

**ALASKA STATE LEGISLATURE**  
**SENATE JUDICIARY STANDING COMMITTEE**

April 13, 2016

1:50 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**

CS FOR SS FOR HOUSE BILL NO. 27(JUD) AM

"An Act relating to the duties of the Department of Health and Social Services; relating to hearings on and plans for permanent placement of a child in need of aid; relating to school placement and transportation for children in foster care; relating to foster care transition programs; relating to emergency and temporary placement of a child in need of aid; relating to transitional living arrangements for children in foster care; and amending Rule 17.2, Alaska Child in Need of Aid Rules of Procedure."

- MOVED SCS CSSSHB 27(HSS) OUT OF COMMITTEE

HOUSE BILL NO. 308 AM

"An Act relating to the limitation of liability for the inspection, installation, or adjustment of a child safety seat or in providing education regarding the installation or adjustment of a child safety seat; and relating to child safety devices in motor vehicles.

- HEARD & HELD

SENATE BILL NO. 187

"An Act relating to arson in the third degree."

- MOVED SB 187 OUT OF COMMITTEE

SENATE BILL NO. 212

"An Act relating to civil in rem forfeiture actions; and providing for an effective date."

- HEARD & HELD

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."

- MOVED SCS CSHB 8(JUD) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 126(JUD) am

"An Act relating to the administration of military justice; relating to the adoption of regulations by the adjutant general; relating to the authority of the adjutant general; relating to appeals of convictions and sentences of courts-martial; establishing the Military Appeals Commission; relating to the detention and incarceration of members of the militia; relating to the jurisdiction of the supreme court over petitions from the Military Appeals Commission; relating to involuntary commitment for evaluation or treatment of a mental disease or defect before court-martial proceedings; relating to offenses subject to court-martial proceedings; amending Rule 6, Alaska Rules of Criminal Procedure; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

#### **PREVIOUS COMMITTEE ACTION**

BILL: HB 27

SHORT TITLE: DHSS DUTIES; CINA; FOSTER CARE; ADOPTION

SPONSOR(S): REPRESENTATIVE(S) GARA

01/21/15	(H)	PREFILE RELEASED 1/9/15
01/21/15	(H)	READ THE FIRST TIME - REFERRALS
01/21/15	(H)	HSS, JUD
02/11/15	(H)	SPONSOR SUBSTITUTE INTRODUCED
02/11/15	(H)	READ THE FIRST TIME - REFERRALS
02/11/15	(H)	HSS, JUD
02/12/15	(H)	HSS AT 3:00 PM CAPITOL 106
02/12/15	(H)	Heard & Held
02/12/15	(H)	MINUTE (HSS)
02/24/15	(H)	HSS AT 3:00 PM CAPITOL 106
02/24/15	(H)	Heard & Held
02/24/15	(H)	MINUTE (HSS)

04/02/15 (H) HSS AT 3:00 PM CAPITOL 106  
 04/02/15 (H) Moved SSHB 27 Out of Committee  
 04/02/15 (H) MINUTE (HSS)  
 04/03/15 (H) HSS RPT 4DP  
 04/03/15 (H) DP: TARR, FOSTER, WOOL, SEATON  
 04/13/15 (H) JUD AT 1:00 PM CAPITOL 120  
 04/13/15 (H) Moved CSSSHB 27(JUD) Out of Committee  
 04/13/15 (H) MINUTE (JUD)  
 04/15/15 (H) JUD RPT CS (JUD) NT 5DP 1AM  
 04/15/15 (H) DP: CLAMAN, LYNN, FOSTER, GRUENBERG,  
 LEDOUX  
 04/15/15 (H) AM: KELLER  
 04/01/16 (H) TRANSMITTED TO (S)  
 04/01/16 (H) VERSION: CSSSHB 27(JUD) AM  
 04/04/16 (S) READ THE FIRST TIME - REFERRALS  
 04/04/16 (S) HSS, JUD  
 04/11/16 (S) HSS AT 1:30 PM BUTROVICH 205  
 04/11/16 (S) Heard & Held  
 04/11/16 (S) MINUTE (HSS)  
 04/13/16 (S) HSS RPT SCS 3DP SAME TITLE  
 04/13/16 (S) DP: STEDMAN, STOLTZE, GIESSEL  
 04/13/16 (S) HSS AT 9:00 AM FAHRENKAMP 203  
 04/13/16 (S) Moved SCS CSSSHB 27(HSS) Out of  
 Committee  
 04/13/16 (S) MINUTE (HSS)  
 04/13/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 308

