

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

April 11, 2018

2:21 p.m.

**MEMBERS PRESENT**

Representative Matt Claman, Chair  
Representative Jonathan Kreiss-Tomkins, Vice Chair  
Representative Louise Stutes  
Representative Gabrielle LeDoux  
Representative David Eastman  
Representative Chuck Kopp  
Representative Lora Reinbold

**MEMBERS ABSENT**

Representative Charisse Millett (alternate)  
Representative Tiffany Zulkosky (alternate)

**COMMITTEE CALENDAR**

HOUSE BILL NO. 230

"An Act relating to the collection of customer information by telecommunications and Internet service providers; and establishing an unfair trade practice under the Alaska Unfair Trade Practices and Consumer Protection Act."

- HEARD & HELD

CS FOR SENATE BILL NO. 205(L&C)

"An Act relating to the Regulatory Commission of Alaska; relating to the public utility regulatory cost charge; and relating to telecommunications regulations, exemptions, charges, and rates."

- HEARD & HELD

HOUSE BILL NO. 387

"An Act relating to scheduled substances; relating to the Controlled Substances Advisory Committee; and authorizing the attorney general to schedule substances by emergency regulation or repeal an emergency regulation that scheduled a substance."

- MOVED CSHB 387(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 351

"An Act relating to care of juveniles and to juvenile justice; relating to employment of juvenile probation officers by the Department of Health and Social Services; relating to terms used in juvenile justice; relating to mandatory reporters of child abuse or neglect; relating to adjudication of minor delinquency and the deoxyribonucleic acid identification registration system; relating to sexual assault in the third degree; relating to sexual assault in the fourth degree; repealing a requirement for administrative revocation of a minor's driver's license, permit, privilege to drive, or privilege to obtain a license for consumption or possession of alcohol or drugs; and providing for an effective date."

- MOVED CSHB 351(HSS) OUT OF COMMITTEE

HOUSE BILL NO. 336

"An Act relating to supported decision-making agreements to provide for decision-making assistance; and amending Rule 402, Alaska Rules of Evidence."

- MOVED CSHB 336(JUD) OUT OF COMMITTEE

#### **PREVIOUS COMMITTEE ACTION**

BILL: HB 230

SHORT TITLE: TELECOMMUNICATIONS & INTERNET PRIVACY

SPONSOR(S): REPRESENTATIVE(S) DRUMMOND

|          |     |                                 |
|----------|-----|---------------------------------|
| 04/15/17 | (H) | READ THE FIRST TIME - REFERRALS |
| 04/15/17 | (H) | L&C, JUD                        |
| 05/01/17 | (H) | L&C AT 3:15 PM BARNES 124       |
| 05/01/17 | (H) | Heard & Held                    |
| 05/01/17 | (H) | MINUTE(L&C)                     |
| 03/30/18 | (H) | L&C AT 3:15 PM BARNES 124       |
| 03/30/18 | (H) | Heard & Held                    |
| 03/30/18 | (H) | MINUTE(L&C)                     |
| 04/04/18 | (H) | L&C AT 3:15 PM BARNES 124       |
| 04/04/18 | (H) | Moved HB 230 Out of Committee   |
| 04/04/18 | (H) | MINUTE(L&C)                     |
| 04/05/18 | (H) | L&C RPT 2DP 2DNP 3NR            |
| 04/05/18 | (H) | DP: STUTES, WOOL                |
| 04/05/18 | (H) | DNP: SULLIVAN-LEONARD, BIRCH    |
| 04/05/18 | (H) | NR: JOSEPHSON, KNOPP, KITO      |
| 04/11/18 | (H) | JUD AT 1:00 PM GRUENBERG 120    |

BILL: SB 205

SHORT TITLE: TELECOMMUNICATIONS REGULATION/EXEMPTIONS

SPONSOR (s) : SENATOR (s) MEYER

02/19/18 (S) READ THE FIRST TIME - REFERRALS  
02/19/18 (S) L&C  
02/27/18 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
02/27/18 (S) Heard & Held  
02/27/18 (S) MINUTE(L&C)  
03/08/18 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
03/08/18 (S) Heard & Held  
03/08/18 (S) MINUTE(L&C)  
04/02/18 (S) L&C AT 9:00 AM BELTZ 105 (TSBldg)  
04/02/18 (S) Heard & Held  
04/02/18 (S) MINUTE(L&C)  
04/03/18 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
04/03/18 (S) Moved CSSB 205(L&C) Out of Committee  
04/03/18 (S) MINUTE(L&C)  
04/04/18 (S) L&C RPT CS 3DP 1NR NEW TITLE  
04/04/18 (S) DP: COSTELLO, MICCICHE, MEYER  
04/04/18 (S) NR: GARDNER  
04/09/18 (S) TRANSMITTED TO (H)  
04/09/18 (S) VERSION: CSSB 205(L&C)  
04/11/18 (H) JUD AT 1:00 PM GRUENBERG 120

BILL: HB 387

SHORT TITLE: AG SCHEDULE CONTROLLED SUBSTANCES

SPONSOR (s) : REPRESENTATIVE (s) CLAMAN

02/21/18 (H) READ THE FIRST TIME - REFERRALS  
02/21/18 (H) JUD, FIN  
03/16/18 (H) JUD AT 1:00 PM GRUENBERG 120  
03/16/18 (H) Heard & Held  
03/16/18 (H) MINUTE(JUD)  
04/04/18 (H) JUD AT 1:00 PM GRUENBERG 120  
04/04/18 (H) Heard & Held  
04/04/18 (H) MINUTE(JUD)  
04/11/18 (H) JUD AT 1:00 PM GRUENBERG 120

BILL: HB 351

SHORT TITLE: JUVENILES: JUSTICE, FACILITES, TREATMENT

SPONSOR (s) : REPRESENTATIVE (s) SPOHNHOLZ

02/16/18 (H) READ THE FIRST TIME - REFERRALS  
02/16/18 (H) HSS, JUD  
03/06/18 (H) HSS AT 3:00 PM CAPITOL 106  
03/06/18 (H) Heard & Held  
03/06/18 (H) MINUTE(HSS)  
03/08/18 (H) HSS AT 3:00 PM CAPITOL 106

03/08/18 (H) Moved CSHB 351(HSS) Out of Committee  
 03/08/18 (H) MINUTE(HSS)  
 03/09/18 (H) HSS RPT CS(HSS) 6DP  
 03/09/18 (H) DP: JOHNSTON, CLAMAN, EDGMON, SULLIVAN-  
 LEONARD, KITO, TARR  
 04/06/18 (H) JUD AT 1:00 PM GRUENBERG 120  
 04/06/18 (H) Heard & Held  
 04/06/18 (H) MINUTE(JUD)  
 04/11/18 (H) JUD AT 1:00 PM GRUENBERG 120

BILL: HB 336

SHORT TITLE: SUPPORTIVE DECISION-MAKING AGREEMENTS

SPONSOR(S): REPRESENTATIVE(S) MILLETT

02/07/18 (H) READ THE FIRST TIME - REFERRALS  
 02/07/18 (H) HSS, JUD  
 03/01/18 (H) HSS AT 3:00 PM CAPITOL 106  
 03/01/18 (H) Heard & Held  
 03/01/18 (H) MINUTE(HSS)  
 03/08/18 (H) HSS AT 3:00 PM CAPITOL 106  
 03/08/18 (H) Moved CSHB 336(HSS) Out of Committee  
 03/08/18 (H) MINUTE(HSS)  
 03/09/18 (H) HSS RPT CS(HSS) 6DP  
 03/09/18 (H) DP: JOHNSTON, CLAMAN, EDGMON, SULLIVAN-  
 LEONARD, KITO, TARR  
 04/09/18 (H) JUD AT 1:00 PM GRUENBERG 120  
 04/09/18 (H) Heard & Held  
 04/09/18 (H) MINUTE(JUD)  
 04/11/18 (H) JUD AT 1:00 PM GRUENBERG 120

**WITNESS REGISTER**

REPRESENTATIVE HARRIET DRUMMOND

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** During the hearing of HB 230, presented the legislation as prime sponsor.

PATRICK FITZGERALD, Staff

Representative Harriet Drummond

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** During the hearing of HB 230, offered a sectional analysis and answered questions.

JONATHAN CLEMENT, Assistant Attorney General

Commercial and Fair Business Section

Department of Law (DOL)  
Anchorage, Alaska

**POSITION STATEMENT:** During the hearing of HB 230, answered a question.

SENATOR KEVIN MEYER  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing of SB 205, presented the legislation as prime sponsor.

EDRA MORLEDGE, Staff  
Senator Kevin Meyer  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing of SB 205, presented the sectional analysis.

CHRISTINE O'CONNOR, Executive Director  
Alaska Telecom Association (ATA)  
Anchorage, Alaska

**POSITION STATEMENT:** During the hearing of SB 205, offered the "SB 205 Telecommunications Statutes Simply & Modernize" PowerPoint Presentation.

LIZZIE KUBITZ, Staff  
Representative Matt Claman  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing of HB 387, presented Version D and offered its sectional analysis.

REPRESENTATIVE IVY SPOHNHOLZ  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing of CSHB 351, answered questions.

QUINLAN STEINER, Director  
Central Office  
Public Defender Agency (PDA)  
Department of Administration (DOA)  
Anchorage, Alaska

**POSITION STATEMENT:** During the hearing of CSHB 351, discussed Amendment 1.

MATT DAVIDSON, Social Services Program Officer  
Division of Juvenile Justice

Department of Health and Social Services (DHSS)  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing of CSHB 351, answered questions.

JUDY JESSEN, Staff  
Representative Ivy Spohnholz  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing of CSHB 351, answered a question.

HANS RODVIK, Staff  
Representative Charisse Millett  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing of HB 336, answered a question.

#### **ACTION NARRATIVE**

[2:21:21 PM](#)

**CHAIR MATT CLAMAN** called the House Judiciary Standing Committee meeting to order at 2:21 p.m. Representatives Claman, Kreiss-Tomkins, LeDoux, Kopp, Reinbold, and Stutes were present at the call to order. Representative Eastman arrived as the meeting was in progress.

#### **HB 230-TELECOMMUNICATIONS & INTERNET PRIVACY**

[2:21:56 PM](#)

CHAIR CLAMAN announced that the first order of business would be HOUSE BILL NO. 230, "An Act relating to the collection of customer information by telecommunications and Internet service providers; and establishing an unfair trade practice under the Alaska Unfair Trade Practices and Consumer Protection Act."

[2:22:23 PM](#)

REPRESENTATIVE HARRIET DRUMMOND, Alaska State Legislature, advised that in March 2017, the United States Congress passed a bill that repealed an FCC regulation known as "Protecting the Privacy of Customers of Broadband and Other Telecommunication Services." She explained that this regulation mandates that internet service providers (ISPs) must receive permission from

users before harvesting personal data. The repeal of this regulation allowed an opening for ISPs and telecommunication companies to collect data without the consent of the customer whose data was being collected. She stressed that there are absolutely no accusations here that any of Alaska's telecommunication companies or ISPs are doing this, and they have been clear in letting her office know that they do not use this type of trade practice. However, she remarked, there is a need to protect the privacy of Alaskans by solidifying into statute a civil penalty that can be used on a telecommunications company or ISP if they are found to have been doing so by an Alaska court. This legislation implements a new section under AS 45.48.800 to establish the collection of personal data and information by an ISP or telecommunication company as an unfair trade practice. She further advised that this legislation will keep Alaskans' information safe and will allow the state to bring action against violators of the new section, and hopefully it will never be used.

