

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

February 18, 2015

1:35 p.m.

MEMBERS PRESENT

Senator Lesil McGuire, Chair
Senator John Coghill, Vice Chair
Senator Mia Costello
Senator Bill Wielechowski

MEMBERS ABSENT

Senator Peter Micciche

COMMITTEE CALENDAR

CONFIRMATION HEARING

- SCHEDULED BUT NOT HEARD

SENATE BILL NO. 51

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

- SCHEDULED BUT NOT HEARD

SENATE BILL NO. 30

"An Act relating to controlled substances; relating to marijuana; relating to driving motor vehicles when there is an open marijuana container; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 30

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

SPONSOR(s): JUDICIARY

01/23/15 (S) READ THE FIRST TIME - REFERRALS
 01/23/15 (S) JUD, FIN
 01/26/15 (S) JUD AT 1:00 PM BUTROVICH 205
 01/26/15 (S) Heard & Held
 01/26/15 (S) MINUTE(JUD)
 01/28/15 (H) JUD AT 1:00 PM CAPITOL 120
 01/28/15 (H) -- Companion Bill --
 01/30/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 01/30/15 (S) -- Meeting Postponed to Monday 2/2/2015
 --
 02/02/15 (S) JUD AT 1:30 PM BUTROVICH 205
 02/02/15 (S) -- Rescheduled from 01/30/15 --
 02/05/15 (S) FIN AT 9:00 AM SENATE FINANCE 532
 02/05/15 (S) Scheduled but Not Heard
 02/06/15 (S) JUD AT 1:30 PM BUTROVICH 205
 02/06/15 (S) -- MEETING CANCELED --
 02/09/15 (S) JUD AT 1:30 PM BUTROVICH 205
 02/09/15 (S) Heard & Held
 02/09/15 (S) MINUTE(JUD)
 02/11/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 02/11/15 (S) Heard & Held
 02/11/15 (S) MINUTE(JUD)
 02/13/15 (S) JUD AT 1:30 PM BUTROVICH 205
 02/13/15 (S) Heard & Held
 02/13/15 (S) MINUTE(JUD)
 02/16/15 (S) JUD AT 1:30 PM BUTROVICH 205
 02/16/15 (S) -- MEETING CANCELED --
 02/18/15 (S) JUD AT 1:00 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

JEFF PICKETT

Contract Attorney
Anchorage, Alaska

POSITION STATEMENT: Testified on the pros and cons of the notwithstanding phrase in the context of SB 30.

RACHELLE YEUNG, Legislative Analyst
Marijuana Policy Project
Washington, D.C.

POSITION STATEMENT: Provided information related to SB 30.

BRUCE SCHULTE, Spokesperson
Coalition for Responsible Cannabis Legislation
Anchorage, Alaska

POSITION STATEMENT: Commented on SB 30.

TIM HINTERBERGER, Ph.D., Spokesperson
Campaign to Regulate Marijuana like Alcohol (CRMA)
Anchorage, Alaska

POSITION STATEMENT: Provided information and commented on SB 30.

HILARY MARTIN, Drafting Attorney
Legislative Legal and Research
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Provided the drafting perspective for not including the notwithstanding language in SB 30.

TRACEY WOLLENBERG, Deputy Public Defender
Appellate Division
Alaska Public Defender Agency
Anchorage, Alaska

POSITION STATEMENT: Testified to the importance of keeping a minor's name off of CourtView.

DOUG WOOLIVER, Deputy Administrative Director
Administrative Staff
Alaska Court System
Juneau, Alaska

POSITION STATEMENT: Provided information related to SB 30.

KACI SCHROEDER, Assistant Attorney General
Criminal Division
Department of Law
Juneau, Alaska

POSITION STATEMENT: Commented on a proposed amendment to SB 30.

MATT DAVIDSON, Social Services Program Officer
Division of Juvenile Justice
Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: Testified on SB 30 from the perspective of DJJ.