SHORT TITLE: CHILD SAFETY SEAT INSTALLATION LIABILITY

SPONSOR(S): REPRESENTATIVE(S) MILLETT

02/12/16 (H) READ THE FIRST TIME - REFERRALS  
 02/12/16 (H) L&C, JUD  
 03/28/16 (H) L&C AT 3:15 PM BARNES 124  
 03/28/16 (H) Moved HB 308 Out of Committee  
 03/28/16 (H) MINUTE (L&C)  
 03/29/16 (H) L&C RPT 3DP 2NR  
 03/29/16 (H) DP: HUGHES, TILTON, OLSON  
 03/29/16 (H) NR: JOSEPHSON, KITO  
 04/06/16 (H) JUD AT 1:00 PM GRUENBERG 120  
 04/06/16 (H) Moved HB 308 Out of Committee  
 04/06/16 (H) MINUTE (JUD)  
 04/07/16 (H) JUD RPT 6DP  
 04/07/16 (H) DP: MILLETT, KREISS-TOMKINS, LYNN,  
 KELLER, CLAMAN, LEDOUX  
 04/10/16 (H) TRANSMITTED TO (S)  
 04/10/16 (H) VERSION: HB 308 AM

04/11/16 (S) READ THE FIRST TIME - REFERRALS  
04/11/16 (S) JUD  
04/13/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 187

SHORT TITLE: MOTOR VEHICLE ARSON ON PRIVATE PROPERTY  
SPONSOR(s): SENATOR(s) EGAN

02/19/16 (S) READ THE FIRST TIME - REFERRALS  
02/19/16 (S) JUD  
04/13/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 212

SHORT TITLE: FORFEITURE: NO CIVIL IN REM; ONLY CRIMINAL  
SPONSOR(s): JUDICIARY

04/11/16 (S) READ THE FIRST TIME - REFERRALS  
04/11/16 (S) JUD, FIN  
04/13/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 8

SHORT TITLE: POWERS OF ATTORNEY  
SPONSOR(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)  
02/08/16 (S) Heard & Held  
02/08/16 (S) MINUTE (JUD)

**WITNESS REGISTER**

REPRESENTATIVE LES GARA  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of HB 27.

TRACY SPARTZ CAMPBELL, Deputy Director  
Office of Children Services  
Department of Health and Social Services (DHSS)  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 27.

AMANDA METIVIER, Executive Director  
Facing Foster Care in Alaska  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 27.

LINDSEY WHITT, Staff  
Representative Charisse Millett

**POSITION STATEMENT:** Introduced HB 308 on behalf of the sponsor.

SARA PENISTEN, RN  
Providence Medical Center  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions related to HB 308.

FORREST WOLFE, Staff  
Senator Lesil McGuire  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Introduced SB 212 on behalf of the sponsor.

MEGAN WALLACE, Legislative Attorney  
Legislative Legal Services  
Legislative Affairs Agency  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions related to SB 212.

PETER SANDBERG, Attorney  
Ingaldson Maassen Fitzgerald

Anchorage, Alaska

**POSITION STATEMENT:** Commented on SB 212.

JESSE KIEHL, Staff  
Senator Dennis Egan  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Introduced SB 187 on behalf of the sponsor.

DAN JAGER Fire Marshall  
Capital City Fire and Rescue and  
Board Member  
Alaska Association of Fire Arson Investigators  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of SB 187.

REPRESENTATIVE SHELLEY HUGHES  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of HB 8.

GINGER BLAISDELL, Staff  
Representative Shelley Hughes  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Reviewed the changes between version G and version L of HB 8.

#### **ACTION NARRATIVE**

[1:50:01 PM](#)

**CHAIR LESIL MCGUIRE** called the Senate Judiciary Standing Committee meeting to order at 1:50 p.m. Present at the call to order were Senators Costello, Coghill, Wielechowski, and Chair McGuire.