[2:24:14 PM](#)

PATRICK FITZGERALD, Staff, Representative Harriet Drummond, Alaska State Legislature, paraphrased the sectional analysis as follows [original punctuation provided]:

Sec. 1. Establishing the collecting of personal information by Telecommunications companies or Internet service providers without the consent of the customer or user of service is considered (1) Effect on public interest (2) Not a reasonable method of conducting or preserving business (3) is an unfair trade and deceptive practice of business operations.

Sec. 2 - AS 45.48 is amended by adding a new section to read: Article 6A. Information Disclosure

Sec. 45.48.800 Approval required for Information disclosure. Telecommunications Company or Internet service providers are not allowed to collect personal information without the expressed written approval of the customer. Telecommunications Company or Internet service providers may not discriminate a paying customer solely because a customer denied the right for the Telecommunications Company or Internet service providers to collect information.

Telecommunications Company is defined as Cable, telegraph, telephone, or broadcasting.

Sec. 3 - AS 45.50.471 Adds a new paragraph AS 45.48.800 explaining violation of credit/debit card information sharing now includes Internet and telecommunications providers.

Sec. 4 AS 45.48.800 Definition of "Telecommunication service" and establishes an effective date.

[2:26:05 PM](#)

REPRESENTATIVE LEDOUX asked the type of personal information being collected because if she googles Antarctica, for example, and the next thing she knows is that advertisements for vacations in that area pop up on her screen. She questioned whether that is the type of personal information being collected that would no longer be available to harvest.

REPRESENTATIVE DRUMMOND opined that Representative LeDoux's example takes place through Facebook's or Google's algorithms, and this is not about the software companies that run those programs on the internet, but rather it is about the people who send that information to our homes and offices initially. She explained that this legislation is for those service providers to whom consumers pay their bills for internet access, and she is trying to keep sensitive information out of the hands of those providers. She said she does not know what can be done about issues such as Representative LeDoux's example, although the federal government is trying to deal with Facebook and its privacy issues. This bill is simply about the GCIs, the ACSs, the APTIs, and the other service providers in Alaska because the FCC withdrew this rule that protects consumer privacy. Therefore, she pointed out, the states need to step in, and many state legislatures have stepped up to help ensure their constituents' privacy from "their ISPs prying fingers."

MR. FITZGERALD added that the sponsor's office has information from the Council of State Governments and other states with legislation similar to HB 230, which advised that many areas in the country have only one internet service provider for certain areas. Under those circumstances, he said, a person has relatively no option as far as their information being used and shared, which is one of the reasons for this legislation.

[2:29:22 PM](#)

REPRESENTATIVE LEDOUX requested an example of the information Mr. Fitzgerald was discussing, what information is being shared, and whether it includes her social security number.

MR. FITZGERALD answered that the definition of personal information varies, and the sponsor requested a memorandum from Legislative Legal and Research Services on that definition, and issues such as state identification numbers, social security numbers, billing information, and so forth.

[2:30:22 PM](#)

REPRESENTATIVE LEDOUX questioned how GCI or ACS would even receive her state identification number.

REPRESENTATIVE DRUMMOND responded that all of this information travels from her keyboard through the software, such as Facebook or a shopping website, and the hardware that is provided by the person's internet service provider to get that signal to her. Those entities have the ability to "grab that information along the way," never mind what Facebook marketing is doing with it as that is dealt with in a different manner. Many of these devices have the capability to retain the memory of account numbers, social security numbers, credit card information, medical information, and online purchases, she advised. The passage of HB 230 would put into law that the telecommunication companies and internet service providers must be given consent by the user of any service or device before they can sell, trade, or gift the information entered by a private citizen. She offered that the entity may already have this information because all of this information passes through its equipment and at any point it can reach in and grab the information. This legislation directs that the entities cannot grab the information without permission. This is something that can easily take place since the consumer pays the service provider hundreds of dollars in fees every month, and in exchange it needs to get permission to use any information that might be harvested.

[2:32:26 PM](#)

REPRESENTATIVE LEDOUX asked whether it was likely the service providers have a form that is similar to form she see when logging onto the state internet stating, "You agree to the terms."

REPRESENTATIVE DRUMMOND answered, "Probably yes."

[2:33:14 PM](#)

REPRESENTATIVE REINBOLD asked whether this bill deals solely with internet service providers and it has nothing to do with software or apps.

REPRESENTATIVE DRUMMOND replied that this legislation is solely about telecommunication companies and internet service providers, "not the Microsoft, Facebook Zuckerberg's of the world," unless Microsoft is an internet service provider. Her only concern, she remarked, is with Alaska's internet service providers and the impacts of protecting the privacy of Alaska's citizens through this legislation.

[2:35:01 PM](#)

REPRESENTATIVE REINBOLD asked whether there is any way to "get them on the hook," as she would look forward to an amendment to target these people and in dealing with the software aspect as well.

REPRESENTATIVE DRUMMOND commented that this is a good conversation to have and AT&T and GCI are both telecommunication companies that lease the use of phones to Alaskans, for example. In the event the legislature directs those entities to protect Alaskans' privacy, they will need to come up with a manner in which to protect that privacy or obtain a customer's permission before using any of the data. This legislation is aimed at the closest people it can impact, and AT&T and GCI are close at hand, she explained that those are the people this legislation is talking to, not Microsoft or Facebook.

[2:36:29 PM](#)

REPRESENTATIVE REINBOLD noted that she was unsure whether it was real, but there were contracts between AT&T and NSA all over Facebook. She offered that could be a broader conversation that "they are working with or whether they are not. I think that that may be another intriguing aspect of this conversation."

[2:37:01 PM](#)

REPRESENTATIVE EASTMAN suggested that it would probably be in the best interests of the committee to have a definition of personal information somewhere in the bill, or at least point to a definition somewhere else that will apply. He commented that

"As I look at just personal information, it would seem to me from just reading the bill that if I don't want to give my full name to an ISP, that I don't have to. And, if they want to bill me they are going to have to find some other way, some non-personal information way, if I refuse to give consent to give that kind of information." He asked the impact the sponsor foresees as to the passage of this bill having on law enforcement. For example, if someone is committing crimes and the ISP is aware, except it is not allowed to keep any of ...

CHAIR CLAMAN advised that Representative Eastman had passed his one-minute time limit, and said that the question is, what is the impact on law enforcement.

MR. FITZGERALD replied that the sponsor has looked into that question and it is awaiting an official response from the Legislative Legal and Research Services drafter and a legal opinion. However, he said, it is his informal knowledge that court ordered warrants are specific and this legislation does not stop any warrant from being issued if there is suspicion of illegal activity taking place through any sort of ISP or any individual using their own personal computer "for things." He said he would provide the committee with any information he receives.

[2:39:04 PM](#)

REPRESENTATIVE EASTMAN commented that that did not answer his question, and said that the bill read that it is illegal for the telecommunications service provider to collect a person's information. In the event he was a member of law enforcement "and I go with that search warrant to collect the information from you, you would have first, as the ISP, had to have collected that information to begin with. And, if you don't hold onto it in some way, which is usually called 'collecting' then there may be nothing for the search warrant to go back to. You may say, hey, we'd like to help you but we just don't know any information to help you out with your search warrant."

MR. FITZGERALD clarified that this legislation makes it illegal to collect information without the user's consent. That being said, he opined that (audio difficulties) reason to suspect illegal activity taking place with an individual's computer, then law enforcement would be able to go through the ISP and serve a warrant for a search.

[2:40:50 PM](#)

REPRESENTATIVE EASTMAN referred to the violations "in the memo you provided," wherein it spells out that for each violation, the person must be subject to a penalty of not less than \$1,000 fine or more than \$25,000 fine. He asked how that might impact a willingness for the companies to stay in this market if they will now be liable, especially if it is an accidental technical error that results in 5,000 customers being affected. In the event each one of those customers is a violation, that could put a company out of business, impact insurance rates, or customer service charges, he said.

MR. FITZGERALD responded that the sponsor does not believe the risk of a company that does not handle their customer's privacy diligently should be exempt from penalties.

[2:42:09 PM](#)

REPRESENTATIVE KOPP asked whether the intent of this legislation is that no information, such as a phone number or address, can be retained by an internet service provider or a telecommunication provider unless they have the consumer's consent.

REPRESENTATIVE DRUMMOND responded that obviously the internet service provider requires some information from the consumer in order to provide the service. Information such as a consumers' telephone number, address, credit card numbers, bank account number with which the consumer pays their invoices, and anything else collected by that service provider must stay private. She said that she assumes the service provider would want that information and that they should be able to keep it private in order to provide their services. Beyond that, she explained, service providers do not get to profit from collecting that information, or share it with marketing companies, or any other entity, without the consumer's permission. She stated that in her opinion it should simply be that when a person signs up for service with GCI, AT&T, or any other service provider, there is a simple "yes or no" box to check indicating whether the consumer's personal information can be shared.

[2:44:02 PM](#)

REPRESENTATIVE KOPP surmised that this bill is not so much about the collection of data, but what actions are taken with the personal information data.

REPRESENTATIVE DRUMMOND answered in the affirmative.

[2:44:20 PM](#)

REPRESENTATIVE KOPP commented that he has served many search warrants for pagers and cells phones, and on internet service providers for particular IP addresses which shows associations, dates and times, exactly when the criminal act occurred, and when all the communication stopped because "the deed is done so these people do not need to talk to each other anymore." (Audio difficulties) wanting to make sure the bill sponsor's intent is more about commercially selling a consumer's information and being pulled into whatever marketing someone else offered.

REPRESENTATIVE DRUMMOND answered in the affirmative.

[2:45:31 PM](#)

CHAIR CLAMAN opened public testimony on HB 230.

REPRESENTATIVE EASTMAN asked Jonathan Clement, Department of Law, (audio difficulties) having on law enforcement.

[2:46:50 PM](#)

JONATHAN CLEMENT, Assistant Attorney General, Commercial and Fair Business Section, Department of Law (DOL), advised that he works in the area of consumer protection and Representative Eastman's question would be better directed to the Department of Law, Criminal Division. He offered to work with the bill sponsor to have someone available to answer the question at the next hearing.

[2:47:16 PM](#)

CHAIR CLAMAN, after ascertaining no one wished to testify, closed public hearing on HB 230.

[2:47:26 PM](#)

REPRESENTATIVE REINBOLD referred to the Constitution of the State of Alaska, Article 1, Sec. 22, which read as follows:

Right of Privacy.

The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section. [Amended 1972]

REPRESENTATIVE REINBOLD commented that she believes this is a bill that could possibly be agreed upon because legislators swore to defend the constitution.

[2:47:52 PM](#)

REPRESENTATIVE EASTMAN commented that he values the intent of this legislation, he appreciates the protection for privacy being pursued, and that his questions were in the form of devil's advocate because attorneys do not always catch where legislators are trying to go with legislation.

[HB 230 was held over.]

#### **SB 205-TELECOMMUNICATIONS REGULATION/EXEMPTIONS**

[2:48:51 PM](#)

CHAIR CLAMAN announced that the next order of business would be SENATE BILL NO. 205, "An Act relating to the Regulatory Commission of Alaska; and relating to telecommunications regulations, exemptions, charges, and rates."