JAY BUTLER, Chief Medical Officer
Department of Health and Social Services (DHSS)
Juneau, Alaska

POSITION STATEMENT: Answered medical questions related to marijuana in the context of SB 30.

DIANE CASTO, Project Manager
Division of Behavioral Health

Department of Health and Social Services and
Chair
Title 4 Rewrite Underage Drinking Subcommittee
Juneau, Alaska

POSITION STATEMENT: Discussed the recommendations of the subcommittee and addressed potential fiscal impacts of SB 30.

ACTION NARRATIVE

[1:35:55 PM](#)

CHAIR LESIL MCGUIRE called the Senate Judiciary Standing Committee meeting to order at 1:35 p.m. Present at the call to order were Senators Coghill, Cosgrove, and Chair McGuire.

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

[1:36:06 PM](#)

CHAIR MCGUIRE announced the consideration of SB 30. She reviewed the progress on the bill. The substantive change thus far has been to remove marijuana from the controlled substance statutes. Should the bill pass, marijuana will be treated as a regulated substance, much like alcohol. She clarified that the bill is not a wholesale change to allow marijuana use any time any place.

She outlined the areas of discussion for this hearing. The first issue is over the use of the phrase "notwithstanding any other provision of the law." The second issue relates to delinquent minors and whether certain conduct should be a violation that appears on CourtView or a misdemeanor that does not appear on CourtView. She noted that Senator Coghill has an amendment for the committee to consider. The third matter is a discussion from Department of Health and Social Services (DHSS) about the fiscal impacts of the bill. The fourth topic relates to the definition of "public." She noted that Senator Coghill has an amendment for the committee to consider on this matter. Time permitting the final discussion points will be about concentrates and one ounce, otherwise these matters will be taken up on Friday.

[1:44:15 PM](#)

SENATOR WIELECHOWSKI joined the committee.

CHAIR MCGUIRE asked Senator Costello to discuss the matter she suggested incorporating in the committee substitute (CS). [The discussion and testimony during this meeting related to version S CS for SB 30 although it was neither mentioned nor adopted.]

SENATOR COSTELLO said she requested the legislation include an education component telling what the law actually does.

[1:45:21 PM](#)

JEFF PICKETT, Contract Attorney, provided an overview of the phrase "notwithstanding any other provision of law" paraphrasing the testimony he submitted February 18, 2015:

- How it's used/interpreted
 - It is used 7 times in the Initiative; the current version of SB 30 has removed the phrase. Whether to include it has become an issue.
 - Courts refer to the phrase as a "term of art" designed to implicitly repeal or amend existing, conflicting laws
 - Important to note: the phrase cannot bind a future legislature from repealing the phrase
 - Drafters strongly disfavor it—possibility for unintended consequences; not as elegant; although it still is used, especially in certain contexts like trade law.
 - Courts acknowledge the breadth of the literal meaning, but at the same time, in most of the cases I've reviewed they look at the intent of the legislature and will often restrict the phrase.
 - Did the legislature intend a literal meaning? Did it intend a more circumscribed application of the phrase?
 - Courts will attempt to harmonize, whenever possible, other statutory language that might seem to conflict with the "notwithstanding" provision.
 - The Alaska Supreme Court has construed the phrase according to its "plain meaning" and found conflicting law to be barred by the phrase.
 - On the other hand, the Alaska Supreme Court has also ruled that meaning of the phrase can be limited by context, common sense, and legislative history.
 - At the end of the day, the phrase will be construed according to the principles of statutory construction set forth by the Alaska Supreme Court.

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- Pros

- Reflects language voters voted in favor of-acknowledges their intent.
- Trumps all laws in conflict: civil, regulatory, local. Concern is that without the phrase, conflicting laws might inadvertently not be amended in the current process and render parts of the Initiative ineffective.
- Example: AS 10.20.360 - liquidation of a corporation's assets if actions of directors or officers are illegal.
- Belt and suspenders—marijuana illegal for more than half a century in our statutes and permeates them. Might miss something in this go-around.
- Time crunch of getting this bill out makes it more likely something might be missed and harder to specify all laws which SB 30 preempts.
- Phrase used elsewhere in Alaska statutes.
- Phrase used in Colorado's marijuana law, so there is precedent for it.