#### **HB 27-DHSS DUTIES; CINA; FOSTER CARE; ADOPTION**

[1:51:14 PM](#)

CHAIR MCGUIRE announced the consideration of HB 27. [SCS CSSSHB 27(HSS) is before the committee.]

[1:51:20 PM](#)

REPRESENTATIVE LES GARA, Alaska State Legislature, Juneau, Alaska, sponsor of HB 27, said the goal of the legislation is to get youths out of foster care and into loving, permanent homes. Alaska has more youth per capita waiting for an adoptive home

than all other states but Oklahoma. Alaska has 700 youth waiting for adoption while Wyoming, that has a similar population, has 81 children in foster care. Many children linger in the foster care system or are bounced between foster homes. He mentioned a university student who transitioned through 47 foster homes and stressed that you shouldn't need to be a hero to survive the foster care system.

He talked about the stresses within the Office of Children's Services (OCS) and related that the bill aims to provide a double safety check to ensure that the most important things regarding foster care are done right. During the regular status hearings, the court will ask the caseworker what he/she has done to get the child into a permanent home, such as a family search. If the caseworker hasn't done anything, the court will direct them to come back in 20 days to show the family search has been done. He described two brothers who were 16 and in foster care their whole lives before a caseworker found out they had a grandparent, an aunt, and an uncle. The bill requires OCS at every placement change to make sure that the family search is updated.

He described the Casey Family Foundation that worked to allow youth to stay in foster care as long as they need to, up to age 21. He stressed that a youth that isn't ready to go out on their own shouldn't be dumped out of the system. About 25 percent of foster youth end up in jail at some point and roughly 40 percent end up couch surfing or homeless. Another part of HB 27 is that caseworkers must now show, at the regular status hearing, that it is in the youth's best interest to exit the foster care system.

REPRESENTATIVE GARA said the bill also recognizes the importance of school stability for a foster child. It provides that the department will attempt to keep the child in the same school, if feasible, because on average, every school bounce moves the child four months behind in their education.

[1:58:24 PM](#)

CHAIR MCGUIRE commented that if there isn't stability in the family, it's needed in the school.

REPRESENTATIVE LES GARA said another important provision allows OCS to let a child live in a dorm while they're in foster care if they still need to be in foster care. Right now that's illegal. The bill also says that OCS should help the child with education or vocational training. It removes the term "basic

education" which he described as somewhat reminiscent of Charles Dickens.

The bill also asks the department when its members are in front of a large group to let the crowd know they have a shortage of foster families and adoptive families. The department has frequent access to large crowds on a regular basis which makes it a good venue for getting the message out, and it doesn't cost money.

REPRESENTATIVE GARA concluded with a quote from the Alaska Children's Trust that said, "This bill will help reduce the impact of trauma by taking steps to get youth out of foster care into loving homes. It reduces new incidences of adverse childhood experiences and builds resilience among Alaska's children."

CHAIR MCGUIRE expressed appreciation for the bill and the sponsor's work in the area of foster care. She spoke of her frustration about the pro-life mandate in the building when there isn't sufficient work once the child is born. If every life matters we need to find ways that the child has a great chance at life, she said. This bill is a terrific step in that direction.

[2:05:53 PM](#)

SENATOR COSTELLO referenced a chart in the bill packets and asked if he knows what Maryland has done since 2005 to reduce the number of kids in the foster care system from 2,000 to 500.

REPRESENTATIVE LES GARA said he didn't know but he'd make it a summer project to find out.

CHAIR MCGUIRE requested he consider using interns and law students to work toward changing the system.

[2:07:23 PM](#)

SENATOR COGHILL expressed appreciation for the legislation and noted it aligns with the Indian Child Welfare Act (ICWA). Directing attention to the new language in Section 5 relating to transfers of a child from one out-of-home placement to another, he asked if it's in keeping with existing requirements or a new requirement that an adult family member or family friend must meet the foster care licensing requirements established by the department.

REPRESENTATIVE GARA replied the licensing requirements are the same. This section is to make sure that a search for a family member or family friend is done with each transfer in placement.

SENATOR COGHILL said he wanted to make sure this didn't create a new hurdle for families and make it more difficult to take in family members.

REPRESENTATIVE GARA said the licensing requirements are the same including the lower level licensing requirements for a relative placement, but in all cases there is a criminal background check and a finding that it's in the best interest of the child.