[2:49:24 PM](#)

SENATOR KEVIN MEYER, Alaska State Legislature, advised that all of the telecommunication companies support SB 205, which is rare because this business is competitive with 15 different telephone companies in Alaska. The intent of this legislation is to modernize the state's telecommunication statutes because technology has changed and consumer preferences for telephones have changed extensively since the laws were written in 1990. In fact, he advised, it is estimated that only 40 percent of homes continue to maintain a landline. He explained that this legislation removes the outdated regulation of long-distance competition and remedies the current distortion that exists as to which companies pay the regulatory costs charge. Under SB 205, he said, all of the companies will pay the RCC charges, thereby spreading the cost amongst all of the carriers and not to just a few as it is currently. He related that this bill also removes the requirement for the RCA to designate carriers of last resort (COLR) because it is unnecessary and results in

unfairly imposing burdens on one carrier in a market. All carriers in a market should be treated equally unless there is a compelling reason to do otherwise. Another reason the carrier of last resort (COLR) is no longer necessary is because there are state statutes and regulations in place at the state and federal level that will remain and prohibit carriers from discontinuing a service without the permission of the RCA.

[2:51:36 PM](#)

SENATOR MEYER reiterated that SB 205 simply removes obsolete inequity regulatory burdens while maintaining the obligation to provide landline service. The legislation provides efficiencies for both the industry and RCA by allowing all parties to focus on relevant regulatory activity, and it preserves the public interest oversight role that RCA has today. He cautioned that having been with this bill for a while, it is a technical bill and experts are available to better answer questions.

[2:52:24 PM](#)

EDRA MORLEDGE, Staff, Senator Kevin Meyer, paraphrased the sectional analysis as follows [original punctuation provided]:

**Section 1 - Municipal powers and duties.** AS 29.35.070 Public Utilities. Section 11 repeals AS 42.05.810, therefore it is removed from reference in this section of the statute.

MS. MORLEDGE advised that Section 1 was necessary because Sec. 11, AS 42.05.810 is repealed; therefore, the reference to that statute is in Section 1.

**Section 2 - Alaska Public Utilities Regulatory Act.** AS 42.05.141 Adds two new subsections (e) and (f) to the general powers and duties of the RCA. These subsections state that the Commission may not designate a local exchange carrier or an interexchange carrier as the carrier of last resort, and that the Commission may designate an eligible telecommunications carrier consistent with the federal code that allows for federal subsidies under the Universal Service Fund.

A **carrier of last resort** is a telecommunications company that commits (or is required by law) to provide service to any customer in a service area that

requests it, even if serving that customer would not be economically viable at prevailing rates.

The **Universal Service Fund** is a system of telecommunications subsidies and fees managed by the U.S. Federal Communications Commission intended to promote universal access to telecommunications services at reasonable and affordable rates for all consumers.

**Section 3 - Annual Report.** This section requires the RCA to submit an annual report to the Legislature detailing the activity and costs related to regulating each type of telecommunications carrier.

**Section 4** - Amends AS 42.05.254(a) from the previous version of the bill that eliminated the Regulatory Cost Charge (RCC). This section maintains the current RCC funding mechanism of calculating and assessing the charge and applies it to all telecommunications companies.

**Sections 5 & 6** both relate to implementing the Regulatory Cost Charge for all telecommunications companies.

**Section 7 - Alaska Public Utilities Regulatory Act.** AS 42.05.711 Exemptions. This section exempts telecommunications carriers from the Act except for the following provisions:

AS 42.05.141(f) - New section in the bill  
(Section 2 above)

AS 42.05.221 - Requiring a Certificate of Public Convenience and Necessity

AS 42.05.231 - Provision for applying for the certificate

AS 42.05.241 - Conditions of issuing/denial of a certificate

AS 42.05.251 - Allow public utilities to obtain a permit for the use of streets in municipalities

AS 42.05.254 - Regulatory cost charge

AS 42.05.261 - Prohibits a public utility from discontinuing or abandoning service for which a certificate has been issued

AS 42.05.271 - Allows the RCA to amend, modify, suspend or revoke a certificate

AS 42.05.281 - Prohibiting a sale, lease, transfer or inheritance of certificate without RCA permission

AS 42.05.296 - Requirements for providing telephone services for certain impaired subscribers

AS 42.05.306 - Allows discounted rates for customers receiving benefits from a social services assistance program administered by the state or federal government

AS 42.05.631 - Allows a public utility to exercise the power of eminent domain

AS 42.05.641 - Extends RCA's jurisdiction to public utilities operating in a municipality

AS 42.05.830 - Requires the RCA to establish exchange access charges to be paid by long distance carriers to compensate local exchange carriers for the cost of originating and terminating long distance services

AS 42.05.850 - Relating to the administration of access charges by an exchange carrier association

AS 42.05.840 - Allows the RCA to establish a universal service fund

AS 42.05.860 - Prohibits a carrier from restricting the resale of telecommunications services

**Section 8 - AS 42.05.820 No Municipal Regulation.** In addition to a long distance telephone company, this section amends AS 42.05.820 to add 'local exchange carrier' that is exempted in whole or in part from this chapter from being regulated by a municipality.

**Section 9 - AS 42.05.890 Definitions.** This section defines "local exchange carrier," "long distance telephone company," and "long distance telephone service."

**Section 10** - Relates to implementing Section 4, the Regulatory Cost Charge.

**Section 11 - Repealers.** This section repeals the following provisions, as the changing nature of the industry and market conditions have rendered them obsolete:

AS 42.05.325 - Registration and regulation of alternate operator services

AS 42.05.800 - Findings

AS 42.05.810 - Competition - unnecessary in today's market

[2:58:42 PM](#)

REPRESENTATIVE LEDOUX acknowledged that it is unusual when all of the telecommunication companies can actually agree on anything, which obviously means the bill is great for the telecommunication companies. She asked how great the bill is for the consumer because when reviewing the bill and sectional analysis, a person would have to be an expert in telecommunications law in order to actually understand the legislation. She opined that the telecommunication companies receive subsidies from "someone, maybe it's the state or the federal government" to make sure that the companies provide services for areas which normally would not receive services. It appears that this bill will take away the guarantee of services because it is doing away with the carrier of last resort, she said. In the event it is taking away the guarantee for the services, she asked whether the telecommunication companies will still receive the subsidies, and if so, why would they continue receiving the subsidies if they are not guaranteeing the service.

SENATOR MEYER responded that the committee will hear a presentation from the Alaska Telephone Association, which encompasses all 15 telephone companies in Alaska as to how those subsidies work. There will be some savings to the consumer now that the RCC charges are spread across all of the different

companies, and he could not say the amount of the savings. First of all, he explained, all areas will still be covered as required by the State of Alaska and the FCC, and he opined that the subsidies would probably still continue to whoever is providing that service in those remote areas.

[3:01:22 PM](#)

REPRESENTATIVE LEDOUX argued that if the RCA does not have the authority to keep carriers in these remote communities, what guarantee is there that the carriers will remain in the remote communities because those communities probably are not much of a profit sector.

SENATOR MEYER clarified that the RCA will continue to have jurisdiction over the carriers and it will make certain the remote communities are covered. Even if the RCA does not do it, he said, the FCC will require that coverage, but the experts can better answer the question.

[3:02:14 PM](#)

REPRESENTATIVE LEDOUX related that she knows there are various consumer advocacy groups, for example advocacy airline groups advising which is a good airline company, and asked whether there is any such group with respect to telecommunication service, and if so, she would like to hear from those groups.

SENATOR MEYER answered that he did not have the answer.

CHAIR CLAMAN noted that occasionally he does see consumer reports giving advice about all of the Lower-48 telephone companies, but they do not seem to mention Alaska's telephone companies.

[3:02:49 PM](#)

REPRESENTATIVE LEDOUX stressed that this is an extremely complicated statute and she was unsure whether, at the end of the day, most of the 60 legislators will actually understand what they are voting on in this particular statute. Clearly, she said, it benefits the telecommunication companies but she was unsure that it benefits, or at least does not harm, the consumers, and she would like an answer.

SENATOR MEYER commented that that is a fair question because legislators are elected to benefit their constituencies and not

the telecommunication industry. Letters are contained within the committee packet from previous and current commissioners who like where this bill is going, and other commissioners have concerns. He opined that after hearing from the Alaska Telecommunication Association (ATA) and the RCA, Representative LeDoux will be better able to make that decision.

[3:04:20 PM](#)

REPRESENTATIVE REINBOLD pointed out that she is disappointed about what took place on the Senate Floor with HB 140, "getting rid of the regulation, and so you guys come and talk about regulation and then you go and get rid of oversights." She stressed that that is a huge contention for her currently, (audio difficulties) analysis so people who do want just a quick glance at what this bill does, it does basically de-regulate telecommunication companies in this state according to the RCA. However, (audio difficulties) with regard to the RCA, "I think they are very expensive, it's a very big -- you know, I worked with them as Reg Review Chair and I think they're expensive, and I'm not sure that they always have the best interests of the consumer at hand." She offered that she is on the fence with regard "to some of this stuff right now," and asked about subsidies without providing the service because she may not have all of the details, but it sounds like "big government waste."

CHAIR CLAMAN noted that Senator Meyer had responded to the subsidy question to the best of his ability.

[3:06:17 PM](#)

[CHAIR CLAMAN, in reference to Representative Eastman's question regarding slide 2 of the PowerPoint yet to be presented, advised Representative Eastman that the committee would not discuss the PowerPoint presentation until it had been presented.]

[3:07:02 PM](#)

CHRISTINE O'CONNOR, Executive Director, Alaska Telecommunications Association (ATA), pointed out that the legislation is technical with many details and that many answers to the questions offered today are contained within the PowerPoint. She suggested the committee keep in mind that this legislation is solely about landline service and long-distance access through landline service. This legislation is about modernizing the statutes adopted in 1990, the "in the pin drop era where they were just starting to compete for long-distance."

She paraphrased the "SB 205 Telecommunications Statutes Simply & Modernize" PowerPoint Presentation as follows:

[3:08:13 PM](#)

MS. O'CONNOR turned to slide 2, "Unanimous Support for SB 205" and advised that the legislation is supported by all ATA members, which include the following entities:

Adak Eagle Enterprises  
Alaska Communications  
Alaska Telephone Company  
Arctic Slope Telephone  
Association Cooperative  
ASTAC Wireless  
AT&T  
Bettles Telephone  
Bristol Bay Cellular Partnership  
Bristol Bay Telephone  
Cooperative  
Bush-Tell  
Copper Valley Telephone  
Cooperative  
Copper Valley Wireless  
Cordova Telephone  
Cooperative  
Cordova Wireless  
GCI  
Interior Telephone  
Mukluk Telephone  
Ketchikan Public Utilities  
Matanuska Telephone  
Association  
North Country Telephone  
Nushagak Cooperative  
OTZ Telephone Cooperative  
OTZ Wireless  
Summit Telephone Company  
TelAlaska Cellular  
United Utilities  
Windy City Wireless  
Yukon Telephone Company

MS. O'CONNOR said, (audio difficulties.) "I appreciate Commissioner Pickett's frankness, and we agree wholeheartedly with his characterization of this activity as without value." (Audio difficulties) SB 205 to public comment, such as this,

given from the commission from the dais over the past two-to-three years.

[3:09:42 PM](#)

MS. O'CONNOR turned to slide 3, "Transformation," and paraphrased as follows:

Telecommunications have changed completely since many of Alaska's telecom statutes were adopted in 1990.