- Cons

- Not considered effective drafting by authors of style manuals
- May be overbroad—the Alaska Supreme Court has ruled that the phrase can abrogate conflicting common law. Would a civil claim for nuisance withstand the phrase?
- May cause court to interpret SB 30 as trumping laws Legislature did not intend to trump
- The phrase is arguably superfluous, to the extent that the courts are empowered to review legislative history and employ other issues of statutory construction to determine whether the Legislature intended SB 30 to trump a conflicting law.
- The personal use protections are also constitutionally protected, so the “notwithstanding” language is arguably superfluous with respect to personal use and possession.

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SENATOR COSTELLO asked if any cases have been brought in Colorado that center on the use of the notwithstanding phrase.

MR. PICKETT replied he hasn't found one, but he would do additional research.

SENATOR COGHILL said it would be interesting to know if this issue was addressed when Colorado amended its constitution.

MR. PICKETT agreed to send a follow up memo on the question.

[1:56:03 PM](#)

TIM HINTERBERGER, Ph.D., Spokesman, Campaign to Regulate Marijuana like Alcohol (CRMA), expressed appreciation for Chair McGuire's earlier comment drawing a parallel between this effort and the repeal of alcohol prohibition. He expressed further appreciation for respecting the will of the people and being responsive to suggestions. He cited in particular restoring Sec. 17.38.020, extending to employees the same protections given to registered marijuana establishments, and amending the definition of marijuana concentrates. He stated that CRMA can support the latest draft [version S] although a few concerns remain. Rachelle Yeung would detail those concerns.

[1:58:13 PM](#)

RACHELLE YEUNG, Legislative Analyst, Marijuana Policy Project, said that in the interest of time she would focus on the "notwithstanding" issue. She read from the following letter:

At issue is the phrase "notwithstanding any other provision of law," which appears in AS 17.38.020, 17.38.060, 17.38.070(a), 17.38.070(b), 17.38.070(c), 17.38.070(d), and 17.38.070(e).

The "notwithstanding" language is at the very heart of the initiative, which was enacted by 53% of Alaska voters three months ago. Measure 2 was enacted to ensure that adults and those working at licensed marijuana businesses are not penalized for certain marijuana-related activities, and that their conduct is lawful under state law and immune from seizure and asset forfeiture. Removing this voter-enacted phrase would violate voters' intent.

This crucial phrase ensures that the initiative's voter-enacted legal protections trump each and every other state statute and local ordinance that may be contrary to them. This includes not only the state's criminal laws related to marijuana (which the

legislature is wisely looking at amending), but also state civil laws and local ordinances. Neither the Campaign to Regulate Marijuana Like Alcohol nor the Legislature and its staff can be absolutely certain that each and every law that could be interpreted in a way that is contrary to Measure 2 is being amended.

Indeed, early drafts of SB 30 removed or severely limited legal protections for behavior that was legalized under Measure 2 – such as striking legal protections and replacing them with a mere defense; prohibiting the mere display of permissible amounts of marijuana in public; prohibiting the use of permissible amounts of marijuana in public view; and reducing the amount of marijuana that adults could possess on the premises where their personal plants were grown. The campaign understands that some of these concerns are being addressed in new drafts of the bill. However, this illustrates the realistic odds that not all statutes inconsistent with Measure 2 will be immediately identified and amended to be consistent with the initiative.

