

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

March 12, 2019

3:07 p.m.

MEMBERS PRESENT

Representative Zack Fields, Co-Chair
Representative Jonathan Kreiss-Tomkins, Co-Chair
Representative Gabrielle LeDoux
Representative Andi Story
Representative Adam Wool
Representative Sarah Vance

MEMBERS ABSENT

Representative Laddie Shaw

COMMITTEE CALENDAR

CONFIRMATION HEARING(S)

Commissioner, Department of Administration

Kelly Tshibaka - Anchorage

- CONFIRMATION(S) ADVANCED

Commissioner, Department of Corrections

Nancy Dahlstrom - Eagle River

- HEARD

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 20

"An Act relating to sexual assault; relating to the definitions of 'without consent' and 'consent'; relating to failure to report a violent crime; relating to sexual misconduct under the code of military justice; requiring law enforcement agencies to test sexual assault examination kits; requiring notification of completion of testing; relating to reports on untested sexual assault examination kits; and providing for an effective date."

- HEARD & HELD

HOUSE JOINT RESOLUTION NO. 9

Requesting the United States Secretary of the Treasury to mint not less than 5,000,000 \$1 coins honoring Elizabeth Peratrovich under the Native American \$1 Coin Act.

- MOVED CSHJR 9(STA) OUT OF COMMITTEE

HOUSE BILL NO. 57

"An Act relating to expanding the period in a day during which an employed child under 16 years of age may perform work in the summer; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 83

"An Act relating to voting by electronic transmission in a state election; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 20

SHORT TITLE: SEXUAL ASSAULT EXAMINATION KITS

SPONSOR(S): REPRESENTATIVE(S) TARR

02/20/19	(H)	PREFILE RELEASED 1/7/19
02/20/19	(H)	READ THE FIRST TIME - REFERRALS
02/20/19	(H)	STA, FIN
03/11/19	(H)	SPONSOR SUBSTITUTE INTRODUCED
03/11/19	(H)	READ THE FIRST TIME - REFERRALS
03/11/19	(H)	STA, FIN
03/12/19	(H)	STA AT 3:00 PM GRUENBERG 120

BILL: HJR 9

SHORT TITLE: ELIZABETH PERATROVICH COMMEMORATIVE COIN

SPONSOR(S): REPRESENTATIVE(S) JOHNSON

02/27/19	(H)	READ THE FIRST TIME - REFERRALS
02/27/19	(H)	STA
03/05/19	(H)	STA AT 3:00 PM GRUENBERG 120
03/05/19	(H)	Heard & Held
03/05/19	(H)	MINUTE(STA)
03/12/19	(H)	STA AT 3:00 PM GRUENBERG 120

BILL: HB 57

SHORT TITLE: CHILD LABOR HOURS

SPONSOR(S): REPRESENTATIVE(S) WILSON

02/20/19 (H) READ THE FIRST TIME - REFERRALS
02/20/19 (H) STA, L&C
03/05/19 (H) STA AT 3:00 PM GRUENBERG 120
03/05/19 (H) Heard & Held
03/05/19 (H) MINUTE(STA)
03/12/19 (H) STA AT 3:00 PM GRUENBERG 120

BILL: HB 83

SHORT TITLE: PROHIBIT VOTING BY FACSIMILE
SPONSOR(S): REPRESENTATIVE(S) KREISS-TOMKINS

03/06/19 (H) READ THE FIRST TIME - REFERRALS
03/06/19 (H) STA
03/12/19 (H) STA AT 3:00 PM GRUENBERG 120

WITNESS REGISTER

REPRESENTATIVE GERAN TARR
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SSHB 20, as prime sponsor, with the use of a PowerPoint presentation.

DICK HANSCOM
Fairbanks Coin Club
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HJR 9.

PAULETTE MORENO, President
Alaska Native Sisterhood
Sitka, Alaska

POSITION STATEMENT: Testified in support of HJR 9.

LIBERTY SKELLIE
4-H
North Pole, Alaska

POSITION STATEMENT: Testified in support of HJR 9

STEPHEN BRUNANSKI, President
Fairbanks Coin Club
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HJR 9.

REPRESENTATIVE TAMMIE WILSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Summarized HB 57 as prime sponsor.

JOHN SCANLON, Staff
Representative Jonathan Kreiss-Tomkins
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 83, Version M, on behalf of Representative Kreiss-Tompkins, prime sponsor.

GAIL FENUMIAI, Director
Division of Elections (DOE)
Office of the Lieutenant Governor (OLG)
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 83, Version M.

ACTION NARRATIVE

[3:07:45 PM](#)

CO-CHAIR JONATHAN KREISS-TOMKINS called the House State Affairs Standing Committee meeting to order at 3:07 p.m. Representatives LeDoux, Vance, Fields, Kreiss-Tomkins were present at the call to order. Representatives Story and Wool arrived as the meeting was in progress.

CONFIRMATION HEARING(S)

[3:09:07 PM](#)

CO-CHAIR KREISS-TOMKINS announced that the first order of business would be confirmation hearings.

Commissioner, Department of Administration

[3:09:32 PM](#)

CO-CHAIR FIELDS stated that the House State Affairs Standing Committee has reviewed the qualifications of the governor's appointee and recommends that the name of Kelly Tshibaka, Department of Administration (DOA), be forwarded to the joint session for consideration. This does not reflect the intent of any members to vote for or against this individual during any further session for the purposes of confirmation. There being no objection, it was so ordered.

