

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

February 8, 2016

1:34 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

SENATE BILL NO. 121

"An Act relating to a security freeze on the consumer credit report of a minor."

- HEARD & HELD

SENATE JOINT RESOLUTION NO. 15

Making application to the United States Congress to call a convention of the states to propose a countermand amendment to the Constitution of the United States as provided under art. V, Constitution of the United States; and urging the legislatures of the other 49 states to make the same application.

- MOVED CSSJR 15(JUD) OUT OF COMMITTEE

SENATE CONCURRENT RESOLUTION NO. 4

Relating to the duties of delegates selected by the legislature to attend a convention of the states called under art. V, Constitution of the United States, to consider a countermand amendment to the Constitution of the United States; establishing as a joint committee of the legislature the Delegate Credential Committee and relating to the duties of the committee; providing for an oath for delegates and alternates to a countermand amendment convention; providing for a chair and assistant chair of the state's countermand amendment delegation; providing for the duties of the chair and assistant chair; providing instructions for the selection of a convention president; and providing specific language for the countermand amendment on

which the state's convention delegates are authorized by the legislature to vote to approve.

- MOVED CSSCR 4(JUD) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 8(JUD) AM
"An Act relating to powers of attorney and other substitute decision-making documents; relating to the uniform probate code; relating to notaries public; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 121

SHORT TITLE: SECURITY FREEZE ON MINOR'S CREDIT REPORT

SPONSOR(s): SENATOR(s) MEYER

01/19/16	(S)	PREFILE RELEASED 1/8/16
01/19/16	(S)	READ THE FIRST TIME - REFERRALS
01/19/16	(S)	L&C, JUD
01/26/16	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
01/26/16	(S)	Heard & Held
01/26/16	(S)	MINUTE (L&C)
01/28/16	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
01/28/16	(S)	Moved SB 121 Out of Committee
01/28/16	(S)	MINUTE (L&C)
01/29/16	(S)	L&C RPT 4DP
01/29/16	(S)	DP: COSTELLO, GIESSEL, MEYER, ELLIS
02/08/16	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SJR 15

SHORT TITLE: CALL FOR US COUNTERMAND CONVENTION

SPONSOR(s): SENATOR(s) STOLTZE

02/13/15	(S)	READ THE FIRST TIME - REFERRALS
02/13/15	(S)	STA, JUD
03/17/15	(S)	STA AT 9:00 AM BUTROVICH 205
03/17/15	(S)	Heard & Held
03/17/15	(S)	MINUTE (STA)
03/19/15	(S)	STA AT 9:00 AM BUTROVICH 205
03/19/15	(S)	Heard & Held
03/19/15	(S)	MINUTE (STA)
03/26/15	(S)	STA AT 9:00 AM BUTROVICH 205
03/26/15	(S)	Moved SJR 15 Out of Committee
03/26/15	(S)	MINUTE (STA)

03/27/15 (S) STA RPT 4DP 1DNP
 03/27/15 (S) DP: STOLTZE, COGHILL, MCGUIRE, HUGGINS
 03/27/15 (S) DNP: WIELECHOWSKI
 04/08/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 04/08/15 (S) Heard & Held
 04/08/15 (S) MINUTE (JUD)
 02/03/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 02/03/16 (S) Heard & Held
 02/03/16 (S) MINUTE (JUD)
 02/08/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SCR 4

SHORT TITLE: US COUNTERMAND CONVENTION DELEGATES

SPONSOR(s): SENATOR(s) STOLTZE

02/13/15 (S) READ THE FIRST TIME - REFERRALS
 02/13/15 (S) STA, JUD, FIN
 03/17/15 (S) STA AT 9:00 AM BUTROVICH 205
 03/17/15 (S) Heard & Held
 03/17/15 (S) MINUTE (STA)
 03/19/15 (S) STA AT 9:00 AM BUTROVICH 205
 03/19/15 (S) Heard & Held
 03/19/15 (S) MINUTE (STA)
 03/26/15 (S) STA AT 9:00 AM BUTROVICH 205
 03/26/15 (S) Moved SCR 4 Out of Committee
 03/26/15 (S) MINUTE (STA)
 03/27/15 (S) STA RPT 4DP 1DNP
 03/27/15 (S) DP: STOLTZE, COGHILL, HUGGINS, MCGUIRE
 03/27/15 (S) DNP: WIELECHOWSKI
 04/08/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 04/08/15 (S) Heard & Held
 04/08/15 (S) MINUTE (JUD)
 02/03/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 02/03/16 (S) Heard & Held
 02/03/16 (S) MINUTE (JUD)
 02/08/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 8