The 1996 Telecom Act completely transformed the marketplace and started an evolution toward light touch regulation.

Landline and long-distance use is dramatically reduced.

Long distance revenues reduced from \$64M to \$16M between 2006-2016.

Only 48% of households still have a landline.

Landline services are still important, and will continue under SB205.

MS. O'CONNOR (Audio difficulties.) She said she will "hit this again and again today" because she has heard this question over and over, which puzzles her because this legislation does not degrade landline service. That, she explained, is not the commitment of the companies in the Alaska Telecommunications Association (ATA), many of which are rural cooperatives and some are statewide providers. Simply because a person is talking on a cell phone, they are only wireless to the tower, and then the person is on the landline network; or if a person is using their ISP, that is also on the landline networks. She stressed that the landline network is critical and it will continue under SB 205, ATA is saying that there are a lot of resources that could be saved by providers to let "us focus on better services" and by the RCA to let it focus on more pressing matters.

[3:11:50 PM](#)

MS. O'CONNOR turned to slide 4, "Landline Service will Continue" and advised that this is a list of some of the rules that require it, and paraphrased as follows:

Certificate of Public Convenience & Necessity prevents abandonment of service without permission from the RCA and the FCC.

Eligible telecommunications carrier designations require service.

Federal and state rules require provision of service upon reasonable request.

April 6, 2018 DC Circuit Court affirmed FCC requirement that companies continue to provide voice services.

MS. O'CONNOR (audio difficulties) every utility must apply to the RCA to obtain a certificate before it begins operation. The RCA must find that a company is fit, willing, and able to provide service. She explained that before a company can leave service in an area, it must go to the RCA and request permission, and the RCA must find that it is in the public interest for the company to depart (audio difficulty) rarely, if ever, granted. This legislation does not impact the certificate of authority of the commission, the commission has authority over the "eligible telecommunications carrier designation," which assigns a service area and authorizes a company to receive federal funding. Last week, she related, a Federal D.C. Circuit Court decision came down that companies must continue to provide voice services even in the absence of support or a subsidy.

[3:13:16 PM](#)

MS. O'CONNOR turned to slide 5, "Universal Service Funds," noted that questions came up this week regarding universal service funds, and paraphrased as follows:

Due to both federal and state USF support, Alaskans have remarkable access to communications across Alaska, and deployment of improved infrastructure is accelerating.

Without Universal Service Funds telecom networks in Alaska would not exist in many areas.

Alaska's Universal Service Fund (AUSF) is a critical component for sustaining voice service and improving broadband service statewide.

The RCA has full jurisdiction over the Alaska Universal Service Fund.

MS. O'CONNOR noted that a question was asked regarding what has happened to those funds, (audio difficulties) without those funds, there would not be communication networks in most of Alaska, it is that expensive. Universal service is similar to the original Rural Electrification Act created to make certain everyone was connected to the electric grid, and she described that it was very effective. Universal service is funded by a sur charge on everyone's bills in the nation, and those funds are targeted to the highest cost areas. Naturally, she advised, with Alaska being 22 percent of the United States land mass, remote and rugged, a lot of those funds do come to Alaska proportionally, not a large amount of the whole pot, but it is important funding. She related that it is reported on extensively to both the federal and state commissions, "we're very accountable," and the RCA has complete authority over the state universal service fund and dictates what reporting and information it wants from companies (audio difficulties).

[3:15:02 PM](#)

MS. O'CONNOR turned to slide 6, "COLR Designation vs. COLR Support," (audio difficulties) in the weeds, but it is important to explain the slide clearly, and paraphrased as follows:

Carrier of last resort (COLR) designation requires a company to serve a certain area. (So do Certificate, ETC and USF rules)

Carrier of last resort (COLR) designation is funded in some areas of the state by a portion of the Alaska Universal Service Fund.

The RCA is considering Docket R-18-001 "Consideration for the Full Repeal of Alaska Universal Service Fund Regulations."

The stated timeline to eliminate all funds, including COLR support, is Jan. 1, 2019.

Industry has responded to the RCA invitation for comment by proposing two different paths forward for the AUSF - both eliminating COLR support.

There is no disconnect between eliminating COLR designation and corresponding COLR support. The RCA has made it clear that any possible path forward for the AUSF will have a new funding structure. We do not expect the old structure to continue.

Regardless of the RCA's decision in the AUSF docket, all rules requiring landline service will remain in place.

MS. O'CONNOR advised that the carrier of last resort (COLR) designation says that a company must serve, but ATA also has the certificate, the Eligible Telecommunications Carrier (ETC), and (audio difficulties) it is by far the only thing requiring a company to serve. The designation is funded in some areas of the state to some companies but not all, and that designation allows them to receive a portion of the Alaska Universal Service Fund. Currently, she offered, the RCA has a docket opened titled, "Consideration of the Full Repeal of the Alaska Universal Service Fund," this has been under discussion at the RCA to eliminate this fund (audio difficulties). Particularly, she offered, the focus has been the COLR support, which the commission has been critical, and the ATA submitted two different proposals for how this reform might take place, and in both cases, there will not be explicit COLR support. Therefore, when ATA was drafting SB 205, it knew that it was in the record that COLR support would probably be completely revamped, possibly done away with, and the commission has an active docket wherein there was an eight-hour hearing last Monday. Naturally, she related, if a company is not receiving the funding, ATA thought the designation did not need to be there either. Conversely, she said, there is no company that will give up responsibility and still receive funding, in fact, even if this funding goes away, the companies will still be obligated to continue these duties. No subsidy is being given when no responsibility is being performed, she advised.

[3:17:07 PM](#)

MS. O'CONNOR turned to slide 7, "41 States Have Reduced Regulation," and advised that 41 other states have eliminated or reduced telecommunication regulation. Although there is variation in the details of what the other states have done, it generally means that telecommunication companies manage their own rates, as half of the companies in Alaska do today, she said. Currently, approximately 90 percent of Alaska's population is already served by a company that can raise its

local rates without permission from the RCA. However, she commented, rates have not risen dramatically, and even if the rates were to raise, there is a federal rule limiting that increase and the maximum it could possibly go is \$49 and change. Most landline rates are in the \$30-\$35 range so it would theoretically be an approximate \$14 increase, but most companies have not raised rates in five years. Part of the obligation under the federal funding is for those rates to be reasonable, and should the rates raise to the cap and someone cannot afford it, there is a federal lifeline program that would support that customer and they would probably qualify for a free phone.

[3:18:24 PM](#)

MS. O'CONNOR turned to slide 8, titled "Rate Regulation - It Depends Who You Are," and paraphrased as follows:

Cooperatives, with the approval of their members, and municipal telcos manage their own tariffs. All other companies must maintain a tariff at the RCA.

90% of Alaskans are served by company which can manage its own rates.

But for the remainder, review & approval for rate changes varies, with timelines as long as 420 days.

This limits the introduction of new offerings due to the expense of preparing and supporting tariff filings.

SB205 adopts the cooperative model for tariffs and rate changes.

MS. O'CONNOR explained that rate regulation is quite a patchwork of obligation (audio difficulties) and the RCA has complained that under existing regulation and statutory timelines, one company might make an informational filing that has to be drafted, reviewed, sent to the RCA, and the RCA must accept it without any revision because it has no authority to make that change. Or, she related, it could be a more traditional filing which takes 30-45 days and in some cases a company might have to create a Rate Case that is extremely detailed and it can take over 420 days (audio difficulties) remember, only related to landline and long-distance service. Instead of this, she said, ATA is proposing that all companies be on the same basis as the cooperatives today where they manage their own rates, are

answerable to their own customers, and the commission's consumer protection division would still be there for quality complaints and so forth. Co-ops have operated in this manner for many years and approximately one-half of the companies in the state already do this as it has been successful as it is much more efficient, she said.

[3:19:42 PM](#)

MS. O'CONNOR turned to slide 9-10, titled "Burden of Rate Regulation," and advised the following are two examples of telephone companies, and paraphrased as follows:

Summit Telephone Company

Family-owned serving Dalton Highway and Chena Hot Springs Road

Needs to replace obsolete technology

Tried to change the tariff to focus resources on broadband.

"This process of educating the RCA causes the expenditure/depletion of Summit's already limited resources while what I need to do with those funds is extend FTTP (fiber to the premise) and wireless Broadband/Middle Mile facilities to our subscribers. Soon after I filed the Tariff Notice - I withdrew it in that it immediately became apparent that the RCA process was a Tar Baby that would deplete Summit of funds needed for the extension of Broadband to its subscribers."

Roger Shofstall, Owner of Summit Telephone Company

MS. O'CONNOR advised that the Summit Telephone Company is a small company with a federal mandate to provide broadband along the Dalton Highway and out toward Chena Hot Springs. The company was trying to change its tariff to focus its resources on broadband, and the above is a quote from its owner who eventually decided to "muddle along with the obsolete technology."

Alaska Communications

"We have 4 local exchange tariffs with a mixture of tariff rules that apply...Each time we make a tariff change we must do basically 5 times for the local exchange since one study area has different rules to follow. We also have an long-distance tariff which has even different rules. When filing 5 different tariffs plus a long-distance tariff, it simply is not an efficient business practice especially when these regulations do not apply across all other carriers."

-Lisa Phillips, Senior Manager, Regulatory Affairs and Risk Management

MS. O'CONNOR offered that Alaska Communications is a large company, it is under the same burden, and it is managing five different tariffs with a range of rates all related to landline service in different areas of the state.

[3:20:36 PM](#)

MS. O'CONNOR turned to slide 11, titled "Tariffs Filings 2017," and advised that the information is from the Regulatory Commission's 2017 Annual Report, and paraphrased as follows:

Regulatory Commission of Alaska

Fiscal Year 2017 Annual Report

| Utility Type                | Number of Tariff Filings | Approved | Rejected | Suspended | Withdrawn | Effective Upon Filing | Took Effect | Took Effect Force of Law |
|-----------------------------|--------------------------|----------|----------|-----------|-----------|-----------------------|-------------|--------------------------|
| Telecomm (AOS)              | 0                        | 0        | 0        | 0         | 0         | 0                     | 0           | 0                        |
| Telecomm (Directory)        | 0                        | 0        | 0        | 0         | 0         | 0                     | 0           | 0                        |
| Telecomm (Certificated IXC) | 10                       | 5        | 0        | 0         | 0         | 0                     | 5           | 0                        |
| Telecomm (LEC)              | 69                       | 48       | 2        | 4         | 1         | 14                    | 0           | 0                        |
| Telecomm (PPTP)             | 0                        | 0        | 0        | 0         | 0         | 0                     | 0           | 0                        |
| Telecomm (Registered IXC)   | 3                        | 0        | 0        | 0         | 0         | 0                     | 3           | 0                        |

MS. O'CONNOR (audio difficulties) accept and review them, this is a lot of expense by providers that could be better spent on service, and a lot of expense by the commission when it could better use its time on other issues. She opined that these may be the filings Commissioner Robert Pickett may have been referring when he said, "How is this doing anybody any good?"

[3:21:08 PM](#)

MS. O'CONNOR turned to slide 12, titled, "Obsolete Statutes," and advised that the legislation repeals obsolete statutes related to long-distance companies, and paraphrased as follows:

Long distance competition statutes at 42.05.800-810 (adopted in 1990) require the RCA to manage competition in the long-distance market.

Even though these statutes were made obsolete by the 1996 Telecom Act, they are still on the books in Alaska.

They require tariff filings and reporting.