Commissioner, Department of Corrections

[3:10:09 PM](#)

CO-CHAIR FIELDS stated that the House State Affairs Standing Committee has reviewed the qualifications of the governor's appointee and recommends that the name of Nancy Dahlstrom, Department of Administration (DOA), be forwarded to the joint session for consideration. This does not reflect the intent of any members to vote for or against this individual during any further session for the purposes of confirmation. There being no objection, it was so ordered.

[3:11:36 PM](#)

The committee took a brief at-ease at 3:12 p.m.

[3:12:15 PM](#)

CO-CHAIR FIELDS, [due to his understanding that the confirmation had already been advanced], withdrew the motion to advance Nancy Dahlstrom's name from committee.

[The confirmation of Commissioner Designee Nancy Dahlstrom was subsequently advanced from committee during the 3/14/19 House State Affairs Standing Committee meeting.]

HB 20-SEXUAL ASSAULT EXAMINATION KITS

[3:12:39 PM](#)

CO-CHAIR KREISS-TOMKINS announced that the next order of business would be SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 20, "An Act relating to sexual assault; relating to the definitions of 'without consent' and 'consent'; relating to failure to report a violent crime; relating to sexual misconduct under the code of military justice; requiring law enforcement agencies to test sexual assault examination kits; requiring notification of completion of testing; relating to reports on untested sexual assault examination kits; and providing for an effective date."

[3:13:23 PM](#)

REPRESENTATIVE GERAN TARR, Alaska State Legislature, as prime sponsor of SSHB 20, began her presentation of the proposed legislation with a PowerPoint presentation, entitled "House Bill 20." She gave a brief background on the rape kit reform work in

Alaska: Rape kit reform in Alaska began in the fall of 2014. The Joyful Heart Foundation, founded by actress Mariska Hargitay of the Law & Order: Special Victims Unit television series, launched its "End The backlog" campaign. She referenced the Home Box Office (HBO) documentary, entitled "I Am Evidence," which related the discovery of thousands of rape kits stored in an abandoned building in Detroit, Michigan, and ultimately 500,000 untested rape kits throughout the country. She cited that Alaska ranks first in domestic violence and sexual assault rates, and child sexual abuse rates are six times the national average.

REPRESENTATIVE TARR relayed that the first step in the reform process is a statewide audit to quantify the number of untested rape kits in Alaska. The U.S. Department of Justice (USDOJ) under President Barak Obama offered two large grant opportunities, and Alaska has been successful in securing two of the grants. As a result of Alaska's Scientific Crime Detection Laboratory ("crime lab") [Department of Public Safety (DPS)] audit, it was discovered that the [rape kit testing] system was broken: all the kits weren't being tested; there were improper procedures; and standard procedures were not followed for maintaining a chain of custody for the rape kits. A change has been implemented to require each kit have a unique identifier to track it through the system. In addition, a policy was implemented to require all rape kits be stored at the crime lab in Anchorage; high capacity storage shelving was acquired for this purpose.

REPRESENTATIVE TARR stated that Senate Bill 54 [passed during the Thirtieth Alaska State Legislature, 2017-2018] put the audit requirement into statute; and House Bill 31 [passed during the Thirtieth Alaska State Legislature, 2017-2018] put into statute the "gold standard" for reporting - having both an anonymous report and a law enforcement report - to allow a victim to have the evidence collected, which must be done within 72 hours [of the incident], but still allow the victim to delay making the decision regarding prosecution. She added that House Bill 31 also required standardized training on sexual assault for all law enforcement officials. She mentioned that this requirement was in response to a statement by a sexual assault advocate that law enforcement response to sexual assault depends on where you live in the state. Lastly House Bill 31 renewed the requirement for the audit of untested rape kits in Alaska.

REPRESENTATIVE TARR relayed that still to be addressed are the two recommendations from The Joyful Heart Foundation:

a timeline to establish when testing must occur and a victim notification process. All the reforms mentioned are included in the Survivors' Bill of Rights Act of 2010. She stated that besides the two recommendations, SSHB 20 would address the following: a definition of consent and the inclusion of sexual assault against someone who is incapacitated, requested by Standing Together Against Rape (STAR) and the Alaska Network on Domestic Violence & Sexual Assault (ANDVSA); and specificity in the audit report requested by 49th State Rising.

3:21:20 PM

REPRESENTATIVE WOOL moved to adopt the sponsor substitute (SS) for HB 20, Version 31-LS0253\S, as the working document. There being no objection, SSHB 20 was before the committee.

3:21:51 PM

REPRESENTATIVE TARR continued with the PowerPoint presentation to review the sectional analysis for SSHB 20. She relayed that STAR and ANDVSA requested a change in statutory language to address the circumstances in which a person's incapacitation is in question - whether the person is incapacitated and whether the perpetrator knew it. She cited the STAR document, entitled "2019 Policy Priorities," included in the committee packet, which read in part:

Revise the elements of the crime to ensure a perpetrator may be found guilty of the offense if they know or reasonably should know the victim is incapacitated or unaware and unable to consent to sexual penetration or sexual contact under the circumstances.

