsible and can control themselves. Continued talking points are just that, all based on the far left anti-gun organizations lies and innuendos, and the left has a long history of continuing the lies to make the truth, he said. In this case, as well as many others, the truth is the truth and change is not. He continued that gun locks are safes, they are biometric and rapid tap codes, secure and paperclips do not gain access. Gun free zones have deaths of 12 or greater on the average, and guns allowed zones have two. He said that Virginia Tech paid out \$11 million in punitive damages, and not (indisc.) that anywhere close in insurance.

6:22:26 PM

DANIEL BELGRIZE, University of Alaska Anchorage, advised he is a veteran, a senior in the justice program at UAA, an active member in numerous student clubs, and is speaking on behalf of over 50 members of UAA's Greek Life Organizations, and over 100 veterans who have expressed support for this bill. The Constitution of the State of Alaska guarantees the individual right to keep and bear arms will not be denied or infringed upon by the state or political subdivisions of the state. Article VII, Section 3, states that the Board of Regents may formulate

policy for the university and, he noted, the qualification of "in accordance with the law" is vital, and there is no higher law in Alaska than its constitution.

MR. BELGRIZE referred to the inquiry regarding defense of gun use, and said the Center for Disease Control (CDC) recently stated that defense of gun use is (indisc.) with its estimates ranging from 500,000 to 3 million occurrences annually, compared to less than 500,000 violent crimes involving firearms. The CDC has also consistently found lower injury rates among gun using victims compared with victims who have used other self-protective strategies. He advised there is a budgetary interest in this bill and that is to guarantee and protect the state from potential lawsuits for the violation of rights guaranteed under the constitution.

[6:24:06 PM](#)

CHAIR LEDOUX asked whether Mr. Belgrize is the Daniel Belgrize she knows.

MR. BELGRIZE agreed.

[6:24:35 PM](#)

RYAN SHERWIN-ALAKAYAK, Student, University of Alaska Anchorage (UAA), said he is a life-long Alaskan, student at UAA, and has devoted his life to serving his community. He pointed out that the testimony heard from the opposition tends to focus on firearm issues, while the real focus of the bill supports the Constitution of the State of Alaska. Alaskans should uphold those values and rights. He noted that firearm violence exists today, and the policies being made do not necessarily affect the people committing crimes with firearms - the policies affect people who do follow the laws. A person desiring to use a firearm on campus will do so regardless of the law, but folks, like himself, who do carry firearms will tend to veer away from carrying on campus. He said he supports Mr. Belgrize's testimony and supports SB 174.

[6:27:11 PM](#)

HANS RODVIK said he is a UAA alumni, and in 2014 assisted Senator Coghill in spearheading the efforts, of Senate Bill 176, to correct the wrong of the University of Alaska, Board of Regents' policy which is an unconstitutional unlawful policy. He related that Senate Bill 176 did not pass in 2014, and he is

testifying in full support of SB 174. He described this as a fundamental right of self-defense of which has been echoed by a couple of different folks today. He said there has been fearmongering testimony tonight on behalf of folks who think that law abiding adults over the age of 21, currently carrying all around Alaska, are going to become unlawful criminals, drug users and alcoholics when they cross that line on a university campus. He opined that many alumni, veterans, and students take offense to that [idea], and asked whether the Board of Regents is telling veterans they don't have the right to carry for self-defense, even though they served this country. He closed by saying he fully supports the bill and hopes it passes out tonight.

REPRESENTATIVE LYNN thanked Mr. Rodvik for his service.

[6:29:54 PM](#)

CEEZAR MARTINSON, Student, University of Alaska Anchorage (UAA), advised he is a student at the University of Alaska Anchorage (UAA), and is in support of this legislation. He referred to the Constitution of the State of Alaska, Article I, Section 19, which read:

A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed. The individual right to keep and bear arms shall not be denied or infringed by the State or a political subdivision of the State. [Amended 1994]

MR. MARTINSON advised that it is clear the UAA policy is in direct violation of the Constitution of the State of Alaska, and illegal given the fact it does not have the statutory authority to restrict the ability to concealed carry on campus. Furthermore, he suggested, the hyperbole testimony is complete nonsense with regard to the fact that eight other states, and 150 private universities, allow concealed carry on campus. Mass violence has not been seen, he related, nor has issues of inter-student or inter-faculty violence. The reality is that this is common sense legislation bringing the university back under the rule of law. He said he supports the legislation, and asked the committee to protect his Second Amendment rights.

[6:31:33 PM](#)

KELSI PULCZINMS, Student, University of Alaska Anchorage, said she is a student at UAA, and is speaking on her own behalf. She voiced her support of SB 174, and advised that she is an adult and that just because she is a student, her constitutional rights should not be infringed by the Board of Regents who have no constitutional authority to do so. She referred to the testimony of a mother concerned about her underage children being on campus with firearms present, and stated that she is sure her children are also present in Alaska's communities where adults responsibly and legally carry every day, with no issues. She described it as a fearmongering argument and stated that if the mother is uncomfortable with her underage children being around firearms, her children should not be in the community at all because people carry every day. She related that she strongly supports this bill and encouraged the committee to do so, as well.

[6:33:21 PM](#)

LAURA MIKO said she is testifying in opposition to this bill and on her own behalf. She said she is a UAF alumni, UAF employee, and has worked both in student housing and on the main campus where students are in crisis mode. She pointed out that when people go to college there are many different things going on with them, good and bad. Sometimes, especially with mental health issues, things happen where guns should not be, she pointed out. She related that on a populated campus, if something should happen, there is a whole system in place for lock down, and SB 174 is telling people to, basically, be vigilantes. In those instances, with many people trying to handle the situation, it will confuse police and law enforcement who is actually the offending person, which can contribute to more cross-fire and more injuries. She appreciates that she lives in a state where guns can be carried in public, but she does not think a college campus for education is an appropriate place. Especially, she said, because there may be spiteful debates and conversations in classrooms with people "who might be packin."

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

[SB 174 was held over.]

[6:36:09 PM](#)

**ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 6:36 p.m.