SB 205 removes outdated regulation of long distance retail competition.

MS. O'CONNOR explained that these obsolete statutes date back to before the 1996 Telecommunications Act and were actually pre-empted by that Act, but they are still in the statute books so they are generating filings and generating reports that are wasting everyone's resources.

[3:21:31 PM](#)

MS. O'CONNOR turned to slide 13, titled "Consumer Protection," and offered that consumer protection still exists, and paraphrased as follows:

Strong consumer protections exist today

Certificate of Public Convenience and Necessity (CPCN)

Eligible Telecommunications Carrier (ETC)

RCA Consumer Protection & Information Section

Attorney General Consumer Protection Unit

FCC Consumer Complaint Center

SB 205 maintains these protections.

MS. O'CONNOR offered that the Certificate of Public Convenience and Necessity (CPCN) and the Eligible Telecommunications Carrier (ETC) designation, both require a company to offer service

throughout its service area and to not withdraw service without permission. There are FCC rules requiring the above and SB 205 does not change this rule. This legislation does not deregulate telecommunications, and companies are still required to submit to RCA's authority about where they serve, and when, and if they stop serving, she pointed out.

[3:22:11 PM](#)

MS. O'CONNOR turned to slide 14, titled "Benefits to Consumers," and paraphrased as follows:

Increases incentive for companies to offer new service bundles

Focuses resources on consumer services

Spreads cost of regulation equitably, with support from all companies.

SB 205 does not include new taxes, it corrects existing unfair assessment of regulatory costs.

MS. O'CONNOR advised that it increases the incentive for companies to offer new service bundles. The companies (audio difficulties) serving areas where they have to make the most extensive tariff filings, they just simply do not make changes even if it is something their consumers desire because it is too expensive to go through the process. The resources that ATA could save would be better focused on consumer services. She related that there is a change that corrects an existing problem with the RCA's budget as the statutes have become outdated, according to existing statute, the co-operatives are not paying the regulatory cost charge of which is the RCA's self-funding mechanism. She pointed out that that leaves the other one-half of the companies paying the full burden of the RCA's oversight authority. Telecommunication oversight is still taking place and this bill would fix that problem because all companies would access the regulatory cost charge, which would lower it for the companies that are currently carrying the entire burden. Everyone agreed to this, she said, there was no objection and she gave kudos to "my members" for recognizing the inequity. It was mentioned that SB 205 is bringing a new tax, which she described as a misunderstanding of this provision in that this is not a new tax, it simply corrects an existing inequity.

[3:23:39 PM](#)

MS. O'CONNOR turned to slide 15, titled "Right-touch Regulation," (audio difficulties) landline and long-distance service, and paraphrased as follows:

SB 205 maintains RCA oversight

Removes obsolete statutes & exempts from many provisions in 42.05 which are outdated or apply to other industries

Adopts cooperative model for rates

Requires RCA and FCC approval before discontinuance of service

Reduces cost and delay of regulation for RCA & providers

Resolves existing inequity in the RCA's budget process

MS. O'CONNOR advised that the legislation peels away obsolete statutes and allows companies and the commission to operate more efficiently, as many of the statutes under AS 42.05 apply generally to the operation of the commission and those would continue. She said that others apply to other industries so they are not applicable to telecommunication. She related that SB 205 will allow companies to focus on better service for Alaskans, and allow the RCA to focus on the important work before the RCA because it is also the regulatory commission for the Trans-Alaska Pipeline (TAPS), electric issues, water, waste, and natural gas industries. These are all fully regulated utilities, she offered, which are structured (audio difficulties) nation in order to function well. The 1996 Telecommunications Act changed telecommunication and put it on a path toward competition, innovation, and right touch regulation. She asked that the Alaska legislature tailor its statutes to ensure service continues, but stops wasting resources on work that is without value. When the RCA was asked to provide its opinion on SB 205, it cited concerns about its budget and those concerns have been completely resolved by correcting the RCC mechanism. She related that it claimed landline service will be threatened, but this is simply not accurate because landline service will be required under multi-state and federal rules unless it is found to not be in the public interest by state and federal regulators. That, she

offered, is the situation today and it will not be changed under SB 205. On the day that the RCA considered SB 205, Commissioner Jan Wilson put it simply, "I think it's time for the legislature in our state to address these issues. So, I'm hesitant to take a position that the bill not pass because it might be interpreted that this commission, as a body, believes that the statutes as they are today are (audio difficulties) and I just don't think they are. I think changes need to be made in the statutes to conform to the industry the way it is today, rather than the industry as it was in the 1970s, 1980s, and that's it. It is entirely completely different than it was in 1990." Ms. O'Connor said, "We couldn't agree more."

[3:26:25 PM](#)

REPRESENTATIVE STUTES noted that several times within the presentation Ms. O'Connor said, "Landline service will be continued. Landline service will be continued," and she asked how this will affect landline service.

MS. O'CONNOR answered that it will affect landline service in freeing up resources for the companies to help with maintenance and operation. In the grand scope of what is spent on networks in Alaska, it is a small amount but it is still useful in avoiding waste. She advised that there is nothing here that allows a company to let their landline service stop, to let it deteriorate, and should a company do so, the RCA has demonstrated its ability to call that company in front of it, demand an explanation, and enforce its rules.

[3:27:18 PM](#)

REPRESENTATIVE STUTES asked that as far as Ms. O'Connor could tell, whether this will affect rates on landlines.

MS. O'CONNOR answered "No," the biggest thing that could affect rates is a loss of these supports, these universal service supports. She said that in the event the AUSF was entirely repealed, that could definitely cause rates to rise in some areas. In the event of a disruption of the federal universal service, which is not likely at this point because it was just stabilized last year, those are the things that would drive local rates higher, she explained.

[3:27:54 PM](#)

CHAIR CLAMAN advised that he thought Ms. O'Connor had said that with the de-regulation, local rates could go up to \$14 a line increase.

MS. O'CONNOR answered (audio difficulties), but a couple of things are going on there, with landline rates there is competition in 99 percent of the state from either another landline provider or wireless, which is why "we are down" to only 42 percent of landlines. People are simply abandoning their landline service (audio difficulties) increases.

[3:28:52 PM](#)

REPRESENTATIVE REINBOLD asked whether Juneau, Anchorage, and Fairbanks were basically subsidizing the smaller communities.

MS. O'CONNOR answered that it is a national sur charge. She explained that there are two sur charges, as follows: the federal sur charge (audio difficulties) so they pay and send funds to support Alaska; and the state sur charge is not as much (audio difficulties) every company in the state receives a portion of it to support their operations.

[3:29:57 PM](#)

REPRESENTATIVE REINBOLD asked whether it was similar to Power Cost Equalization (PCE).

MS. O'CONNOR responded (audio difficulties) different as she understands PCE is a fund, an endowment, and that goes to lower electric rates which is a more direct manner of lowering rates. Whereas, she explained, the AUS (indisc.) fund, the state fund, is a fund to help build and operate networks and it is not as direct of an offset, she explained that it is not really an offset to the rates because it has an indirect effect.

REPRESENTATIVE REINBOLD noted that there is the regulatory cost charge, which is completely separate, and it funds the RCA.

[3:30:46 PM](#)

REPRESENTATIVE REINBOLD referred to slide 14, and asked Ms. O'Connor to put the consumer benefits into more specific terms and how consumers will directly benefit.

MS. O'CONNOR offered that the best example is the Summit Telephone Company where it is trying to basically retire

obsolete services and build a fiber network to deliver broadband. The Summit Telephone Company had to give up on retiring that obsolete service due to the cost of that filing of the commission. In the event the Summit Telephone Company did not have to wrestle with those filings, it could put the money it is saving toward the new fiber network that it has been mandated to build by the federal funding.

[3:31:54 PM](#)

REPRESENTATIVE REINBOLD (audio difficulties) RCA is a massive de-regulation bill which appears to be important. The fiscal note read that the RCA will be a liaison with the FCC, it is a significant de-regulation, but is still beneficial across Alaska, she said. She related that she heard the Senate presentation and she is contemplating offering the two amendments Senator Bill Wielechowski offered on the floor of the Senate. She said that, "If you have a docket that you've already sent that says virtually the same thing to the RCA, ..."

CHAIR CLAMAN interjected that Representative Reinbold's question is whether Ms. O'Connor has a response to the two amendments offered by Senator Wielechowski on the floor of the Senate. He commented that he did not hear the two amendments, and asked Ms. O'Connor to tell the committee what the two amendments entailed, whether or not she supported the amendments, and why.

CHAIR CLAMAN advised that the committee could come back to the questions if she was not ready to address these questions.

[3:34:16 PM](#)

MS. O'CONNOR said she was ready and addressed Amendment 1, and referred to Sec. 2, [AS 42.05.141(e)(f), page 2, lines 1-4], which read as follows:

(e) The commission may not designate a local exchange carrier or an interexchange carrier as the carrier of last resort.

(f) The commission may designate an eligible telecommunications carrier consistent with 47 U.S.C. 214(e).

MS. O'CONNOR explained that Amendment 1 would have struck subsections (e) and (f). Subsection (e) is actually the point of the amendment where the bill read, "the commission may not

designate a COLR" and the objection was "You are getting COLR funding, how can you not accept the designation of a COLR?" She said that as she had previously explained, that COLR funding is being completely revamped and "our proposal" reduces all funding by 49 percent. Therefore, that is going away in one form or the other and "we are very strongly advocating" that some funding continue because it is important. The explicit COLR funding has been (audio difficulties) and "we have proposed" that the explicit COLR funding go away, so it made sense that the designation would not continue.

[3:35:37 PM](#)

CHAIR CLAMAN surmised that Amendment 1 would actually maintain the COLR designation.

MS. O'CONNOR agreed that Amendment 1 would maintain the COLR designation and the ATA does not support that issue. She explained that subsection (f) simply codifies something the RCA already does, and the ATA did not consider it controversial and she explained that this is the designation that the FCC (audio difficulties) in order for universal service funding to come into the state. It is important funding, it builds infrastructure, it operates networks, and that is almost a housekeeping item just to say that the RCA will continue the funding, she said.

[3:36:21 PM](#)

MS. O'CONNOR referred to Amendment 2 (audio difficulties) the designation was not there and the subsidy should not be there either. In effect, she reiterated, that is probably where "we're" headed with the RCA and the "R Docket." The Alaska Telecommunications Association (ATA) stressed in hundreds of pages of testimony to the RCA, the importance of (audio difficulties) universal service fund. She comment that explicitly designated COLR does not appear to be the future path, but there must be some support coming from the Alaska Universal Service Fund in order that there is not negative impacts on landline service or all services in Alaska.

[3:37:18 PM](#)

REPRESENTATIVE LEDOUX surmised that the impetus [audio difficulties continued to timestamp 3:37:55.]

MS. O'CONNOR (audio difficulties) several years and it has not yet been accomplished.

[3:38:03 PM](#)

REPRESENTATIVE LEDOUX asked whether that was something the legislature could mandate.

MS. O'CONNOR answered that the RCA is a commission that reports to the legislature.

[3:38:20 PM](#)

CHAIR CLAMAN asked whether anything in this legislation requires legislative action, or is everything being requested something that the RCA could perform entirely by regulation.

MS. O'CONNOR responded [audio difficulties continued to timestamp 3:39:05].

[3:39:08 PM](#)

REPRESENTATIVE LEDOUX asked whether the statutes could be changed in order to streamline the regulations without simply exempting the carriers from the RCA jurisdiction, "which this bill basically does."