REPRESENTATIVE TARR offered that Sections 1, 2, and 3 would change the statutory definition for sexual assault in the first, second, and third degrees, respectively. The statutory language regarding sexual assault would be amended to state that a person commits the crime [of sexual assault] if he/she knows or reasonably should know that the victim is mentally incapable. She stated that the addition of "reasonably should know" would facilitate prosecution of a sexual assault crime. She pointed out that there is a variance regarding the legal language to be used in the statute - "reasonably should know" versus "recklessly disregard." Both are used in statute; they address the same standard; the Department of Law (DOL) and Legislative

Legal Services have offered varying opinions; and it is yet to be decided which ultimately will be used in the proposed legislation.

REPRESENTATIVE TARR said that sexual assault in the first degree involves sexual penetration; sexual assault in the second degree involves sexual contact; and sexual assault in the third degree involves sexual contact that is more specific to improper abuse of power situations. She stated the fundamental questions to be considered regarding the proposed legislation: What does justice look like for a victim? Does SSHB 20 include all the circumstances in which a crime is committed in order to bring justice to the victims? She reviewed sentencing for sexual assault shown on the PowerPoint presentation, which read in part as follows:

Section 1: Sexual Assault in the First Degree
Sentencing:

For first felony conviction, if victim is
less than 13 years of age, 25 to 35 years
13 years of age or older, 20 to 30 years

Section 2: Sexual Assault in the Second Degree
Sentencing:

for the first felony conviction 5 to 15 years

Section 3: Sexual Assault in the Third Degree
Sentencing:

for the first felony conviction 2 to 12 years

[3:26:40 PM](#)

REPRESENTATIVE TARR reviewed the definition of consent in Section 4 of SSHB 20, displayed on the PowerPoint presentation, which read as follows:

Current 11.41.470 (8) defines "without consent" as means that a person

(A) with or without resisting, is coerced by the use of force against a person or property, or by the express or implied threat of death, imminent physical injury, or kidnapping to be inflicted on anyone; or

(B) is incapacitated as a result of an act of the defendant.

Problem: Current outdated definition implies force must be used. This is not always the case and jurors often look for evidence of force.

Solution: Update the meaning of consent to be in the affirmative, to demonstrate that consent has been given. This is consistent with other jurisdictions to require a more overt expression of consent.

New language to 11.41.470:

(9) "consent" means words or overt actions indicating freely given agreement to engage in sexual penetration or sexual contact.

REPRESENTATIVE TARR added that this change, which puts consent into the affirmative rather than in terms of "without consent" and the use of force, represents an evolution of society's understanding of consent and expectations around sexual behaviors.

REPRESENTATIVE TARR pointed out the conforming changes included in Section 5 of SSHB 20. The proposed legislation would update AS 11.56.765(a), which addresses the failure to report a violent crime committed against a child and make it clear that a child can never give consent to sexual penetration. She pointed out the changes, found on page 4, lines 15-23, of SSHB 20: sub-subparagraphs (i), (ii), (iii), and (iv) [under AS 11.56.765(a)(1)(C)] would be deleted; and subparagraph (C) would read, "the sexual penetration or attempted sexual penetration by another of a child". Legislative Legal Services personnel explained that after research, they concluded that these four sub-subparagraphs were included in error, because of the understanding that a child can never give consent. Paragraph (2), [page 4, lines 26-27] defines a child as under 16 years of age.

[3:32:00 PM](#)

REPRESENTATIVE TARR pointed out the conforming change in Section 6, [page 4, lines 30-31]. The proposed legislation would update AS 11.56.767(c), which addresses the failure to report a violent crime committed against an adult, by adding the definition of consent. She added that under the proposed legislation, all statutory references to "without consent" would be repealed and replaced by the new definition of consent.

REPRESENTATIVE TARR pointed out another such conforming change in Section 7, [page 5, lines 1-2]. The proposed legislation would update AS 26.05.900(e), relating to the Military Code of Justice, to add the definition of consent.

[3:33:10 PM](#)

REPRESENTATIVE WOOL asked whether a sex crime has been committed if there is sexual penetration involving a 15-year-old, who is legally a child according to statute, and another person who is two or three years older.

REPRESENTATIVE TARR replied that Section 6, beginning on page 4, line 30, addresses "failure to report a crime" under AS 11.56.767; it refers to an individual who knows that a crime has happened, and not someone engaged in the crime.

REPRESENTATIVE WOOL gave an example: A 22-year-old has a 17-year-old younger brother who is in a sexual relationship with a 15-year-old school mate. He asked whether the 22-year-old is legally obliged to report the relationship as a crime.

REPRESENTATIVE TARR answered, "Yes, if it is in fact a crime." She expressed that she is not clear about the age difference issue; however, if it is in fact a criminal act, then it must be reported.

REPRESENTATIVE WOOL asked if the reporting requirement would be new statute under the proposed legislation or existing statute.

REPRESENTATIVE TARR responded that it is existing statute conforming to its original intent based on the opinion of Legislative Legal Services. She reiterated that the language on page 4, lines 17-23, would be removed under SSHB 20 because of the understanding that a child cannot give consent.

[3:36:39 PM](#)

CO-CHAIR KREISS-TOMKINS referred to Section 5 on page 4, lines 17-23, and suggested that none of the four sub-subparagraphs being deleted relate to a consensual sexual relationship; therefore, Representative Wool's example of statutory rape - involving two minors with sufficient age difference - would not be captured in that mandatory reporting scenario.

REPRESENTATIVE TARR expressed her belief that the crime he is referencing is covered under a different statute. Section 5 refers to AS 11.56, entitled "Offenses Against Public Administration," and involves a person, other than the victim, committing the crime of failure to report a violent crime against a child. Removing the four sub-subparagraphs is due to it being understood that a child can never give consent.