SHORT TITLE: POWERS OF ATTORNEY

SPONSOR(s): REPRESENTATIVE(s) HUGHES

01/21/15 (H) PREFILE RELEASED 1/9/15
 01/21/15 (H) READ THE FIRST TIME - REFERRALS
 01/21/15 (H) JUD
 02/13/15 (H) JUD AT 1:00 PM CAPITOL 120
 02/13/15 (H) Heard & Held
 02/13/15 (H) MINUTE (JUD)

02/23/15 (H) JUD AT 1:00 PM CAPITOL 120
02/23/15 (H) Moved CSHB 8(JUD) Out of Committee
02/23/15 (H) MINUTE (JUD)
02/25/15 (H) JUD RPT CS (JUD) 2DP 4NR
02/25/15 (H) DP: LYNN, KELLER
02/25/15 (H) NR: MILLETT, CLAMAN, GRUENBERG, FOSTER
03/09/15 (H) TRANSMITTED TO (S)
03/09/15 (H) VERSION: CSHB 8(JUD) AM
03/11/15 (S) READ THE FIRST TIME - REFERRALS
03/11/15 (S) HSS, JUD
04/10/15 (S) HSS AT 1:30 PM BUTROVICH 205
04/10/15 (S) Heard & Held
04/10/15 (S) MINUTE (HSS)
01/27/16 (S) HSS AT 1:30 PM BUTROVICH 205
01/27/16 (S) Moved SCS CSHB 8(HSS) Out of Committee
01/27/16 (S) MINUTE (HSS)
01/29/16 (S) HSS RPT SCS 3DP 2NR SAME TITLE
01/29/16 (S) DP: GIESSEL, ELLIS, KELLY
01/29/16 (S) NR: STEDMAN, STOLTZE
02/08/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

SENATOR KEVIN MEYER
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 121.

EDRA MORLEDGE, Staff
Senator Kevin Meyer
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced SB 121 on behalf of the sponsor.

LAURA HUGHES, representing herself
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 121.

DAVYN WILLIAMS, Assistant Attorney General
Civil Division
Commercial and Fair Business Section
Department of Law (DOL)
Anchorage, Alaska

POSITION STATEMENT: Answered questions related to SB 121.

SENATOR BILL STOLTZE
Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Sponsor of SJR 15 and SCR 4.

MIKE COONS, National Legislative Director

Citizen Initiatives

Palmer, Alaska

POSITION STATEMENT: Testified in support of SJR 15 and SCR 4.

GINGER BLAISDELL, Staff

Representative Shelly Hughes

Alaska State Legislature

POSITION STATEMENT: Presented the sectional analysis for HB 8 on behalf of the sponsor:

REPRESENTATIVE SHELLEY HUGHES

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 8.

DEBORAH BEHR, Member

Alaska Uniform Law Delegation

POSITION STATEMENT: Commented on HB 8.

RACHAEL GREENBERG

AgeNet

POSITION STATEMENT: Testified in support of HB 8.

ACTION NARRATIVE

[1:34:19 PM](#)

CHAIR LESIL MCGUIRE called the Senate Judiciary Standing Committee meeting to order at 1:34 p.m. Present at the call to order were Senators Costello, Wielechowski, Coghill, and Chair McGuire.

SB 121-SECURITY FREEZE ON MINOR'S CREDIT REPORT

[1:34:40 PM](#)

CHAIR MCGUIRE announced the consideration of SB 121.