MS. O'CONNOR replied that it exempts the remaining carriers that are serving approximately 10 percent of Alaska's population that are still under rate regulation. [Audio difficulties continued to 3:40:00.] these service, and that has to be granted upon a finding of the public interest. The Alaska Telecommunications Association (ATA) considers that strong RCA jurisdiction.

[3:40:12 PM](#)

REPRESENTATIVE LEDOUX referred to the fiscal note analysis [page 2, paragraph 2,] which read in part:

The RCA would still be required to certificate wireline telecommunications carriers and adjudicate the relinquishment or transfer of those certificates.

REPRESENTATIVE LEDOUX surmised that the RCA still has the authority to prevent a carrier from "leaving someplace."

MS. O'CONNOR answered that Representative LeDoux was correct. (Audio difficulties) sectional, that is one of the exact sections, a separate section, that is solely regarding the requirement to request permission before a carrier ceases service. (Audio difficulties) as well as regulations tied to "your very substantial universal service funding."

[3:41:16 PM](#)

REPRESENTATIVE LEDOUX asked whether eliminating the carrier of last resort impacts [audio difficulties continued to timestamp 3:41:58].

[3:42:01 PM](#)

REPRESENTATIVE LEDOUX asked the criteria for ceasing service.

MS. O'CONNOR answered [audio difficulties continued to timestamp 3:42:29] only has two people left, and ATA believes it is in the public interest that it would stop [audio difficulties continued to timestamp 3:42:47].

[3:42:52 PM](#)

REPRESENTATIVE LEDOUX surmised that it is a high hurdle currently, and asked whether it would still be a high hurdle under this legislation.

MS. O'CONNOR responded (audio difficulties.)

[3:44:28 PM](#)

REPRESENTATIVE EASTMAN moved that the committee decide that hence forth it will let someone ask a question before "we decide to cut them off."

CHAIR CLAMAN ruled that this committee is managed under the rules of Mason's Manual and he will continue to follow Mason's Manual. Chair Claman ruled Representative Eastman's motion out-of-order.

[3:45:08 PM](#)

REPRESENTATIVE EASTMAN referred to Senator Meyer's opening presentation regarding all of the telecommunication companies in support of CSSB 205, and asked why Verizon is not listed on slide 2.

SENATOR MEYER responded that Verizon does not offer landline services in Alaska.

[3:45:53 PM](#)

REPRESENTATIVE EASTMAN asked whether Senator Meyer had reached out to any of the other communications companies that might want to service Alaska, that are not currently in the state, to obtain their comments as to whether this legislation will make their decision to move into Alaska more or less likely.

SENATOR MEYER advised that he had not reached out, and currently there are 15 companies in Alaska so it is a competitive field.

[3:46:49 PM](#)

REPRESENTATIVE EASTMAN asked Senator Meyer's perspective as to whether this legislation would make it less likely that new companies would form in the future to compete in this competitive market. He opined that one of the reasons all of the current providers are supportive is because the bill might make it less likely that they would have increased competition.

SENATOR MEYER answered that he does not believe this bill would prohibit new companies from coming into Alaska, and reiterated that this bill pertains to landlines, and landlines have decreased to approximately 40 percent in Alaskan homes.

[3:47:54 PM](#)

CHAIR CLAMAN opened public testimony on CSSB 205. After ascertaining no one wished to testify, closed public testimony on CSSB 205.

[SB 205 was held over.]

[3:50:36 PM](#)

**ADJOURNMENT - RECESS**

CHAIR CLAMAN recessed the House Judiciary Standing Committee to a call of the chair, to resume at 6:15 p.m.

[6:15:24 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting back to order at 6:15 p.m. Representatives Claman, Stutes, Reinbold, and Kopp were present at the call to order. Representatives Kreiss-Tomkins and Eastman arrived as the meeting was in progress.

**HB 387-AG SCHEDULE CONTROLLED SUBSTANCES**

[6:15:42 PM](#)

CHAIR CLAMAN announced that the next order of business would be HOUSE BILL NO. 387, "An Act relating to scheduled substances; relating to the Controlled Substances Advisory Committee; and authorizing the attorney general to schedule substances by emergency regulation or repeal an emergency regulation that scheduled a substance."

[6:16:18 PM](#)

LIZZIE KUBITZ, Staff, Representative Matt Claman, Alaska State Legislature, referred to [CSHB 387, page 2, lines 4-11] Section 1, which read as follows:

LEGISLATIVE INTENT. It is the intent of the legislature that, if a person's criminal convictions or charges outside the state are included in a pretrial risk assessment conducted under AS 33.07, the result of that assessment will control the release decision and the section of this bill allowing a defendant to be detained for 48 hours and directing presumptive release on a person's own recognizance or on an unsecured bond when the person has a criminal conviction or charge outside the state will no longer apply.

MS. KUBITZ advised that Sections 2-4 remain unchanged.

[6:17:26 PM](#)

MS. KUBITZ turned to Sec. 5, and advised that it contains a technical change as to the 4/4/18 adopted Amendment 1 and has been integrated into the bill to clarify that the attorney general may schedule a substance by emergency regulation only if the substance is currently listed on a federal controlled substance schedule.

MS. KUBITZ advised that Sections 6-7 remain unchanged.

[6:18:07 PM](#)

MS. KUBITZ turned to Sec. 8, and advised that it allows (audio difficulties) if the person has (audio difficulties) that the release of this person will not reasonably ensure their appearance in court or the safety of the community.

[6:18:59 PM](#)

MS. KUBITZ turned to Sec. 9, (audio difficulties).

[6:19:27 PM](#)

MS. KUBITZ turned to Sec. 10, conforming (audio difficulties).

[6:19:52 PM](#)

MS. KUBITZ turned to Sec. 11, (audio difficulties).

[6:20:15 PM](#)

MS. KUBITZ turned to Sec. 12, and advised that it makes conforming and technical changes to the mandatory conditions of release.

MS. KUBITZ turned to Sec. 13, and advised that it makes conforming changes to clarify that the court shall consider out-of-state convictions when determining the conditions of release.

MS. KUBITZ turned to Sec. 14, and advised that it changes the law so that when a defendant who would otherwise be mandatorily released on their own recognizance (OR) has an out-of-state criminal conviction or charge that is a felony, a crime against a person, or a sex crime, and has not been used in determining the person's risk assessment under AS 33.07, the judicial officer may require monetary bail upon finding on the record that there is clear and convincing evidence the other conditions are not sufficient to ensure public safety.

MS. KUBITZ turned to Sec. 15, (audio difficulties).

[6:21:36 PM](#)

MS. KUBITZ turned to Sec. 16, and advised that it makes conforming changes to ensure pre-trial services officers comply (audio difficulties) with the court (audio difficulties) with or

without a warrant and request (audio difficulties) violations of conditions of release.

MS. KUBITZ turned to Sec. 17, [audio difficulties continue throughout Sections 17-22].

MS. KUBITZ turned to Sec. 23, and advised that it integrates Amendment 2 [adopted on 4/4/18] clarifying that any (audio difficulties).

[6:22:32 PM](#)

MS. KUBITZ turned to Sec. 24, and advised that it remains unchanged.

MS. KUBITZ turned to Sec. 25, and advised that it is an indirect court rule amendment stating that Sections 9-13, and AS 12.30.011(m) enacted by Section 14, have the effect of changing Criminal Rule 41 by changing release conditions for defendants.

MS. KUBITZ turned to Sec. 26, and advised that it relates to applicability.

[6:23:05 PM](#)

MS. KUBITZ turned to Sec. 27, and advised that it is the conditional effect.

MS. KUBITZ turned to Sec. 28, and advised that it relates to the effective date.

MS. KUBITZ turned to Sec. 29, states that Sections 1, 8,15, 16, and 25-27 of this Act take effect immediately under AS 01.10.070(c).

[6:23:45 PM](#)

REPRESENTATIVE KREISS-TOMKINS moved to adopt CSHB 387, Version 30-LS1461\D as the working document.

REPRESENTATIVE EASTMAN objected.

[6:24:01 PM](#)

A roll call vote was taken. Representatives LeDoux, Kreiss-Tomkins, Reinbold, Kopp, Stutes, and Claman voted in favor of the adoption of CSHB 387, 30-LS1461\D as the working document.

Representative Eastman voted against it. Therefore, CSHB 387, Version D was adopted by a vote of 6-1.

6:24:50 PM

REPRESENTATIVE REINBOLD commented that she reviewed CSHB 387, Version D, and performed a comparison (audio difficulties) and she found the following three valuable issues in this legislation: prior to the attorney general adding an emergency regulation, the substance must be on a federal schedule; (audio difficulties) contention for two years and she is happy it is addressed in this legislation; and out-of-state convictions can be included, which is critical. In addition, she said, this bill unshackles the state's judges by offering more judicial discretion, and she will be a yes vote.

6:26:16 PM

REPRESENTATIVE KOPP commended Chair Claman for addressing the following key pieces of public safety legislation in one bill: the attorney general's authority to control dangerous substances within the state's criminal law that are causing havoc on the streets; this bill deals with the out-of-state criminal offenses; it gives the prosecutors more time to make critical detention decisions; it gives judges the discretion they have been requesting; a defendant with a misdemeanor from an out-of-state conviction is no longer excluded by the risk assessment tool; and he truly appreciates the increase in authority for the pretrial officers to make arrests and request warrants. He described this legislation as a great piece of public safety legislation and he, again, commended Chair Claman for moving the bill.

6:27:28 PM

REPRESENTATIVE EASTMAN commented that this legislation is asking the attorney general to take on a different type of responsibility than was previously asked, and he opined that it would be unexpected to find an attorney general who is already in possession of (audio difficulties) that the legislature is now expecting them to make decision. While the state has a Controlled Substances Advisory Committee that can offer input, there is nothing in the bill requiring that that input is listened to, or read. Under this bill, he commented, the attorney general can simply ignore that input and issue whatever scheduling of a drug or other items it feels is appropriate in its own discretion, which appears to be "an awful lot of

authority" to give to one person. He said that he is hopeful that authority be well used, but he believes that experience has shown that "that hope is not always borne out and that those -- that large of a grant of authority is likely to be abused at some point so I am still holding reservations about that."

[6:28:59 PM](#)

REPRESENTATIVE KOPP asked whether Chair Claman would clarify the concerns [of Representative Eastman] or whether the chair would like Representative Kopp to clarify that the attorney general has to use the controls of the Controlled Substances Advisory Committee.

CHAIR CLAMAN clarified that as was discussed earlier in the amendments, the whole purpose of the adopted two amendments was to limit the drugs the attorney general can list to those that have already been considered by the federal government. Clearly, that significantly limits the attorney general's authority. Also included is the three-year sunset clause wherein if the legislature does not believe it is a good idea, it can stop that authority at any point. In the event the legislature has not acted within three years, then it lapses. Therefore, in both of those instances, the committee is putting significant restrictions on what actions can be taken by the attorney general and, he added, Attorney General Jahna Lindemuth joined the Controlled Substances Advisory Committee and would be fully informed as to the controlled substances at issue.

[6:30:11 PM](#)

REPRESENTATIVE KREISS-TOMKINS moved to report CSHB 387, Version 30-LS1461\D, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE EASTMAN objected.