SENATOR COGHILL questioned the change in Section 9 that increases the upper limit of state oversight of a child in state custody from 18 years of age to 21 years of age. He noted that in most cases, a person who is 18 is considered an adult.

REPRESENTATIVE GARA said the bill doesn't change the age of consent and a child is already able to stay in foster care up to 21 years of age. Existing law requires the department to continue to search for a suitable adoptive or permanent placement of a child up to 18 years of age and the bill would require the department to continue that search up to 21 years of age. After age 18, the child is called a person. He said he knows of older children who still want to be adopted.

SENATOR COGHILL expressed satisfaction with the bill and opined that this codifies what the department is already doing.

REPRESENTATIVE GARA clarified that the department believes in these things and wants their caseworkers to be doing these things. But because it's not always happening, the bill has the court double check and ask at every status hearing whether or not the caseworker has tried to find a permanent home or if it's in the best interest of the child to drop him/her out of foster care against their will.

CHAIR MCGUIRE commented on the potential to have a broader spectrum of foster parents for older youths, and expressed hope that the sponsor's efforts lead to new grants.

[2:16:24 PM](#)

TRACY SPARTZ CAMPBELL, Deputy Director, Office of Children Services, Department of Health and Social Services (DHSS), stated that HB 27 offers a double check by the court to ensure that the work that caseworkers should be doing is being done.

Other provisions include the addition to the permanency report requiring the department to report to the court that reasonable efforts have been made to find a permanent home and when older youth are exiting care there will need to be a report that outlines it is in the best interest of the youth to exit care. She highlighted that the bill aligns federal mandates with current statutory requirements, which will allow the department to streamline their mandates.

She emphasized the effort OCS puts into looking for relatives with every placement transfer. She related that they often talk about first placement/best placement being with a relative, and the bill reinforces that. When a placement transfer is necessary they also strive for educational stability. Because much of what is presented in the bill is already being done, the division has presented a zero fiscal note.

2:19:00 PM

AMANDA METIVIER, Executive Director, Facing Foster Care in Alaska, testified in support of HB 27. She said foster youth throughout the state have been asking for this legislation for some time and her organization requested certain provisions. In particular is the continued search for permanent, loving families. She shared that she has a foster youth in her home who has been in the foster care system for about 12 years and has moved through 47 different foster care placements. HB 27 aims to help situations like this by continuing to search for a permanent family or relatives.

SENATOR COSTELLO expressed appreciation for the work Ms. Metivier and her daughter have done to help move the bill along.

2:21:40 PM

CHAIR MCGUIRE closed public testimony on HB 27.

SENATOR COGHILL clarified the working document is version S that was reported from the Senate Health and Social Services Standing Committee on

CHAIR MCGUIRE asked the sponsor if he had any other changes to highlight.

REPRESENTATIVE LES GARA explained that the amendment that passed the House floor was refined in the Senate committee substitute, version S, to ensure that decisions regarding school placement don't add costs unnecessarily. These decisions will be addressed during team decision meetings, where all stakeholders meet to

discuss foster placement changes. He noted that OCS would like to extend the team decision making model statewide but it is currently limited to the larger urban areas. This is addressed on page 7, lines 13-16.

[2:25:48 PM](#)

SENATOR COGHILL moved to report the Senate CS for HB 27 from committee with individual recommendations and attached fiscal note(s).

CHAIR MCGUIRE announced that without objection, SCS CSSSHB 27(HSS) is reported from the Senate Judiciary Standing Committee.

### **HB 308-CHILD SAFETY SEAT INSTALLATION LIABILITY**

[2:26:25 PM](#)

CHAIR MCGUIRE announced the consideration of HB 308. She noted that HB 308 AM is before the committee and this is the first hearing.

[2:26:45 PM](#)

LINDSEY WHITT, Staff, Representative Charisse Millett, Alaska State Legislature, Juneau, Alaska, introduced HB 308 speaking to the following sponsor statement:

Motor vehicle injuries are a leading cause of death and injury among children in the United States. However, many of these deaths are preventable with the correct installation and use of child passenger safety devices, like car seats or booster seats. Car seat use reduces the risk for death to infants by 71% and to toddlers by 54% in passenger vehicles. Booster seat use reduces the risk for serious injury by 45% for children aged 4-8 years when compared with seat belt use alone. The correct installation of any of these devices can alter their effectiveness dramatically, but many parents or caregivers accidentally misuse child restraints due to their complicated, unwieldy nature.