[1:35:08 PM](#)

SENATOR KEVIN MEYER, Alaska State Legislature, sponsor of SB 121, stated that this is a consumer protection bill, aimed at protecting children before they become victims of identity theft. His constituent, Laura Hughes, brought the issue to his attention.

CHAIR MCGUIRE asked if the impetus was a constituent who had a personal story.

SENATOR MEYER replied his constituent would explain how she and her family were impacted.

SENATOR WIELECHOWSKI commented that he, too, has constituents who have expressed concern with this issue so he was pleased to see the bill.

[1:36:57 PM](#)

EDRA MORLEDGE, Staff, Senator Kevin Meyer, introduced SB 121 on behalf of the sponsor, speaking to the following prepared comments:

As you know, identity theft and financial fraud is a constant concern for consumers. State legislatures and the federal government are constantly working on measures to combat ID theft and protect individuals against these crimes.

An area of growing concern is child identity theft, which is much more prevalent than adult identity theft, as their credit is basically a 'blank slate' for many years.

Since children in general, do not begin to establish credit until they're 18 years old or at the time they apply for financial aid for higher education (which can be as early as age 16 in this state), many years can go by before identity theft is caught. SB 121 is designed to prevent this, and is a measure to protect children *before* they become consumers.

This legislation is designed to do two things:

1, it allows a parent or guardian to place a security freeze on a minor child or dependent's credit report, in order to prevent fraudulent financial activity.

2, if no credit report exists (presumably because the child has not established credit yet), the parent can request that one be created in order to place the freeze. For example, the parents of a new born or adopted child could request a credit agency create a credit file and then place the freeze.

Traditionally, a credit freeze has usually only been requested after some type of fraudulent activity has been detected - this legislation will change that and give parents and guardians proactive tools to prevent identity theft.

Across the country there a large mix of state laws allowing credit freezes:

27 States, including Alaska, allow "any consumer" to place a security freeze with no provision for minors or protected individuals.

4 States specify that a parent or guardian of a minor under 18, can place freeze.

And the majority of states provide for allowing a parent or guardian of a "protected consumer" to place a freeze on an incapacitated individual or a minor under 16.

3 states allow a security freeze to be placed only if the individual is a victim of id theft, and some provide for only residents of the state to place the freeze.

[1:39:50 PM](#)

LAURA HUGHES, representing herself, testified in support of SB 121. She explained that she and her husband froze their credit after they purchased their house, and she tried to do the same after their daughter was born because they'd heard that minors are more susceptible than adults to identity theft. "They're essentially a clean slate and you don't know that their identity has been stolen until they are 16 or 18," she said. When they found that Alaska didn't have a process to do this, they contacted Senator Meyer's office.

DAVYN WILLIAMS, Assistant Attorney General, Civil Division, Commercial and Fair Business Section, Department of Law (DOL), Anchorage, Alaska, introduced herself and offered to answer questions related to SB 121.

SENATOR COGHILL asked if the Department of Law has had to take action to protect minors from financial fraud or identity theft.

MS. WILLIAMS replied the Department of Law hasn't seen a lot of cases of child ID theft, but the potential is there and some consumers have expressed interest in extending credit freeze protection to minors.

SENATOR COGHILL asked how families become aware of the issue.

MS. WILLIAMS explained that the companies that have experienced a data breach generally do wide-spread notification, as required by law. If the stolen information is used to engage in identity theft, people might not know right away and a minor might not know until they are older and apply for credit.

SENATOR COGHILL asked if there has been difficulty holding people accountable to the requirements in Alaska law relating to data breaches.

MS. WILLIAMS offered her understanding that consumers have been notified accordingly, particularly in the instances of the larger data breaches.

[1:46:23 PM](#)

CHAIR MCGUIRE asked if Alaska law protects people who are intellectually challenged or have a mental health issue and are moving into conservatorship status.

MS. MORLEDGE reported that a legally appointed guardian or conservator of an incapacitated individual already has the ability to place a credit freeze for that individual.

CHAIR MCGUIRE read the final paragraph of the 10/8/2015 memo from Megan A. Wallace that accompanied the work order for the bill.