Furthermore, even laws that do not explicitly refer to "marijuana" may put an adult or business engaging in lawful marijuana-related behavior at legal risk. Absent the "notwithstanding" clause, laws that refer to "illegal" activity may be interpreted by courts as applying to activities that were made lawful by Alaska voters under Measure 2, but that remain illegal under federal law. For example, under Measure 2, lawfully registered corporations may engage in the possession, cultivation, processing, repackaging, storage, transportation, display, transfer, and delivery of marijuana. Such actions are to be considered legitimate business interests. Nevertheless, in an action by a member of the corporation, AS 10.20.360 allows for the liquidation of the assets and business of the corporation if "the acts of the directors or those in control of the corporation are illegal." The "notwithstanding" language of Measure 2 would make clear that AS 10.20.360 does not apply as it relates to persons or corporations engaging in lawful marijuana-related activities. Absent that language, a judge could rule that the marijuana business' activities violated AS 10.20.360 because marijuana remains an illegal, controlled substance under federal

law. Please note that this was simply the first statute that the campaign identified as potentially contradictory. We are certain that there are many more such examples throughout the Alaska statutes.

In addition to concerns about existing laws that may be counter to 17.38.020 and 17.38.070, laws that may be drafted in the future may also unintentionally contradict the legal protections of Measure 2. Preserving the "notwithstanding" language would ensure that such laws, future or present, do not penalize acts by adults that voters intended to be lawful. We recognize that the legislature will have the legal authority in two years to make any revisions it wishes to Measure 2. However, we hope that it will continue to be guided by the will of voters. The "notwithstanding" phrase will prevent inadvertent revisions and ensure that Measure 2 and voters' intent is readily apparent when the legislature considers future marijuana-related legislation.

While we understand the language is disfavored by drafting, it is used many times in Alaska statutes already. Surely, Alaska's statutes can tolerate a few more uses of the phrase to ensure that the will of the people is carried out. An identical phrase is used in Colorado's constitution under the voter-enacted Amendment 64, which legalized, regulated and taxed the adult use of marijuana.

[2:04:16 PM](#)

BRUCE SCHULTE, Coalition for Responsible Cannabis Legislation, stated support for the comments from the Marijuana Policy Project and appreciation for the evolution of the bill. It is now legislation that CRCL can support. He acknowledged in particular the refinement of the definition of public consumption to allow an opportunity for a licensed event to have limited consumption on the premises.

He stated that while CRCL supports the effort to discourage the use of butane in Sec. 17.38.200, the current language makes it a first degree offense for both an individual and a registered business to use a volatile gas. He suggested eliminating Sec. 17.38.200(a)(1)(B)(v), because a registered marijuana establishment is where such activity should take place.

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SENATOR COGHILL said he has trouble with the definition of marijuana as it relates to concentrates and that makes the notwithstanding language particularly worrisome.

MR. SCHULTE said he's given it considerable thought and because of the definition in the initiative he's inclined to treat flowers and concentrates without distinction. He suggested it may be appropriate to address limits at the retail level.

SENATOR COGHILL opined that two-thirds of an ounce of hash oil is very different than a half ounce of marijuana. He said he struggles with how to keep people accountable and his view is that inserting the notwithstanding language opens a huge problem.

MR. SCHULTE said he understands the concern but he doesn't believe he could offer a suggestion to solve the problem.

SENATOR COGHILL asked him to continue to give it thought.

MR. SCHULTE clarified that CRCL is committed to public safety and welfare. He agreed to continue to give it more thought.

SENATOR COGHILL commented that he has an amendment to the definition that he believes describes a fair value.

[2:13:05 PM](#)

SENATOR WIELECHOWSKI said it's fair for the committee to discuss how to define an ounce. He questioned at what point the plant material becomes an ounce and not part of the plant.

MR. SCHULTE said it's easier to define in a retail environment. He noted that the flower weighs more than the leaves because of moisture content and most plants yield 2-6 ounces of flower and leaf.

SENATOR WIELECHOWSKI said he'd like a record of the intent of the initiative because he can guarantee that in the next year or so there will be a situation where the police go into a person's house and see the legal number of plants but also plant material that's fallen to the ground.

MR. SCHULTE said his understanding of the text of the initiative is that an individual can have up to six plants, three of which are mature and the product produced from them. He acknowledged that the product could span a range in weight.