[3:38:40 PM](#)

REPRESENTATIVE VANCE referred to the stipulation of "13 years" under sentencing for sexual assault in the first degree, shown on the PowerPoint presentation, and the definition of a child - someone under 16 years of age - in Section 5, [page 4, lines 26-27]. She asked for an explanation of the discrepancy.

REPRESENTATIVE TARR referenced AS 12.55.125(i), which read in part, "A defendant convicted of (1) sexual assault in the first degree, sexual abuse of a minor in the first degree" and stated that the sentencing addresses two categories of crime.

REPRESENTATIVE VANCE asked, "What's the difference between the definition of a minor and of a child?"

REPRESENTATIVE TARR responded that in Alaska, 16 years of age is the age at which a young person may marry with parental permission, which presents inconsistencies in statute regarding 16- to 18-year-olds. There is proposed legislation to move the marriage age to 18 years of age. She asked Representative Vance, "Are you asking specifically why this one chooses 13 years of age versus the other as 16?" She acknowledged that she does not have the answer for that.

REPRESENTATIVE VANCE agreed to pursue the issue later.

[3:41:28 PM](#)

REPRESENTATIVE LEDOUX asked whether there are no longer mandatory reporters with respect to crimes, and everyone is required to report.

REPRESENTATIVE TARR expressed her understanding that what Representative LeDoux is referring to is mandatory reporting of child abuse by teachers, childcare workers, coaches, and such. She maintained that the proposed legislation would not alter that requirement. She explained that the proposed statutory change is specific to a statute regarding "offenses against

public administration"; therefore, does not impact any of the other statutes that have specific requirements of mandatory reporting.

REPRESENTATIVE LEDOUX asked whether no crime has been committed when failing to report the murder of a 17-year-old, but it is a crime when failing to report the murder of a 16-year-old.

REPRESENTATIVE TARR responded that the language in the proposed legislation does not address homicides but only sexual assault crimes. She offered that since AS 11.56.767 (c) addresses the failure to report a violent crime committed against an adult, both categories are covered in statute.

[3:43:14 PM](#)

CO-CHAIR FIELDS suggested that the questions, although interesting, pertain more to the underlying statute than to the proposed legislation.

[3:43:31 PM](#)

REPRESENTATIVE TARR conceded that some of the statutory amendments were at the recommendation of Legislative Legal Services to correct some erroneous language and not completely aligned with the intent of the bill.

REPRESENTATIVE TARR moved on to Section 8 regarding sexual assault examination kits and relayed that this section addresses the two remaining timeline recommendations and victim notification. The PowerPoint presentation read as follows:

Title 44: State Government

Chapter 41: Department of Public Safety

Section 65: new section - Sexual Assault
Examination Kits

Adds language to requires three things:

1. That all sexual assault examination kits are sent to the crime lab within 30 days of collection

2. That all sexual assault examination kits be tested within six months

3. That victims be notified by law enforcement within two weeks of receiving the results that the kit has been tested

REPRESENTATIVE TARR added that the law enforcement agency is the client of the crime lab for the purpose of sending in kits for testing. She cited page 5, lines 6-8, of SSHB 20 which read:

(1) within 30 days after the agency collects the sexual assault examination kit, send the sexual assault examination kit to a laboratory operated or approved by the Department of Public Safety;

REPRESENTATIVE TARR mentioned that the word "approved" needs to be replaced with the word "accredited." She stated that the fiscal note for SSHB 20 has not been completed; however, she does expect there to be a cost associated with the proposed legislation. She also mentioned that the timelines may need to be lengthened.

REPRESENTATIVE TARR referred to the fundamental question: What does justice mean for victims? She stated that with the cuts in staffing, it was taking more than two years to bring cases to trial; prosecutors were waiting to request the lab to do the testing until such time they felt the case would move forward; victims were waiting two years to get any results from the kits. She cited the scenario in which the identity of the perpetrator is unknown and emphasized the effect that would have on the victim. The Survivor Bill of Rights states that by establishing set timelines, the burden and the trauma of the experience for the victim is eased.

[3:46:38 PM](#)

CO-CHAIR FIELDS suggested that even six months seems slow.

REPRESENTATIVE TARR replied that many states are working on this effort using a variety of timelines. She mentioned that she originally set an 18-month timeline. Currently DPS is achieving an average of 10 months. She maintained that the crime lab was built with the idea of having a huge amazing facility, fully staffed, with a robust testing system. She said, "It just never happened."

REPRESENTATIVE TARR stated that the gold standard for victim notification is to have a database with unique identifiers, usernames, and passwords to allow the victim to log in and track the "life cycle" of the kit. She said that typically when one calls law enforcement repeatedly, the story must be related repeatedly, and the victim is re-traumatized as a result. In the course of two years, the victim may have called up to ten times. She stated that currently there are three databases: one for current cases; one for closed cases; and another one specific to the court system. There are challenges in rural communities with internet access, staffing, and capacity. She said that she is working with DPS to find a way to accomplish notification without it being overly burdensome to law enforcement in small communities where resources are limited.

REPRESENTATIVE TARR referred to Sections 9 and 10, which would add statutory language requiring [DPS to include in the audit] the reason a kit was ineligible for testing. She explained that the audits [currently] did not include that information; 49th State Rising has requested that this information be included. The work of the Sexual Assault Kit Initiative (SAKI) by way of the two federal grants will end; therefore, she wants to ensure that language in the statute reflects appropriate reporting in perpetuity in the absence of that organization.