Please be advised, however, that the bill may be construed to give parents and/or minors greater protection than is provided to other adult consumers, to the extent that credit agencies are not required to generate a report for adult consumers who may not have any credit history. In this regard, please advise if you wish to include a provision that would require credit agencies to generate a credit report for all consumers who may not already have a credit report for the purpose of placing a security freeze.

She asked if the sponsor saw and considered it.

MS. MORLEDGE replied they did see it and decided to maintain the focus on minors and others who may have a guardian, because it wouldn't be difficult for an adult to do that for him/herself. However, the sponsor would be open to the discussion.

CHAIR MCGUIRE said she'd give members an opportunity to consider the matter.

SENATOR COGHILL noted that the credit reports include a process for placing a credit freeze.

CHAIR MCGUIRE commented it might be an outlier circumstance, but it might be worth considering.

[1:50:51 PM](#)

CHAIR MCGUIRE closed public testimony and held SB 121 in committee for further consideration.

SJR 15-CALL FOR US COUNTERMAND CONVENTION

[1:51:08 PM](#)

CHAIR MCGUIRE announced the consideration of SJR 15.

SENATOR BILL STOLTZE, Alaska State Legislature, Juneau, Alaska, sponsor of SJR 15, said the bill has been fairly well vetted and he had no further comments.

MIKE COONS, National Legislative Director of Citizen Initiatives, Palmer, Alaska, stated support for SJR 15 and expressed optimism that Alaska would be the first state to put this forward.

[1:52:31 PM](#)

CHAIR MCGUIRE found no further public testimony and closed it. She asked for committee discussion or a motion.

[1:52:46 PM](#)

SENATOR COGHILL motioned to report CS for SJR 15(JUD) from committee with individual recommendations and attached fiscal note(s).

CHAIR MCGUIRE announced that without objection CSSJR 15(JUD) is reported from the Senate Judiciary Standing Committee.

SCR 4-US COUNTERMAND CONVENTION DELEGATES

[1:53:16 PM](#)

CHAIR MCGUIRE announced the consideration of SCR 4.

SENATOR BILL STOLTZE, Alaska State Legislature, Juneau, Alaska, sponsor of SCR 4, thanked the committee for considering the legislation and making the technical changes.

[1:53:45 PM](#)

MIKE COONS, National Legislative Director of Citizen Initiatives, Palmer, Alaska, stated support for SCR 4.

CHAIR MCGUIRE found no further public testimony and closed it.

[1:54:11 PM](#)

SENATOR COGHILL motioned to report the CS for SCR 4(JUD) from committee with individual recommendations and attached fiscal indeterminate note.

[1:54:27 PM](#)

CHAIR MCGUIRE announced that without objection CSSCR 4(JUD) is reported from Senate Judiciary Standing Committee.

HB 8-POWERS OF ATTORNEY

[1:54:37 PM](#)

CHAIR MCGUIRE announced the consideration of HB 8. [SCS CSHB 8(HSS) was before the committee.]

[1:55:24 PM](#)

GINGER BLAISDELL, Staff, Representative Shelly Hughes, Alaska State Legislature, presented the following sectional analysis for HB 8, version G, on behalf of the sponsor:

Section 1 replaces the current definition of an "agent" with a more nationally recognized term.

Section 2 corrects the definition of "state" by including the United States Virgin Islands.

Section 3 adds new definitions for "durable," "electronic," "power of attorney," "principal," "record," and "sign," as they pertain to the Act. The definition for "sign" is probably the most significant. An audible or visual designation or signing for someone is now allowed. This is for someone who has full capacity but is inhibited from signing for him/herself due to some physical impairment.

Section 4 is a new section that states that an agent is the person granted powers and the finances belong to the principal. It contains the agent's acceptance and liability and describes the agent's duties. It also pertains to the acceptance and termination of a power of attorney.

Section 5 recognizes a power of attorney executed in another state.