In Alaska, the Child Passenger Safety Coalition has made the goal of protecting children traveling on the roadways of Alaska their priority. Members include healthcare professionals, firefighters, paramedics, law enforcement officers, injury prevention professionals, health and safety personnel, educators,

parents, businesses, foundations, policymakers, and volunteers. Their team of Child Passenger Safety Technicians perform checks and help with the installation of child passenger safety devices for any new or interested parent or caregiver. Technicians are certified after successfully completing a 3 or 4-day program of classroom and hands-on work with child restraints and motor vehicles then demonstrate their skills at a community CPS check-up event. The resulting certification as a Child Passenger Safety Technician is nationally recognized and valid for 2 years.

However, recruitment of new technicians can be difficult due to a lack of liability protection. To remedy this deficit of trained safety experts who provide essential assistance to parents, caregivers, and most importantly children, House Bill 308 limits the civil liability of certified technicians, or those who facilitate their program, in the case that an accident results from an act or omission in the inspection, installation, or adjustment of a child passenger safety device. With the goal of having our state's children safe and secured in their car seats and booster seats, this bill hopes to increase the numbers of those who can effectively install and inspect devices and direct liability to those who actually commit wrongful, criminal acts.

CHAIR MCGUIRE listed the individuals available to answer questions: Anthony Green with Safe Kids Worldwide, Sara Penisten with Providence Medical Center, Clifton Powell with the Anchorage Fire Department, Jane Fellman with Safe Kids Kenai Peninsula, Mari Carpeneti with the Department of Law, Megan Wallace with Legislative Legal, and Corlis Taylor with the Alaska Child Passenger Safety Coalition.

[2:28:11 PM](#)

MS. WHITT offered the following sectional analysis for HB 308:

Section 1:

Provides that the following are not civilly liable in the case of an act or omission that occurs in the inspection, installation, or adjustment of a child safety seat or in providing education regarding the installation or adjustment of a child safety seat:

- A certified Child Passenger Safety Technician (CPST)
- A person who arranges or offers the services of a CPST for the community
- A person who owns property where a CPST is operating

A CPST must offer their services for free or for the amount of their actual costs, in good faith, and within the scope of their training. They may also not be sponsored by a child passenger safety device manufacturer or retailer.

#### Section 2:

A new subsection (b) to AS 28.05.095 was added on the House floor changing the weight requirements of a child who is in need of a booster seat.

A child under age 16 may not be transported in a vehicle without securing them safely.

- A child one year of age or a child one year or older who weighs less than 20 pounds must be properly secured in a rear-facing child seat.
- A child of one or more years but less than five years of age who weighs 20 pounds or more shall be properly secured in a child restraint device.
- A child over four years of age but less than eight years of age who is less than 57 inches in height and weighs 20 or more pounds but less than 65 pounds shall be properly secured in a booster seat.

#### Section 3

Applicability clause.

[2:31:52 PM](#)

SENATOR COSTELLO questioned why seat belts aren't required in school buses.

MS. WHITT deferred to Sara Penisten.

[2:32:29 PM](#)

SARA PENISTEN, RN, Providence Medical Center, said the statistics from the motor vehicle testing process indicate that school buses are 8 times safer for a child passenger than riding in a private motor vehicle. However, the National Highway Traffic Safety Administration (NHTSA) is currently looking at new requirements for school buses and changes in recommendations

for school busses are expected in the next few years. She explained that traditionally they have operated on a compartmentalization model that is similar to eggs in an egg crate; if students are sitting in their seats facing forward, they are protected in a frontal collision. The protection doesn't extend to rollover situations.

SENATOR COSTELLO said it's encouraging that changes are likely because she never understood the exemption.

CHAIR MCGUIRE held HB 308 in committee.

**SB 212-FORFEITURE: NO CIVIL IN REM; ONLY CRIMINAL**

[2:35:26 PM](#)

CHAIR MCGUIRE announced the consideration of SB 212. She noted that this is the first hearing.