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CHAIR MCGUIRE asked for help defining the amount of marijuana that would be equivalent to walking around with a case or two of alcohol. The intent is to protect public safety. "If one ounce in the liquid form really is not the same at all as one ounce in a dried form, let's be reasonable," she said.

MR. SCHULTE said he's heard people talk about having a couple of six packs of beer, a bottle or two of hard alcohol and several bottles of wine in their home at any one time and he's heard people characterize their consumption of marijuana in largely the same way. They might have a quarter ounce of flower, a couple of grams of hash, and a gram or two of hash oil. He agreed that concentrates are, by definition, more concentrated than a flower, but the difference is in consumption. A person might consume an eighth ounce of flower in an evening, but not that same quantity of hash or hash oil. He said he understands the concern, but he doesn't believe that the potential negative health consequences are the same for over consumption of marijuana as opposed to drinking a liter and a half of liquor. He reiterated his belief that the public would be better served by addressing this at the retail level.

SENATOR COGHILL opined that three quarters of an ounce of hash oil could be similar to a liter of 100 proof alcohol, whereas three quarters of an ounce of leafy material likely is not.

SENATOR WIELECHOWSKI read the definition of "usable marijuana" in Oregon's medical marijuana law and suggested that it may provide guidance.

CHAIR MCGUIRE asked Mr. Schulte if he had anything more to add.

MR. SCHULTE offered his personal experience and opined that consumption of marijuana has evolved over the last several decades from leaves and flowers to concentrates. He agreed that by definition concentrates are more concentrated, but disagreed that they are out of hand hazardous.

[2:27:16 PM](#)

HILARY MARTIN, Drafting Attorney, Legislative Legal and Research, Legislative Affairs Agency, informed the committee that legislative drafters try to avoid use of the phrase "notwithstanding any other provision of law" because it introduces uncertainty in the legislation and potentially leaves the interpretation to the court. She suggested that if the

legislature wants to specifically cancel something out, it's better to say that.

SENATOR COGHILL offered his perspective that the notwithstanding language seems reasonable if it only addresses the narrow category in the initiative, but it becomes confusing and less valuable when it applies to all the alcohol statutes.

MS. MARTIN reiterated that from a drafting standpoint the phrase introduces uncertainty.

SENATOR COSTELLO reviewed Mr. Pickett's memo on the notwithstanding phrase and suggested that the committee may be trying to micro-manage the court. She asked if someone could talk about whether the court has some flexibility that the committee doesn't recognize in applying that language.

CHAIR MCGUIRE cautioned that would be difficult because it would be on a case-by-case basis.

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DOUG WOOLIVER, Deputy Administrative Director, Administrative Staff, Alaska Court System, said he agrees with Mr. Pickett when he points out that a general rule for any court is to try and reconcile statutes rather than reading them in a way that creates a conflict. That's how Alaska courts interpret statutes, he said.

[2:33:26 PM](#)

CHAIR MCGUIRE turned to Amendment 1, [presumably 29-LS0231\S.5] relating to delinquent minors appearing on CourtView.

SENATOR COGHILL explained that the amendment says a violation by a delinquent minor should be treated like a hunting, fishing, or alcohol citation for a minor. He reasoned that it's a matter of accountability and equal justice.

MR. WOOLIVER advised that this is a decision for the legislature and the court can work with it either way. He confirmed that violations, even for minors, appear on CourtView until they rise to the level of a crime. [Version S] makes the matter confidential even though it isn't handled by the Division of Juvenile Justice (DJJ). CourtView would recognize the date of birth and the name wouldn't appear; if the minor were to contest the violation, it would be in a closed hearing.

CHAIR MCGUIRE asked Tracey Wollenberg to provide the Public Defender perspective.

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TRACEY WOLLENBERG, Deputy Public Defender, Appellate Division, Alaska Public Defender Agency, reminded the committee that she testified to this at the last hearing. She recapped that the key point is to keep the records confidential. If the minor's name appears on CourtView, it could create a barrier that is beyond what is commensurate with the conduct that's being punished.