Section 6 edits the power of attorney (POA) form in statute and requires the principal to mark (as opposed to check) a box in each category and provides optional grant of specific authority to create, amend, revoke, or terminate a trust; make a gift; create or change beneficiaries; or revoke a transfer on a death deed; change rights of survivorship; delegate authority; and waive the principal's right to be a beneficiary. For example, a person might want someone to make their house payments, but not sell their house.

SENATOR COSTELLO asked what section prevents someone from selling another person's house and taking the payments.

MS. BLAISDELL directed attention to page 8, line 19 titled "real estate transactions" and line 23 titled "banking transactions." Checking "No" on line 19 would prohibit someone from making any real estate transactions, and checking "Yes" on line 23 would allow a person to pay the mortgage on behalf of the principal.

CHAIR MCGUIRE described this as an excellent provision. She expressed hope that the bill isn't so specific that it leaves out the ability to add protections later on.

SENATOR COSTELLO asked the definition of "personal relationships and affairs" on page 8, line 29, because a power of attorney for personal affairs could include real estate transactions. Also, "records, reports, and statements" on page 9, line 1, could be confusing to interpret. She argued that all the categories fall under personal affairs. She asked if there was another intention.

MS. BLAISDELL advised that expanded definitions and what would be included in each category appear later in the bill.

[2:03:59 PM](#)

MS. BLAISDELL continued to discuss Section 6 explaining that page 9 has a new section titled "grant of specific authority," which is optional. These are things that a person may or may not choose to award someone who is managing their finances. These are commonly referred to as "Hot Powers" because they carry more weight than day-to-day transactions. Page 10 updates the term "check" to "mark" so any kind of tangible mark can be accepted in lieu of a signature and "disability" is changed to "incapacity." Page 11 strengthens the notary provision. If a person is selected to sign on behalf of the principal who is physically unable to sign, the notary must document the personal information of the principal and the person signing on the principal's behalf.

SENATOR COSTELLO asked the procedure and requirements if the principal is not present at the signing.

MS. BLAISDELL clarified that the principal has to physically appear; a person is signing on their behalf because the principal is physically unable to sign. This could be due to arthritis or a broken arm, for example.

[2:09:00 PM](#)

SENATOR COGHILL related a personal experience, and asked if the potential for intimidation has been considered.

MS. BLAISDELL acknowledged that she hadn't completely vetted "intimidation." She continued the sectional analysis:

Section 7 changes the term "attorney in fact" to "agent."

Section 8 deals with the applicability of provisions and changes terms for consistency. A new paragraph (5) clarifies that if the principal fails to mark either the "yes" or "no" box, or marks both boxes, the agent would not be granted that power.

Sections 9-11 remove the term "revoke, create or modify a trust" and includes it in a separate selection on the POA form.

Section 12 adds the ability for the agent to use credit and debit cards, and electronic transactions.

[2:12:03 PM](#)

SENATOR COSTELLO asked what protection a bank would have when the person using the card isn't named on the card.

MS. BLAISDELL explained that the bill provides judicial relief and allows someone to look at the agent's actions. She continued the sectional analysis:

Section 13 adds additional responsibilities and clarification responsibilities of the agent to manage the affairs of the principal's businesses.

Section 14 identifies an additional function of managing the principal's insurance or annuity.

Section 15 provides the agent with all the powers to effectively manage the principal's retirement plan(s).

2:15:26 PM

Section 16 amends the section regarding personal relationships such as child support under HIPAA rules.

SENATOR COGHILL asked how this affects a healthcare directive.

MS. BLAISDELL clarified that this does not replace or supersede a healthcare directive. She continued the sectional analysis:

Section 17 amends the section regarding government, military service, or civil service. It allows the agent to enroll in, apply for, select, reject, change, amend or discontinue a program.

2:17:49 PM

Section 18 adds a new subsection (q) to AS 13.26.344 regarding specific authority with respect to gift transactions. This is one of the Hot Powers where a principal can designate whether or not the agent has powers to designate gifts.

Section 19 amends AS 13.26.347 to relieve an agent of liability for breach of duty unless it was committed dishonestly.