REPRESENTATIVE TARR reviewed the PowerPoint presentation discussing Section 11, which lists the reasons a sexual assault examination kit is ineligible for testing. It read in part as follows:

Amends 44.41.070 to add a new subsection (e) to read

A sexual assault examination kit is ineligible for testing if the law enforcement agency or state department finds that the sexual assault examination kit

(1) was collected improperly

(2) is not necessary to identify the perpetrator of the crime; or

(3) was collected from a person who does not wish to proceed 19 (sic) with criminal charges.

REPRESENTATIVE TARR offered alternative language that is being considered for the proposed subsection (e) of AS 44.41.070. The

person referred to in paragraph (3) is also called an "anonymous victim" - a person who chooses not to move forward with criminal charges. Paragraph (2) may be referred to as a Combined deoxyribonucleic acid (DNA) Index System (CODIS) ineligible sexual assault kit - the DNA is not eligible to be used for identification. Paragraph (1) may be referred to as a scientifically unviable case - evidence was collected improperly. She reiterated that there are unresolved language issues for the proposed legislation, not intent or outcome issues; she is attempting to gather input from many advocacy groups.

[3:53:08 PM](#)

REPRESENTATIVE VANCE referred to paragraph (3) [page 6, lines 18-19], regarding the anonymous victim. She asked whether there was a way to test that kit in the future should the person decide to move forward with criminal charges later.

REPRESENTATIVE TARR responded, "There is a way to go back." She said that as a result of House Bill 31, the two options were defined - the anonymous report and the law enforcement report. In the course of processing the backlog of cases, DPS is attempting to contact individuals to seek their permission to move forward with the testing.

REPRESENTATIVE VANCE asked whether there is a provision for the sexual assault kit of a minor, who cannot give consent to proceed [with testing].

REPRESENTATIVE TARR replied that there is a different procedure when sexual assault of a minor is involved. She offered to give Representative Vance more information.

REPRESENTATIVE TARR turned to Section 13 to display the effective dates of SSHB 20, as follows: the changes would apply to offenses committed on or after the effective dates of Sections 1-7 and Section 12 of the proposed legislation; and SSHB 20 would take effect January 1, 2020.

REPRESENTATIVE TARR referred to Section 12 to point out that in the places in which statute has been updated to reflect the affirmative definition of consent, Section 12 would repeal the previous definition of "without consent" to be replaced with the new definition of "consent."

[3:55:46 PM](#)

REPRESENTATIVE WOOL referred to the statement that a child cannot give consent and the legal definition of a child as under age 16. He asked whether there are situations in which consent cannot be given for someone age 16 and over.

REPRESENTATIVE TARR mentioned statute from the State of Minnesota, which more clearly defines a person who cannot give consent; for example, stipulating that a person who is mentally incapacitated or physically helpless cannot consent to a sexual act. She stated that there are many places in Alaska statute needing updates and there are resulting implications of those changes. She explained that her office is trying to decide whether language captures what is intended or whether more specificity is needed. She said that she welcomes suggestions.

[3:57:54 PM](#)

REPRESENTATIVE WOOL referred to victim notification of test results. He asked whether victims are being notified that the test has been completed or being notified of the results.

REPRESENTATIVE TARR cited page 5, lines 13-16, of SSHB 20, which read as follows:

(3) within two weeks after the laboratory that receives the sexual assault examination kit under (1) of this subsection completes serological or DNA testing, notify the person from whom the sexual assault examination kit was collected that the sexual assault examination kit has been tested.

REPRESENTATIVE TARR added that putting more specifics into the statute was discussed - whether there was a CODIS hit or whether the DNA sample was insufficient for testing - but staff chose not to put that level of specificity into the statute at present. She explained that depending on the community law enforcement agency, different methods may be appropriate for contacting victims. She said that she wanted to leave some flexibility to law enforcement for how communication would occur and what would be communicated.

REPRESENTATIVE WOOL asked whether in the case of someone not wishing to press charges, the person's kit would not be in the queue for testing under the testing timelines but be set aside and tested later if the victim decides to press charges.

REPRESENTATIVE TARR replied, "That is the intent." She said that based on USDOJ recommendations, the state must use a victim-centered approach; if an individual does not want his/her kit tested, the person must be afforded the right to refuse.

CO-CHAIR KREISS-TOMKINS stated that SSHB 20 would be held over.

HJR 9-ELIZABETH PERATROVICH COMMEMORATIVE COIN

[4:00:53 PM](#)

CO-CHAIR KREISS-TOMKINS announced that the next order of business would be HOUSE JOINT RESOLUTION NO. 9, Requesting the United States Secretary of the Treasury to mint not less than 5,000,000 \$1 coins honoring Elizabeth Peratrovich under the Native American \$1 Coin Act.

[4:01:29 PM](#)

CO-CHAIR FIELDS moved to adopt Amendment 1 to HJR 9, labeled 31-LS0573\A, which read as follows:

Page 2, line 16, following "Treasury" insert:

"; The Honorable Lisa Murkowski, United States Senate; the Honorable Dan Sullivan, United States Senate; The Honorable Don Young, United States House of Representatives"

There being no objection, Amendment 1 was adopted.