SENATOR COGHILL asked if she's seen those detrimental effects for minor consuming alcohol.

MS. WOLLENBERG highlighted that the minor consuming alcohol statutes were amended several years ago because the probation time was impacting eligibility for the military. She opined that the consequences of having the records accessible can't be fully anticipated any more than they were when the probation statute initially was passed.

SENATOR COGHILL asked if she feels that traffic violations should be confidential.

MS. WOLLENBERG replied the stigma is different for the two types of violation because marijuana use is still criminal conduct under federal law and in many states.

SENATOR COGHILL said he contests that to some degree, but he'll have the conversation later.

CHAIR MCGUIRE asked if a parent or guardian is notified of a violation.

MS. WOLLENBERG explained that there is a requirement in juvenile court to encourage parental involvement. She thought there was a similar requirement in adult court but she'd have to do some research.

CHAIR MCGUIRE asked her to check on that before Friday and also to be prepared to offer a suggestion for both marijuana and alcohol that looks at diversion and encourages treatment.

SENATOR COGHILL asked to hear from both Matt Davidson and Kaci Schroeder regarding the proposed amendment.

[2:45:36 PM](#)

KACI SCHROEDER, Assistant Attorney General, Criminal Division, Department of Law, advised that regardless of what happens with the amendment, the language starting on page 1, line 9, is needed as long as there are provisions in the bill regarding juveniles charged with violations.

CHAIR MCGUIRE restated that Department of Law's testimony is that the second part of the amendment is needed to say that if the conduct is changed to a violation, DJJ will no longer have jurisdiction.

MS. SCHROEDER agreed.

[2:47:00 PM](#)

MATT DAVIDSON, Social Services Program Officer, Division of Juvenile Justice, Department of Health and Social Services, offered to answer questions.

CHAIR MCGUIRE asked if parents would be notified if their minor child receives a violation for marijuana.

MR. DAVIDSON replied that would be up to the district court, but his assumption is that the juvenile could pay the ticket without parental notification.

SENATOR COGHILL asked how it works for minors consuming alcohol.

MR. DAVIDSON replied that, too, is outside the jurisdiction of the Division of Juvenile Justice. It's a district court offense. Under the bill MIM 1 and MIM 2 would remain with DJJ and parental involvement is a large part of that process. Speaking to the diversion portion, he explained that not every child who is referred for a criminal offense sees a judge. Rather, they meet with a probation officer who assesses their needs and risk of reoffending. If they've been referred to DJJ a number of times, they're more likely to see a judge and get adjudicated for the offenses.

SENATOR COGHILL asked how it affects a juvenile's record if the offense rises to a misdemeanor.

MR. DAVIDSON clarified that he wasn't advocating that change and it would be problematic for DJJ because it would create a new class of status offenses. However, if the legislature made that decision, DJJ would handle the cases the same way it does now.

[2:51:05 PM](#)

SENATOR COGHILL said he agrees there is a stigma associated with marijuana because it's a controlled substance under federal law. The dilemma is how to hold juveniles accountable without creating an insurmountable barrier that will keep them from qualifying for something like military service.

MR. DAVIDSON suggested the members look at the draft rewrite of Title 4 to see if the confidentiality provisions might be applicable to marijuana.

SENATOR COGHILL recalled that Nancy Meade testified about potentially keeping the minor's name on CourtView while the case is active and then it would be removed once the case is closed.

MR. DAVIDSON noted that DHSS maintains a list of barrier crimes for specific positions and opined that a marijuana ticket probably wouldn't be a barrier to most of the jobs on that list.

SENATOR COSTELLO advocated looking at the recommendations in the Title 4 rewrite regarding minors involving alcohol before moving forward.

CHAIR MCGUIRE asked if Ms. Meade had that information.

SENATOR COGHILL clarified that Senator Micciche was working with the Department of Law and the ABC Board was an advisor as they looked at minor in possession and consuming alcohol. His understanding is that they were leaning toward it being a violation so the question is whether or not the names should appear on CourtView. He stated support for early accountability and added that it was probably the reason for a diversionary program.