2:19:13 PM

Section 20 replaces the term "disability or incompetence" with "incapacity."

SENATOR COSTELLO asked if incapacity is defined elsewhere.

MS. BLAISDELL directed attention to the definition on page 37, line 14.

2:20:00 PM

VICE CHAIR COGHILL assumed the gavel.

SENATOR COSTELLO asked if this definition matches the definition in the insurance statutes.

MS. BLAISDELL confirmed that they match.

SENATOR COSTELLO suggested looking to make sure that this definition of "incapacity" matches the specifically delineated definition for healthcare insurance to apply.

VICE CHAIR COGHILL suggested that Deborah Behr may have an answer.

2:21:47 PM

MS. BLAISDELL continued the sectional analysis.

Section 21 clarifies the grounds for determining incapacity of an individual and includes additional provisions such as if the principal is missing, detained or unable to return to the U.S.

Section 22 is a technical amendment that inserts the term "agent" and updates the statutory reference.

VICE CHAIR COGHILL questioned the reason that Section 21 was repealed and reenacted.

MS. BLAISDELL didn't recall the reason. She continued the sectional analysis:

Section 23 adds a new section on judicial relief that allows specified individuals to petition the court asking for a review of the agent's conduct. It also adds a new section on relationship to other laws that specifies that the Act does not supersede any other law applicable to a financial institution or other entity; and it allows electronic signatures.

[Section 24 is a technical amendment to update terms.]

Section 25 adds a new section relating to execution of power of attorney. It states that a power of attorney in this state is valid if the principal signs the form or directs another to sign on his/her behalf and the signature is acknowledged by a notary. She deferred to Deborah Behr for a further explanation.

Section 26 is a technical change to remove the term "attorney in fact."

Section 27 adds new definitions to AS 13.26.

Section 28 adds a new chapter titled "Recognition of Substitute Decision-Making Documents" that requires the state of Alaska to recognize as valid any decision-making documents for a principal as long as they were executed in compliance with the law from the jurisdiction from which they came.

[2:27:01 PM](#)

SENATOR COSTELLO said that tells her that notary signatures on any document aren't recognized from state-to-state.

MS. BLAISDELL said she isn't sure about any document, but it could affect a financial power of attorney or healthcare directive. She continued the sectional analysis:

Section 28, page 40, also adds definitions clarifying what it means when accepting documents between states.

Section 29 repeals AS 13.26.338(a), AS 13.26.344(n) and AS 13.26.353(c).

Section 30 is the applicability section. A power of attorney formed prior to the effective date of the Act is not nullified.

Section 31 provides an effective date of January 1, 2017.

[2:30:00 PM](#)

REPRESENTATIVE SHELLEY HUGHES, Alaska State Legislature, sponsor of HB 8, stated that elders and vulnerable individuals in this state are valued and honored, but they need certain protections. She highlighted that AARP, the Association of Mature Americans and other senior groups support the bill because they see the need. In Alaska, there are 600 allegations of financial

exploitation and many of those involve the misuse of a power of attorney. These clarifications will strengthen the statutes, protect vulnerable individuals and guide those caring for them.

[2:31:56 PM](#)

SENATOR WIELECHOWSKI asked if she had a list of where the bill deviates from the Uniform Power of Attorney.

MS. BLAISDELL agreed to share a copy of the 175 page document. She explained that the Uniform Law Commission compared, line by line, the Alaska statutes to their model bill. The sponsor, long term care ombudsman and an assistant attorney general then reviewed the comparison.

SENATOR WIELECHOWSKI said he's interested in the meaningful policy decisions, not clerical or technical changes.

VICE CHAIR COGHILL expressed interest in seeing where Alaska law departs from the model legislation.

[2:34:09 PM](#)

DEBORAH BEHR, Member, Alaska Uniform Law Delegation, stated that Alaska has been a member of the commission since 1914. She explained that this confederation of states looks at things that are appropriate to be uniform among the states. The model bill took 3-4 years to complete and uses what all states could accept and the courts could interpret uniform across the states. That is the goal of a Uniform Act.