[2:35:29 PM](#)

FORREST WOLFE, Staff, Senator McGuire, Alaska State Legislature, Juneau, Alaska, introduced SB 212 on behalf of the sponsor speaking to the following prepared statement:

Senate Bill 212 protects the private property rights of innocent citizens by requiring that Alaska's revered and dedicated law enforcement agencies, charge individuals with a crime before permanently seizing private property

Across the nation, civil asset forfeiture laws have gained notoriety in recent years for rampant abuse and deliberate circumvention of due process. Well-documented cases of policing for profit have sparked a wave of reform nationwide.

SB 212 is a step in the right direction in protecting private citizens' property rights and affirming the integrity of law enforcement.

[2:36:30 PM](#)

SENATOR COGHILL asked for an explanation of in rem forfeiture actions.

MR. WOLFE deferred the question to the drafter.

[2:36:56 PM](#)

MEGAN WALLACE, Legislative Attorney, Legislative Legal Services, Legislative Affairs Agency, explained that in rem is an action brought against a piece of property as opposed to against a person.

CHAIR MCGUIRE asked Mr. Sandberg to comment on the bill.

[2:37:55 PM](#)

PETER SANDBERG, Attorney, Ingaldson Maassen Fitzgerald, explained that SB 212 is intended to ensure that people don't unjustly lose their property in a civil proceeding. If there is going to be forfeiture of property, it will happen through the criminal process. He noted that Mr. Skidmore would probably say that civil in rem forfeiture isn't used in Alaska, but cases from the late 1990s and early 2000s make it clear that it was used. In some of those cases the people were acquitted and still lost their property.

SENATOR WIELECHOWSKI asked if this is a problem in Alaska.

MR. SANDBERG said there is no single procedure for forfeiture in Alaska law and he believes that most people would say it's fundamentally unfair to be acquitted of a crime and still have your property taken. He read the summary of the Waste v. State decision that is the case law on the matter.

CHAIR MCGUIRE referenced an article in the packet that refers to a U.S. Supreme Court ruling tossing out Alvarez v. Smith. She said that was a challenge to a portion of the asset forfeiture law in Illinois allowing government to keep seized property for up to six months before giving an owner a day in court.

[2:43:10 PM](#)

SENATOR WIELECHOWSKI noted an article indicating that in rem forfeiture is a civil method of law enforcement for Indian tribes. He expressed interest in knowing if that's an issue in Alaska.

[2:43:29 PM](#)

CHAIR MCGUIRE held SB 212 in committee for future consideration.

**SB 187-MOTOR VEHICLE ARSON ON PRIVATE PROPERTY**

[2:43:52 PM](#)

CHAIR MCGUIRE announced the consideration of SB 187.

[2:44:06 PM](#)

JESSE KIEHL, Staff, Senator Dennis Egan, Alaska State Legislature, Juneau, Alaska, informed the committee that SB 187 closes an interesting oddity in Alaska's arson law. Under existing law, if a person intentionally lights a fire and there is a serious risk of injury to someone, that is arson in the first degree, a class A felony. If a person intentionally burns a building that isn't theirs, that is arson in the second degree, a class B felony. If someone burns a vehicle, whether they own it or not, on city or state land, that is arson in the third degree, a class C felony. But it is not arson if a person burns the boss's car in the company parking lot or an ex's car in her driveway. That is criminal mischief in the third degree.

SB 187 fixes that oddity by extending the crime of arson to include burning another person's car, regardless of where it is parked. It will be arson in the third degree, a class C felony.

[2:46:21 PM](#)

CHAIR MCGUIRE commented that burning is an early indicator of deviant, antisocial behavior; it demonstrates a wanton disregard for life and property.

MR. KIEHL related that the current arson statute was created in 2008 and aimed at a particular situation that had gotten out of control. The sponsor of that bill supports this legislation.

CHAIR MCGUIRE asked if the mental intent is intentionally.

MR. KIEHL said intentionally burning is the status quo language throughout the existing arson statutes and there have been many successful prosecutions with that language.

CHAIR MCGUIRE commented on the Sockeye Fire.

MR. KIEHL said the follow-on risks to intentionally starting a fire are significant and, as a former volunteer fireman, the sponsor is particularly concerned about the risk to first responders in a vehicle fire.