[4:02:26 PM](#)

CO-CHAIR FIELDS, in response to Representative Vance, stated that the amendment would add the three names to the end of the list of names to whom copies of the resolution would be sent, shown on page 2, beginning on line 12.

[4:03:32 PM](#)

CO-CHAIR KREISS-TOMKINS opened public testimony on HJR 9.

[4:03:54 PM](#)

DICK HANSCOM, Fairbanks Coin Club, testified that the reason the state and the congressional delegation need to act on HJR 9 is because the U.S. mint has not issued a dollar coin into

circulation for about five years. He stated that because of the historical significance of this coin to the state, it would be beneficial for the coin to be circulating, educating Alaska's young people, and all Alaskans. Using the coin would honor Elizabeth Peratrovich and educate people about Alaska's Anti-discrimination Act [of 1945].

[4:04:54 PM](#)

PAULETTE MORENO, President, Alaska Native Sisterhood (ANS), testified that Elizabeth Wanamaker Peratrovich was a past ANS grand president; her courageous words at a time of critical injustice affected the life that all enjoy today. Her [indisc.] will be highlighted during the 75th anniversary [of the Alaska Anti-Discrimination Act] in 2020. Ms. Moreno relayed that in 2020, the release of the \$1 coin will bring attention not only throughout the state, but throughout the nation and the world. Ms. Moreno invited the committee to join the 75th anniversary celebration (indisc.) to ensure that Alaska Native people and their rights are accepted for the intelligence they possess of all matters of this great land. She mentioned that the proposed resolution came from the youth of Alaska by way of the 4-H club, who want clear access not only to the coin but to the hope to hold the coin that reflects one of Alaska's most important stories. The ANS and Alaska Native Brotherhood (ANB) has been advocating for history to highlight her story. They are currently working with school superintendents throughout Alaska to add curriculum, national recognition with all the legislatures, and the Alaska [congressional] delegation to collectively draft a bill in 2020 not only to highlight the achievement of Elizabeth Peratrovich, but to carry her work forward. She said, "It is said that a child will lead the way." She stated that ANS and ANB express their gratitude to all contributors to the introduction of HJR 9.

[4:08:48 PM](#)

LIBERTY SKELLIE, 4-H, testified that in the 1940s, women were barely working outside the home; for Elizabeth Peratrovich, a Native woman, to talk to legislators about civil rights was extremely (indisc.). (indisc.--poor sound quality) She relayed that she supports the proposed resolution because it would honor Elizabeth Peratrovich and the important things she did.

[4:09:47 PM](#)

STEPHEN BRUNANSKI, President, Fairbanks Coin Club, testified that Elizabeth Peratrovich is an ideal role model for young people of Alaska. To honor her life and the bravery it took for her to stand up to discrimination that she faced (indisc.--poor sound quality). He said that each time this coin is handled within a commercial transaction creates an opportunity for conversation. He offered that if the U.S. Department of Treasury would release the coin into circulation, the opportunities for discussion about anti-discrimination would be multiplied. He remarked at how Alaska children would feel having a coin with the face of a fellow Alaskan. He maintained that the coin deserves to be distributed to a much wider audience than just coin collectors. He stated, "Let's put it in circulation."

[4:11:28 PM](#)

CO-CHAIR KREISS-TOMKINS, after ascertaining that there was no one else who wished to testify, closed public testimony on HJR 9.

[4:11:48 PM](#)

REPRESENTATIVE STORY expressed that she is pleased at the introduction of the bill and has great admiration for Elizabeth Peratrovich. She mentioned that the 4-H youth met with her and expressed that they wanted the coin to be put into circulation.

[4:12:40 PM](#)

REPRESENTATIVE VANCE expressed her appreciation for the introduction of the proposed legislation, requested by Alaska youth; it signals that youth can engage in their government and be a voice for the next generation on anti-discrimination. She maintained that the coin would serve to communicate the message to other areas of the world.

[4:13:37 PM](#)

CO-CHAIR KREISS-TOMKINS commented there is "no more organic democratic process in motion" than the response of Representative Johnson to the request from the youth.

[4:14:11 PM](#)

CO-CHAIR FIELDS moved to report HJR 9, as amended, out of committee with individual recommendations and the accompanying

zero fiscal note. There being no objection, CSHJR 9(STA) moved out of committee.

[4:14:36 PM](#)

The committee took an at-ease from 4:14 p.m. to 4:16 p.m.

Co-Chair Fields passed the gavel to Co-Chair Kreiss-Tomkins.

HB 57-CHILD LABOR HOURS

[4:15:32 PM](#)

CO-CHAIR FIELDS announced that the next order of business would be HOUSE BILL NO. 57, "An Act relating to expanding the period in a day during which an employed child under 16 years of age may perform work in the summer; and providing for an effective date."

[4:15:51 PM](#)

REPRESENTATIVE TAMMIE WILSON, Alaska State Legislature, relayed that current law states that children ages 14 and 15 may work during the hours of 5 a.m. to 7 p.m. during the school day, but only for an hour a day, or 5 a.m. to 9 p.m. during the summer. She was approached by the soccer association who expressed that it was not possible to complete all the games due to there being only one field; they asked to be allowed to play until 10 p.m. She stated the proposed legislation would allow 14- and 15-year-olds to be able to work until 10 p.m., instead of 9 p.m. She maintained that HB 57 would not increase the number of hours per week or the number of hours per day that they would be allowed to work. She added that she discovered, through research, that a state is required to have a waiver from the U.S. Department of Labor (USDOL) to allow for such work hours. Alaska currently does not have a waiver and is violating federal law, since federal law specifies 7 a.m. to 7 p.m. during the school year and 7 a.m. to 9 a.m. otherwise. She maintained that her office is pursuing the waiver through U.S. Senator Dan Sullivan's office; the waiver is necessary regardless of the progress of HB 57.