She described the first 37 pages of the bill as an Alaska version of the Uniform Act and deferred further comment on those pages to the sponsor.

Page 38 forward is the Uniform Act that allows for recognition of substitute decision-making documents, primarily the power of attorney and the advanced healthcare directive. It establishes a uniform process for these documents to be accepted quickly from state to state without having to go to court. She provided examples.

She noted that she suggested four technical amendments to the sponsor's staff to make the bill work better. She also described the power of attorney improvements in the bill as excellent compared to current Alaska law, but not uniform.

[2:39:47 PM](#)

SENATOR COSTELLO asked if pages 1-37 have elements that were vetted and ultimately rejected by the national committee or developed in Alaska.

MS. BEHR said her understanding is that the sponsor looked at the Uniform Act and reviewed it with a variety of Alaska groups before making Alaska-specific changes. She opined that one of the major differences between the documents is the statutory form itself. The Alaska form requires "yes" or "no" responses to options, whereas the Uniform Act form only requires a person to initial the options he/she wants. The terminology in the standard form is also slightly different than the Alaska form. While she believes this will cause interpretation problems, it is a vast improvement over the existing power of attorney law.

SENATOR COSTELLO asked if the Uniform Law Commission considered and rejected the "yes" or "no" method for selecting options or if it's unique to Alaska.

MS. BEHR replied, "If we do a yes/no, we'll be the only state in the union, to my knowledge, to do this."

[2:43:18 PM](#)

RACHAEL GREENBERG stated that she is representing AgeNet, a group of 40 agencies that provide services to over 10,000 seniors around the state. Their priority is to protect older Alaskans from elder financial abuse, exploitation and harm. HB 8 provides this protection.

She disclosed that she is also the executive director of MatSu Senior Services and when they assist with a power of attorney form, they ask the agent to step out of the room to avoid the potential for coercion. On a regular basis there are misunderstandings about the specific powers that a power of attorney provides, and HB 8 will strengthen that protection for elders. She urged the committee to support the bill.

VICE CHAIR COGHILL noted that the bill requires a person who is not physically able sign to give verbal consent. He asked if she's had that experience.

MR. GREENBERG answered yes; they've had a number of people who could not sign their name because of arthritis or blindness, but they were cognitively aware and knew exactly what they wanted. The existing law makes this process difficult, she said.

VICE CHAIR COGHILL said the committee will be looking for cognitive capacity because of the prevalence of early-onset dementia to Alzheimer's.

MS. GREENBERG clarified that they won't notarize a signature if a person has early-stage dementia.

[2:47:40 PM](#)

VICE CHAIR COGHILL asked Ms. Behr how close the definition for "incapacity" is to the Uniform Law.

MS. BEHR said she believes the Alaska definition is very close but she'd have to match it word-for-word. She added that the existing definition in statute focuses on medical issues and the bill adds concepts to deal with more than that. She cited the example of reporters who were kidnapped while on overseas assignment and pointed out that somebody has to conduct their business during that time.

VICE CHAIR COGHILL asked how close the bill is to the Uniform Act with respect to a person who is physically unable to sign but cognitively aware.

MS. BEHR directed attention to the provisions on page 11, lines 29-31. She said they were added in a previous committee and to her knowledge they are not part of the Uniform form. She acknowledged that this may address problems that Alaska has experienced.

VICE CHAIR COGHILL asked Ms. Blaisdell her perspective.

MS. BLAISDELL said the Uniform law form asks the person to initial each item they want and HB 8 asks the person to select either "yes" or "no" for each option.

[2:51:40 PM](#)

VICE CHAIR COGHILL said he would leave public testimony open.

He asked Ms. Behr who generally holds people to account when they have a power of attorney for another person, primarily a family member.

MS. BEHR deferred the question to the senior advocates because they've been collecting the complaints. She added that there have been an estimated 600 complaints filed and her understanding is that the "war stories" relate to gifts.

VICE CHAIR COGHILL held HB 8 in committee with public testimony open.

#

2:54:04 PM

There being no further business to come before the committee, Vice Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 2:54 p.m.