[6:30:29 PM](#)

A roll call vote was taken. Representatives Stutes, LeDoux, Kreiss-Tomkins, Reinbold, Kopp, and Claman voted in favor of the passage of CSHB 387 out of committee. Representative Eastman voted against it. Therefore, CSHB 387(JUD) was reported out of the House Judiciary Standing Committee by a vote of 6-1.

**HB 351-JUVENILES: JUSTICE, FACILITES, TREATMENT**

[6:31:15 PM](#)

CHAIR CLAMAN announced that the next order of business would be HOUSE BILL NO. 351, "An Act relating to care of juveniles and to juvenile justice; relating to employment of juvenile probation officers by the Department of Health and Social Services; relating to terms used in juvenile justice; relating to mandatory reporters of child abuse or neglect; relating to adjudication of minor delinquency and the deoxyribonucleic acid identification registration system; relating to sexual assault in the third degree; relating to sexual assault in the fourth degree; repealing a requirement for administrative revocation of a minor's driver's license, permit, privilege to drive, or privilege to obtain a license for consumption or possession of alcohol or drugs; and providing for an effective date."

[6:31:38 PM](#)

CHAIR CLAMAN moved to adopt Amendment 1, labeled 30-LS0416\N.3, Laffen, 4/10/18, which read as follows:

Page 1, line 5, following "**system;**":

Insert "**relating to jurisdiction for delinquency proceedings;**"

Page 1, line 8, following "**drugs;**":

Insert "**amending Rules 2, 3, 8, 12, 14, 16, 21, 22, 23, and 25, Alaska Delinquency Rules;**"

Page 9, following line 4:

Insert a new bill section to read:

**\* Sec. 17.** AS 47.12.020(b) is amended to read:

(b) Except as otherwise provided in this chapter, proceedings relating to a person who is 18 years of age or over are governed by this chapter if the person is alleged to have committed a violation of

(1) the criminal law of the state or a municipality of the state, the violation occurred when the person was under 18 years of age, and the period of limitation under AS 12.10 has not expired; or

(2) AS 11.56.760(a)(2) and was adjudicated as a delinquent for the offense that required the DNA testing under AS 44.41.035."

Renumber the following bill sections accordingly.

Page 19, following line 14:

Insert a new bill section to read:

**"\* Sec. 41.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INDIRECT COURT RULE AMENDMENT. AS 47.12.020(b), as amended by sec. 17 of this Act, has the effect of amending the following Alaska Delinquency Rules by providing that certain persons 18 years of age or older are subject to adjudication as minors:

- (1) Rule 2(n), Alaska Delinquency Rules;
- (2) Rule 3(b), Alaska Delinquency Rules;
- (3) Rule 3(c), Alaska Delinquency Rules;
- (4) Rule 8(b), Alaska Delinquency Rules;
- (5) Rule 8(c), Alaska Delinquency Rules;
- (6) Rule 12(b), Alaska Delinquency Rules;
- (7) Rule 12(c), Alaska Delinquency Rules;
- (8) Rule 12(d), Alaska Delinquency Rules;
- (9) Rule 14(b), Alaska Delinquency Rules;
- (10) Rule 16(a), Alaska Delinquency Rules;
- (11) Rule 16(b), Alaska Delinquency Rules;
- (12) Rule 21(g), Alaska Delinquency Rules;
- (13) Rule 22(c), Alaska Delinquency Rules;
- (14) Rule 23(b), Alaska Delinquency Rules;
- (15) Rule 25(b), Alaska Delinquency Rules;
- (16) Rule 25(c)(4), Alaska Delinquency

Rules."

Renumber the following bill sections accordingly.

Page 19, line 22, following the first occurrence of "Act":

Insert "AS 47.12.020(b), as amended by sec. 17 of this Act,"

Page 19, line 22:

Delete "sec. 19"

Insert "sec. 20"

Page 19, line 23:

Delete "secs. 2 - 9 and 19"

Insert "secs. 2 - 9, 17, and 20"

Page 19, following line 29:

Insert a new bill section to read:

**"\* Sec. 44.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT. Section 17 of this Act takes effect only if sec. 41 of this Act receives the two-

thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska."

Renumber the following bill section accordingly.

Page 19, line 30:

Delete "Section 41"

Insert "Section 43"

REPRESENTATIVE STUTES objected for purposes of discussion.

[6:32:16 PM](#)

CHAIR CLAMAN explained that he is moving Amendment 1 on behalf of the bill sponsor.

[6:32:39 PM](#)

The committee took an at-ease from 6:32 p.m. to 6:33 p.m.

[6:33:20 PM](#)

[Discussion regarding the amendments.]

[6:34:05 PM](#)

REPRESENTATIVE IVY SPOHNHOLZ advised that Amendment 1 was requested by Quinlan Steiner, Public Defender and he is available by telephone.

CHAIR CLAMAN asked Quinlan Steiner to explained Amendment 1.

[6:34:20 PM](#)

QUINLAN STEINER, Director, Central Office, Public Defender Agency (PDA), Department of Administration (DOA), advised that as he reviewed CSHB 351, he noted that in creating a new crime for failing to provide a DNA sample, there is the possibility that it would result in an adult criminal conviction stemming from an arrest and adjudication under the juvenile delinquency rules. This, he explained, created a situation wherein the legislature should consider the following two particular problems: it would leave an adult record that was visible that required a predicated conviction which would not be visible on CourtView, and that would be an indication that someone had a juvenile record. Thereby, openly undermining the juveniles' attempts at rehabilitation. The inconsistency of having a

juvenile adjudication running at the same time as an adult criminal offense, where this adult criminal offense could ultimately override the primary concerns of rehabilitation in a juvenile delinquency matter, and those two appear to be inconsistent. Consequently, he said that he made the suggestion to handle this entire matter, stemming from a juvenile delinquency matter, under the juvenile delinquency rules, which would be more consistent with the focus on rehabilitation.

[6:36:09 PM](#)

REPRESENTATIVE KREISS-TOMKINS moved Conceptual Amendment 1 Version 30-LS0416\N.4, to Amendment 1 Version 30-LS0416\N.3, which read as follows:

Page 2, following line 5:

Insert a new paragraph to read:

"(1) Rule 2(k), Alaska Delinquency Rules;"

Renumber the following paragraphs accordingly.

Page 2, following line 5:

Insert a new paragraph to read:

"(1) Rule 2(k), Alaska Delinquency Rules;"

Renumber the following paragraphs accordingly.

CHAIR CLAMAN asked Mr. Steiner to explain Amendment N.4.

[6:36:45 PM](#)

MR. STEINER advised that he had not seen Conceptual Amendment 1 to Amendment 1.

CHAIR CLAMAN explained how the above amendment read, and he explained that it adds one more delinquency rule that was not in Amendment 1.

MR. STEINER responded that those were discussions "we had," but that is the definition of a juvenile. Therefore, he explained, the committee would be making an indirect rule amendment to make clear that the definition of juvenile in this limited circumstance includes an individual who was 18 years of age at the time this failure to provide DNA event occurred. Normally, he further explained, someone who is 18 years of age, under the juvenile delinquency rules, the conduct predates their 18th birthday. He explained that the court can make this clear in

the rules that what was happening now needed to be governed by the delinquency rules.

[6:37:47 PM](#)

CHAIR CLAMAN asked whether there was an objection to the adoption of Conceptual Amendment 1 to Amendment 1. There being no objection, Conceptual Amendment 1 to Amendment 1 was adopted.

[6:37:59 PM](#)

CHAIR CLAMAN asked whether there was an objection to the adoption of Amendment 1, as amended.

REPRESENTATIVE EASTMAN objected.

[6:38:13 PM](#)

REPRESENTATIVE KOPP referred to Amendment 1, and commented that it looks like a DNA swab based on a juvenile offense, and asked whether this amendment changes what the law would be currently. For example, if a 16-year-old committed an assault and was required to submit to a DNA test, and for various reasons by the time they were served with an order they were age 18 and they refused to submit a DNA sample, "so now they have an adult charge based on a two-year old juvenile charge." He asked whether the law (audio difficulties).

MR. STEINER responded that under current statute, a juvenile is required to provide a sample and that doesn't change, it simply makes it a criminal offense. The concern comes in where someone's conduct occurs just prior their 18th birthday, they are arrested or adjudicated after their 18th birthday, and they then choose to not provide a sample. In the prior law, that was non-criminal and now it becomes criminal, it is simply that it would be handled as a juvenile offense rather than an adult offense, he offered.

[6:39:53 PM](#)

REPRESENTATIVE KOPP (audio difficulties).

MR. STEINER answered that the bill actually changes the way the law works because the bill itself makes it a criminal offense where it was not a criminal offense. Amended Amendment 1 is focused on making sure the underlying case continues to be handled as a juvenile matter even though the refusal occurred

after an 18th birthday. He said that will put the two cases together, essentially, and ensure that focus for that individual remains on rehabilitation as is generally the case (audio difficulties).

CHAIR CLAMAN referred to Sec. 19 [AS 47.12.120(1)] page 12, 14-25, and explained that it turns what was a non-criminal offense into a criminal offense. Under current law, not giving a DNA sample is not a criminal offense, and this bill will make it a criminal offense.

[6:41:28 PM](#)

REPRESENTATIVE LEDOUX surmised that if a person committed a crime as a juvenile, and then after their 18th birthday they commit the other crime of failing to submit a DNA sample, this amendment would still make that subject to the juvenile rules. She asked why the committee should do that because they were an adult when they decided to not provide their DNA.

MR. STEINER answered that Representative LeDoux is correct as long as the requirement that the person provide the DNA sample stems from something that occurred as a juvenile. Under this amendment, that adult conduct would be treated similarly as to the case with the juvenile conduct. The reason being, he explained, is two-fold: one is that you would have on CourtView and in the public record, a record of a conviction for which a predicate must exist. The predicate being a conviction or adjudication for something that would lead to information indicating that that person had a juvenile record. Thereby, he pointed out, essentially opening up confidentiality and making clear that there is a possible juvenile record there, it could have been an out-of-state record but it could also be a juvenile record. He pointed out that it would be counter to the goals of rehabilitation and keeping confidentiality for juvenile so they can move past whatever juvenile conduct took place. The other reason being, he offered, is that this can happen relatively quickly in that someone could be arrested just before their 18th birthday, and then this event could occur right after their 18th birthday, all based upon juvenile conduct. Again, he said, that would sever the juvenile goals and now there are competing interests in this adult case and that might overwhelm or overrule the focus on juvenile rehabilitation and a chance to move ahead.

[6:44:00 PM](#)

MATT DAVIDSON, Social Services Program Officer, Division of Juvenile Justice, explained that Amendment 1, as amended, addresses an issue that Mr. Steiner identified to the division, and the Department of Health and Social Services (DHSS) does not have a concern about the amendment. He explained that the division collects DNA samples if the offense was a felony against persons and occurred after their 16th birthday. He remarked that the scenario of a juvenile refusing to submit their DNA sample "doesn't really happen," so it is not a case the division sees a lot of where the juveniles are an adjudicated delinquent for a crime against a person and they turn 18 years of age, and then they refuse to submit a DNA sample, "that doesn't happen." In the event it did take place, the division believes it is appropriate that they continue to stay in the juvenile justice system. Juveniles who are adjudicated close to their 18th birthday can stay in the juvenile justice system up to age 20. Therefore, he explained, they can commit a crime when they are almost 18 years of age and continue to stay in the system up to age 20 with their own agreement. He offered that the issues Mr. Steiner identified are appropriate in that the conduct that would lead to this criminal offense is related to a delinquency offense, and the division is prepared to handle those cases in the same manner it handles other delinquency offenses.