SENATOR COGHILL stated support for the bill.

[2:50:53 PM](#)

DAN JAGER Fire Marshall, Capital City Fire and Rescue, and board member, Alaska Association of Fire Arson Investigators, said this group has been pushing to make changes in the arson statute. SB 187 adds clarification for fire investigators across

the state and ensures that people who are responsible for burning vehicles will be properly charged.

[2:51:32 PM](#)

CHAIR MCGUIRE found no further comment and closed public testimony on SB 187. Finding no amendments or committee discussion, she solicited a motion.

[2:51:47 PM](#)

SENATOR COGHILL moved to report SB 187 from committee with individual recommendations and attached zero fiscal note.

CHAIR MCGUIRE announced that without objection, SB 187 is reported from the Senate Judiciary Standing Committee.

### **HB 8-POWERS OF ATTORNEY**

[2:52:24 PM](#)

CHAIR MCGUIRE announced the consideration of HB 8. She relayed that this is the second hearing, public testimony is open, and there is a proposed committee substitute.

[2:53:10 PM](#)

SENATOR COSTELLO moved to adopt SCS CSHB 8, labeled 29-LS0055\L, as the working document.

CHAIR MCGUIRE announced that without objection version L is adopted.

[2:53:33 PM](#)

REPRESENTATIVE SHELLEY HUGHES, Alaska State Legislature, sponsor of HB 8, thanked the Chair for bringing the bill back for consideration. She described HB 8 as a top priority for many groups representing seniors and noted it is the culmination of three year's work.

[2:54:01 PM](#)

GINGER BLAISDELL, Staff, Representative Shelley Hughes, reviewed the changes between version G and version L of HB 8.

Page 5, lines 2 and 10:  
Change "seven" to "five".  
Page 5, line 13:  
Change "five" to "three".

Explanation:

Three amendments change the wait times by two fewer days, for businesses and financial institutions to honor the Agent's powers. When the Agent is acting on behalf of the Principle in honesty, reducing the wait time to less than two weeks, could reduce the possibility for unforeseen consequences. A delay to recognize the POA could result in late payments with fees and can cause undue stress and unnecessary administrative burden on the Agent.

Page 7, lines 3-10:  
Delete all material.

Re-number remaining bill sections accordingly.

**Explanation:**

This amendment is a conforming amendment so that the Power of Attorney language adopted in this Act eliminates duplicative language that is provided for in the Recognition of Substitute Decision-Making Documents provisions in Section 27 (re-numbered).

Page 8, lines 7-13:

Delete: "Mark the box of "NO" that is opposite a category below to indicate that you are not giving your agent or agents the power in that category. Mark a box for every category. If you do not mark either of the boxes opposite a category, or if you mark both of the boxes"

Insert: "If you do not mark a box"

Page 8, line 21 through Page 9, line 10:  
Remove the "NO" column

Page 13, lines 23-26:

Delete: "(5) if the principal has failed to mark either of the "Yes" or "No" boxes opposite a category of power, or if the principal has marked both the "Yes" or "No" boxes opposite a category of power, the agent does not have the power in that category."

**Explanation:**

Three amendments change the statutory form to offer only a "Yes" column for the principal to indicate which powers are to be given to the agent. The amendments remove additional instruction on completing

the form to fit a single option response rather than a "yes" - "no" option.

Page 38, lines 16-17:

Delete "Except as provided in AS 13.26.331, a"

Insert "A"

Explanation:

This amendment is a conforming amendment so that the Power of Attorney language adopted in this Act eliminates duplicative language that was provided in Section 5.

[2:55:17 PM](#)

SENATOR COGHILL described the current version as a good compromise.

SENATOR COSTELLO thanked the sponsor for working with the committee to add protections for seniors.

[2:56:21 PM](#)

SENATOR COGHILL moved to report the Senate CS for CS for HB 8, labeled 29-LS0055\L, from committee with individual recommendations and attached zero fiscal note.

CHAIR MCGUIRE announced that without objection, SCS CSHB 8(JUD) is reported from the Senate Judiciary Standing Committee.

[2:56:49 PM](#)

There being no further business to come before the committee, Chair McGuire adjourned the Senate Judiciary Standing Committee meeting at 2:56 p.m.