REPRESENTATIVE LEDOUX asked for confirmation that the bill applies to all activities, not just sporting activities.

REPRESENTATIVE WILSON answered that for 14- and 15-year-olds, that is correct.

REPRESENTATIVE WOOL asked if there are any other groups or businesses that have requested the change in hours.

REPRESENTATIVE WILSON replied, "Not to me, they have not." She mentioned that 14- and 15-year-olds are very limited in what they can do and the hours they can do it. She relayed that there are many activities exempted from the time restrictions such as babysitting and other tasks associated with sports, such as cleaning up the football field or doing laundry; however, the work [for the soccer association] is not exempted.

REPRESENTATIVE VANCE referred to page 1, line 13, of HB 57 and asked for the definition of "domestic work."

REPRESENTATIVE WILSON answered that she does not have a definition, but assumes it is laundry, housework, and such. She said she is not aware of a definition in statute.

REPRESENTATIVE VANCE suggested that since doing laundry for soccer is exempt, yet other tasks are not, additional definition of terms may help avoid the problem of Alaska and the youth being outside of federal law.

REPRESENTATIVE WILSON responded that the only law Alaska is breaking is the one regarding the work hours. She offered that youth workers doing laundry for a football team is probably not considered domestic work, since it is probably not their own laundry.

[4:20:01 PM](#)

REPRESENTATIVE WOOL referred to the letter from the Fairbanks Youth Soccer Association (FYSA), included in the committee packet, in which the association relates that the season ends the first week of August and even a 9:30 p.m. extension would be helpful. He mentioned that HB 57 specifies September or otherwise being enrolled in school as the time of the work hour change. He suggested that since school starts the third week of August, the date should be changed in the proposed legislation.

REPRESENTATIVE WILSON answered that the language (concerning the month) in the proposed legislation is consistent with the language in federal law.

REPRESENTATIVE LEDOUX noted that although federal law requires a state to seek an exemption for youth working in a soccer-related

job, federal law exempts children working on fishing boats, which is one of the most dangerous professions in the world.

REPRESENTATIVE WILSON added that also there is an exemption in the case of children working for their parents. She expressed her belief that the law has not been reviewed recently, and things have changed. She stated, "We are very good about making sure our children are safe, or the jobs ... are very age appropriate." She expressed her belief that there are other groups in the same position as FYSA that are not aware of the law and consequently may be breaking the law as well.

REPRESENTATIVE WOOL asked for confirmation that Alaska is already breaking federal law, and Alaska getting a waiver will determine if the proposed legislation can advance.

REPRESENTATIVE WILSON responded that for HB 57 to pass, a waiver from USDOL would be needed and incorporated into statute by Legislative Legal Services to ensure compliance [with federal law.] She relayed that USDOL is already working on this issue because, regardless of the passage of HB 57, Alaska wants to comply.

CO-CHAIR KREISS-TOMKINS acknowledged that HB 57 relates to 14- and 15-year-olds. He asked whether there are any restrictions in state or federal law on hours that 16- and 17-year-olds can work.

REPRESENTATIVE WILSON answered that there is a difference between age 16 and age 17 in the type of work but not regarding the hour issue.

CO-CHAIR KREISS-TOMKINS asked for confirmation that 16- and 17-year-olds may be restricted in the type of work, but they may work a 11:00 p.m. to 3:00 a.m. shift if the work warranted it.

REPRESENTATIVE WILSON replied, "That's my understanding."

CO-CHAIR FIELDS stated that HB 57 would be held over.

HB 83-PROHIBIT VOTING BY FACSIMILE

[4:24:17 PM](#)

CO-CHAIR FIELDS announced that the final order of business would be HOUSE BILL NO. 83, "An Act relating to voting by electronic

transmission in a state election; and providing for an effective date."

[4:24:45 PM](#)

REPRESENTATIVE WOOL moved to adopt the committee substitute (CS) for HB 83, labeled 31-LS0635\M, Bullard, 3/11/19. There being no objection, Version M was before the committee.

[4:25:26 PM](#)

CO-CHAIR KREISS-TOMKINS, as prime sponsor of HB 83, Version M, relayed that the proposed legislation was drafted in response to recommendations by national security experts on steps Alaska could take to fortify the integrity of its election system. He said that the Division of Elections (DOE) has made some regulatory changes as part of an ongoing effort to make improvements in the security of the election system. He stated that one of the recommendations from the national experts was to discontinue electronic - or non-analog - return of ballots to DOE, therefore, avoiding the possibility of a ballot being tampered with or manipulated in the process of its return to DOE. He mentioned that DOE has discontinued accepting ballots by email and facsimile (fax) for the same reason, since transit over internet connections would be susceptible to tampering. He added that fax return of ballots is outdated.

[4:28:01 PM](#)

REPRESENTATIVE LEDOUX asked whether the proposed legislation would change the rules regarding DOE sending out ballots by fax.

[4:28:15 PM](#)

JOHN SCANLON, Staff, Representative Jonathan Kreiss-Tomkins, Alaska State Legislature, replied that Version M would not change the ability of DOE to deliver absentee ballots to voters by fax.