[6:45:33 PM](#)

REPRESENTATIVE LEDOUX commented that possibly the committee should reconsider CourtView but she would not make a decision as to whether or not something should be a criminal offense depending upon whether it would be listed on CourtView.

[6:46:08 PM](#)

REPRESENTATIVE EASTMAN offered his impression that one of the distinctions between dealing with this under the juvenile section versus the adult section is due to the hope that by the time someone becomes an adult they could have then been rehabilitated and had the opportunity to learn from their mistakes. He asked whether he had misinterpreted the testimony.

MR. DAVIDSON explained that the delinquency statutes and the purpose of the division is slightly different than the adult correctional system, and one example is that juvenile records are deemed confidential. Mr. Steiner identified this unusual circumstance which could take place here, wherein juveniles have been added to the crime of failure to submit a DNA sample, and

they are in the juvenile justice system proceeding through their process and possibly in a treatment program, but they refuse to submit a DNA sample. The juvenile would stay in the juvenile justice system, therefore, this offense that occurred related to their previous delinquency offense would be attached, of which the division is not concerned.

[6:47:52 PM](#)

REPRESENTATIVE EASTMAN offered a scenario of a juvenile who commits a felony, they are in the system for that felony, and now "we want to say that" just because they turned 18 does not mean they should be treated as an adult and should be treated as a juvenile. He asked, at what point does the division want to "cut them loose," at what age if it is not age 18.

JUDY JESSEN, Staff, Representative Ivy Spohnholz, Alaska State Legislature, responded that (audio difficulties).

[6:49:09 PM](#)

REPRESENTATIVE EASTMAN pointed out that Ms. Jessen did not answer his question, and his question was directed to the Division of Juvenile Justice.

MR. DAVIDSON answered that, after the age of 18 the new criminal acts are referred to the adult criminal justice system. As this act is related to a delinquent act and it is actually a responsibility that the division is administering, the division and the public defender believe it is appropriate to stay in the juvenile justice system. He explained that it is similar to conditions of conduct for release from custody, some of those conditions become criminal acts because the person failed to follow through on their appropriate probation conditions. Those people stay in the juvenile justice system even though they could be viewed as new criminal acts because they are under the division's supervision. He reiterated that this is an unusual circumstance, it is not something the division sees, and the drafter identified that juveniles are required to submit DNA samples and they had not been included in this criminal act under Title 11. That issue, he explained, the drafters identified as a bit of incongruity in the fact they were under Title 44, they were required to submit DNA samples but they were not subject to the penalties, the same requirements.

[6:50:49 PM](#)

REPRESENTATIVE KOPP asked whether the only circumstance under which a DNA swab would be sought would be due to a felony offense against a person.

MR. DAVIDSON responded, a minor over the age of 16 who commits a felony against a person.

[6:51:24 PM](#)

REPRESENTATIVE KOPP referred to a less severe offense and offered the scenario of a 17-year-old being arrested for a DUI, "and then when they turn 18, by the time they are offered the breath test because they were arrested at 11:00 p.m., they do a breath test refusal." He commented that that is a separate class A misdemeanor offense, or it could be felony depending upon whether they had refused the test previously. He related that that is only possible because they were arrested for a DUI, and he asked whether that would be the same circumstance under juvenile law because they do not serve three days in prison.

MR. DAVIDSON replied that Representative Kopp identified an offense that is outside of the juvenile justice system, it is a driving offense and handled by the district court. He related that he was not in a position to speak as to how a DUI fits into the scenario.

[6:52:34 PM](#)

REPRESENTATIVE REINBOLD commented that she believes in "catching them early" and helping kids to change their ways and heart due to a conviction. She related that it is fair to all Alaskans to know whether a person committed a felony against a person and that past behavior is often predicted future behavior. She asked whether this legislation makes it softer or easier in any manner, or is this a technical change with regard to people not being able to see records or understand that a person had been a danger in the past.

MR. DAVIDSON answered that he does not believe it does, the offense being discussed is refusing to submit to a DNA test, which is a mouth swab administered in the office. The underlying offense would not be the offense that led them to the DNA sample and it would not be available to the public, so that change is not a concern.

REPRESENTATIVE EASTMAN maintained his objection to Amendment 1, as amended.

6:54:00 PM

A roll call vote was taken. Representatives Stutes, Kreiss-Tomkins, and Claman voted in favor of the adoption of Amendment 1, as amended. Representatives Kopp, LeDoux, Eastman, and Reinbold voted against it. Therefore, Amendment 1, as amended, failed to be adopted by a vote of 3-4.

6:54:56 PM

REPRESENTATIVE EASTMAN moved to adopt Amendment 2, labeled 30-LS0416\N.1, Laffen, 4/6/18, which read as follows:

Page 18, line 20, through page 19, line 12:

Delete all material and insert:

**"\* Sec. 38.** AS 47.17.020(a) is amended to read:

(a) The following persons who, in the performance of their occupational duties or [,] their appointed duties under (8) of this subsection, [OR THEIR VOLUNTEER DUTIES UNDER (9) OF THIS SUBSECTION,] have reasonable cause to suspect that a child has suffered harm as a result of child abuse or neglect shall immediately report the harm to the nearest office of the department:

- (1) practitioners of the healing arts;
- (2) school teachers and school administrative staff members, including athletic coaches, of public and private schools;
- (3) peace officers and officers of the Department of Corrections;
- (4) administrative officers of institutions;
- (5) child care providers;
- (6) paid employees of domestic violence and sexual assault programs, and crisis intervention and prevention programs as defined in AS 18.66.990;
- (7) paid employees of an organization that provides counseling or treatment to individuals seeking to control their use of drugs or alcohol;
- (8) members of a child fatality review team established under AS 12.65.015(e) or 12.65.120 or the multidisciplinary child protection team created under AS 47.14.300;
- (9) juvenile probation officers, juvenile probation office staff, and staff of juvenile detention facilities and juvenile treatment

**facilities, as those terms are defined in AS 47.12.990**  
[VOLUNTEERS WHO INTERACT WITH CHILDREN IN A PUBLIC OR PRIVATE SCHOOL FOR MORE THAN FOUR HOURS A WEEK].

\* **Sec. 39.** AS 47.17.022(e) is amended to read:

(e) Each school district that provides training under this section shall provide notice to public and private schools located in the school district of the availability of the training [AND INVITE VOLUNTEERS WHO ARE REQUIRED TO REPORT ABUSE OR NEGLECT OF CHILDREN UNDER AS 47.17.020 TO PARTICIPATE IN THE TRAINING AT NO COST TO THE VOLUNTEER]."

Renumber the following bill sections accordingly.

Page 19, line 14:

Delete "and 47.14.990(9)"

Insert ", 47.14.990(9); and AS 47.17.020(j)"

Page 19, line 30:

Delete "Section 41"

Insert "Section 42"

REPRESENTATIVE KREISS-TOMKINS objected.

[6:54:57 PM](#)

REPRESENTATIVE EASTMAN advised that the legislature made a mistake in adopting a recent statute "and in that statute you can find the change listed on page 2 of the amendment, at the first line." The legislature put into statute, and basically incorporating for the first time that volunteers under the category of mandatory reporting, makes them criminally liable if they fail to report. He said, even as few as four hours a week which could be a high school football game within which they volunteer. In the event the committee permits this to continue in statute, before the change was made, and now, and in the future, there is nothing that prohibits or makes it hard for volunteers to report issues of which they are concerned, or observe. The criminal liability is (audio difficulties) if dealing with a volunteer, he opined, that is raising the bar to such an extent that volunteers no longer volunteer. He added that since there is nothing that will make it difficult for them to report or be involved in identifying abuse of any sort, he opined that it needs to be made clear that volunteers should be volunteering and this criminal liability should not be added.

[6:56:40 PM](#)

REPRESENTATIVE IVY SPOHNHOLZ stated that she does not support Amendment 2, it introduces a concept into the bill which is not part of the original bill updating the Division of Juvenile Justice definitions in statute. This amendment would essentially eliminate the mandatory reporting requirement passed in 2015, specifically requiring that volunteers working with children become mandatory reporters. She advised that this is part of the Alaska Safe Children's Act which was an important piece of legislation designed to actually increase safety for children and make clear to the community that it is essential that harm and child abuse is reported.

[6:57:46 PM](#)

REPRESENTATIVE KREISS-TOMKINS maintained his objection primarily due to the scope of the bill. He said he was sympathetic to the notion of being skeptical about putting volunteers in schools for as little as four hours a week in a position of criminal liability.

[6:58:19 PM](#)

REPRESENTATIVE KOPP commented that this issue was quite a discussion in 2015, and it was a small meltdown for the legislature. There was a lively discussion between former Senator Lesil McGuire, former Senator Fred Dyson, and several other senators about how to deal with the issue of regular volunteers in the school versus those who are called to simply step in for a volleyball practice, for example, and that some volunteers have never had training in recognizing or reporting abuse. This compromise came out of the Senate Judiciary Standing Committee where language was included that "you are a mandatory reporter if you interact with children in a school for more than four hours a week." He completely philosophically agrees that the legislature wants to minimize liability to volunteers, and he suggested that that could be its own separate bill.

[7:00:06 PM](#)

REPRESENTATIVE EASTMAN commented that CSHB 351 adds a ninth category of people to the list of mandatory reporters. He offered concern that this list is growing too long and as a new category is being added, Amendment 2 would remove one category. Professionals are added to the mandatory reporting category, which is entirely appropriate, but volunteers are a different

matter, he said, and they should not be treated with that same level of criminal liability.

[7:00:52 PM](#)

A roll call vote was taken. Representative Eastman voted in favor of the adoption of Amendment 2. Representatives Reinbold, Kopp, Stutes, LeDoux, Kreiss-Tomkins, and Claman voted against it. Therefore, Amendment 2 failed to be adopted by a vote of 1-6.

[7:01:33 PM](#)

REPRESENTATIVE EASTMAN commented that this legislation was the source of lively discussion in the House Health and Social Services Standing Committee and while parts of the bill are beneficial, he will be a no vote on passing CSHB 351 out of committee.

[7:03:05 PM](#)

REPRESENTATIVE KREISS-TOMKINS moved to report CSHB 351 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 351(HSS) moved out of the House Judiciary Standing Committee.

#### **HB 336-SUPPORTIVE DECISION-MAKING AGREEMENTS**

[7:03:25 PM](#)

CHAIR CLAMAN announced that the final order of business would be HOUSE BILL NO. 336, "An Act relating to supported decision-making agreements to provide for decision-making assistance; and amending Rule 402, Alaska Rules of Evidence."

CHAIR CLAMAN noted that a companion senate bill already passed the senate, and he asked Hans Rodvik, staff to Representative Charisse Millett whether that bill is identical to HB 336.

[7:04:05 PM](#)

HANS RODVIK, Staff, Representative Charisse Millett, Alaska State Legislature, answered [audio difficulties continued to timestamp 7:04:20] carried by Senator Peter Micciche, and it was one of the priorities of the Governor's Council on Disabilities and Special Education this year (GCDSE), but it was a different bill.

7:04:48 PM

REPRESENTATIVE KREISS-TOMKINS moved to report CSHB 336, labeled 30-LS1239\U, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 336(JUD) moved from the House Judiciary Standing Committee.

7:05:51 PM

**ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 7:05 p.m.