CHAIR MCGUIRE mentioned the potential compromise to keep the names on CourtView until the case was closed.

SENATOR WIELECHOWSKI said it's important to hold kids accountable when they make mistakes, but it's a bad policy call to keep their names on CourtView for the rest of their lives.

CHAIR MCGUIRE indicated the committee would review the compromise language looking for some middle ground.

She asked to hear from DHSS about the fiscal impacts.

[2:57:21 PM](#)

JAY BUTLER, Chief Medical Officer, Department of Health and Social Services (DHSS), offered to answer any remaining medical questions related to marijuana.

SENATOR COGHILL asked for help defining an ounce of marijuana that recognizes the range in value from a concentrate to leaf material.

DR. BUTTLER said he'd be happy to have further discussions.

[2:59:57 PM](#)

DIANE CASTO, Project Manager, Division of Behavioral Health, Department of Health and Social Services, and Chair, Title 4 rewrite Underage Drinking Subcommittee, discussed the report from the ABC Board that outlines all the recommended changes to the minor consuming alcohol statutes. The subcommittee struggled with the same questions for alcohol as this committee is for marijuana. They didn't want to limit the future of a minor who had made a mistake but recognized that there are opportune times for making an impression on youth and getting their attention for the behavior they've engaged in. She cited national statistics to clarify the importance of keeping both alcohol and marijuana out of the hands of young people and having early intervention procedures if they do start. Research shows that youths that begin using marijuana before age 25 have a significantly increased probability of dependence and 97 percent of new users are age 24 or younger.

MS. CASTO explained that the subcommittee worked to strike a balance and make minor consuming alcohol a true violation - (not a violation stepped up to a misdemeanor due to requirements as in current statute) - that provided swift action, appropriate consequences, and consistent follow through. A youth picked up for underage drinking would get a \$500 ticket and a required court appearance accompanied by a parent. The idea was to educate both the parent and child and get help for the youth if needed. The carrot to encourage participation was the opportunity to reduce the \$500 fine to \$50 by undergoing screening through an ASAP program or going to an alcohol/drug information school or treatment if needed.

MS. CASTO said the CourtView issue was the one sticking point. Discussions are ongoing about having the case temporarily on CourtView and then disappear once it's closed, but her understanding is that there has been no final decision.

CHAIR MCGUIRE asked for clarification on the compromise for CourtView.

MS. CASTO offered her understanding that when a ticket is written, the name would automatically go on CourtView and stay there until the minor either pays the full fine or meets the requirements for a reduced fine. After that the name would be removed. Once there is a good compromise on the issue, she said the best way forward is to have consistency between the minor consuming laws for marijuana and alcohol.

CHAIR MCGUIRE asked for the draft language.

MS. CASTO agreed to provide it.

SENATOR COSTELLO asked for a list of the people who sat on the committee.

MS. CASTO agreed to provide it.

She told the committee that the Division of Behavioral Health has been debating the matter of a fiscal note because there really isn't a fiscal impact in the bill itself. For DBH the fiscal note will be based on consumption patterns and consequences related to public safety and public health issues. They're already looking at ways to do a better job of primary prevention to give everyone better information. Those things will have some cost, but they're not directly tied to the bill. There will also be treatment issues. Current data shows there are about 590 people in treatment in Alaska for marijuana as their primary drug. The numbers are much higher for those who have marijuana as just one of their issues. Other data shows that about 9,000 Alaskans meet the criteria for marijuana dependency and addiction. The current effort is to compile the available data in a usable format in order to make an analysis and look at trends. Clearly there will be increased costs.

CHAIR MCGUIRE encouraged Ms. Casto to have a conversation with the Finance Committee about the potential for additional costs.

3:15:18 PM

There being no further business to come before the committee, Chair McGuire adjourned the Senate Judiciary Standing Committee meeting at 3:15 p.m.