REPRESENTATIVE LEDOUX expressed her understanding that currently you may receive a faxed ballot from DOE after the time has passed for DOE to send absentee ballots out by mail. She asked whether currently one has the choice to return the ballot to DOE by fax or by mail.

MR. SCANLON responded that the only absentee ballots that may be returned by fax are absentee ballots that a voter received by fax or through an online ballot delivery system.

REPRESENTATIVE LEDOUX asked whether a ballot must be sent back to DOE by fax if received by fax or whether it may be sent back by mail.

MR. SCANLON replied that currently someone receiving a ballot by fax may return it by fax or by mail.

REPRESENTATIVE STORY asked for clarification. She stated that her understanding was that a ballot could not be returned by fax.

CO-CHAIR KREISS-TOMKINS answered by saying that currently ballots may be returned by fax; under the proposed legislation, a ballot would not be allowed to be returned by fax.

REPRESENTATIVE LEDOUX suggested that since DOE barred return of ballots by email, it could, on its own, change the rules with respect to faxed ballots.

CO-CHAIR KREISS-TOMKINS offered his understanding that DOE had regulatory authority to disallow ballot return by email.

[4:31:51 PM](#)

GAIL FENUMIAI, Director, Division of Elections (DOE), Office of the Lieutenant Governor (OLG), responded that it was her understanding that in 2018, DOE made an internal decision to disallow the return of ballots through the online ballot delivery system. She explained that the system is not strictly email; it is a portal system which consists of an open network over the internet. She added that she does not have any more history on that decision but would be willing to research it and provide the committee with more information.

REPRESENTATIVE LEDOUX asked whether it is necessary to pass HB 83 to change the rules with respect to the returning of ballots by fax, or if DOE could accomplish the change on its own through a regulatory change.

MS. FENUMIAI replied that statutes specifically identify the returning of voted ballots by fax. She referred to AS 15.20.066(b), which references the return of voted ballots by

fax; that statutory reference would need to be repealed to allow the change.

REPRESENTATIVE LEDOUX asked for confirmation that there is no statutory reference to the returning of ballots through the portal system.

MS. FENUMIAI answered that to the best of her knowledge, there is no specific reference to [the portal system]; the portal system is another form of voting by electronic transmission. She added that AS 15.20.066 specifically mentions returning ballots by facsimile.

REPRESENTATIVE WOOL suggested that the internet has security issues regardless of the type of transmission; therefore, the fax is being eliminated altogether [for ballot return].

MS. FENUMIAI responded that the fax being discussed is a "true" faxing - through a fax machine. She said that the security concerns come from how the term faxing has changed over time. There are many different types of methods of faxing; one can fax through telephone applications and non-analog type lines, which was the existing version of technology in 1966 when the statutes were first implemented; and since then technology has changed. She relayed that there is concern that with the modern method of faxing, there may be a "middleman" type of interference.

REPRESENTATIVE WOOL suggested that no matter how an individual receives a ballot, DOE wants a paper ballot returned, and it is the only way it will accept the ballot.

MS. FENUMIAI replied, "It's all paper ballot." She said that currently if someone was to return a ballot by fax, DOE could not use that actual ballot in the count. The DOE bi-partisan review board would have to make a facsimile of a facsimile onto the AccuVote ballot paper for the vote to be counted.

REPRESENTATIVE WOOL asked for confirmation that under the proposed legislation, the faxed ballot would no longer be accepted. The voter must return a hard copy of the ballot to DOE; it cannot be returned electronically.

MS. FENUMIAI answered, "That's correct. It would have to be returned by mail - by the U.S. Postal Service."

[4:36:54 PM](#)

REPRESENTATIVE LEDOUX asked whether someone, who receives an absentee ballot either by fax or mail, may drop it off at a polling station.

MS. FENUMIAI responded affirmatively and added that a person may take it into a polling station or any regional office of DOE.

REPRESENTATIVE VANCE referred to the use of a privacy sleeve, making the ballot legitimate. She asked how the process - of a ballot being received by the voter by fax and returned to DOE by mail - is valid and secure from tampering, if it didn't come in a privacy sleeve like a traditional ballot.

MS. FENUMIAI relayed that the voter is supplied with instructions on putting the voted ballot inside an envelope before putting it into the envelope to be mailed back to DOE. She added that voters who receive a ballot by fax and return it by fax also sign a special oath declaring that they acknowledge they could possibly be waiving their rights to a secret ballot by returning the ballot by that method.

CO-CHAIR FIELDS asked, "What if ... the Russians ... were to look at our voting rolls and identify a group of registered voters and request absentee ballots that would be emailed to them or ... faxed to them, and then fill out those ballots on their behalf and return them?" He asked, "... what protection would there be to validate that information and prevent the kind of fraud that occurs ... analogous ... to tax return fraud ..." He acknowledged that the legitimate voter might go to the polls on Election Day only to discover that [a vote had already been cast in his/her name]. He asked whether that scenario has occurred and whether it is something DOE is aware of and guards against.

MS. FENUMIAI answered that if someone applies to vote by mail or by fax, the application is taken at face value. If DOE can identify the voter based on the identification that he/she provides and there is a signature, DOE accepts the application.

CO-CHAIR FIELDS stated that HB 83 would be held over.

[4:41:21 PM](#)

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 4:41 p.m.