

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

February 20, 2020

3:03 p.m.

MEMBERS PRESENT

Representative Zack Fields, Co-Chair
Representative Jonathan Kreiss-Tomkins, Co-Chair
Representative Grier Hopkins
Representative Andi Story
Representative Steve Thompson
Representative Sarah Vance
Representative Laddie Shaw

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 148

"An Act relating to solemnization of marriage."

- HEARD & HELD

SENATE BILL NO. 144

"An Act establishing June 7 of each year as Walter Harper Day."

- MOVED SB 144 OUT OF COMMITTEE

HOUSE BILL NO. 225

"An Act relating to sex trafficking; establishing the crime of patron of a victim of sex trafficking; relating to the crime of human trafficking; relating to sentencing for sex trafficking and patron of a victim of sex trafficking; establishing the process for a vacation of judgment for a conviction of prostitution; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 148

SHORT TITLE: MARRIAGE WITNESSES

SPONSOR(S): REPRESENTATIVE(S) CLAMAN

04/29/19 (H) READ THE FIRST TIME - REFERRALS
04/29/19 (H) STA, JUD
02/20/20 (H) STA AT 3:00 PM GRUENBERG 120

BILL: SB 144

SHORT TITLE: ESTABLISH JUNE 7 AS WALTER HARPER DAY
SPONSOR(s): SENATOR(s) BISHOP

01/21/20 (S) PREFILE RELEASED 1/17/20
01/21/20 (S) READ THE FIRST TIME - REFERRALS
01/21/20 (S) STA
02/04/20 (S) STA AT 3:30 PM BUTROVICH 205
02/04/20 (S) Moved SB 144 Out of Committee
02/04/20 (S) MINUTE(STA)
02/05/20 (S) STA RPT 4DP
02/05/20 (S) DP: REVAK, COSTELLO, KAWASAKI, COGHILL
02/07/20 (S) TRANSMITTED TO (H)
02/07/20 (S) VERSION: SB 144
02/10/20 (H) READ THE FIRST TIME - REFERRALS
02/10/20 (H) STA
02/18/20 (H) STA AT 3:00 PM GRUENBERG 120
02/18/20 (H) Heard & Held
02/18/20 (H) MINUTE(STA)
02/20/20 (H) STA AT 3:00 PM GRUENBERG 120

BILL: HB 225

SHORT TITLE: PROSTITUTION/TRAFFICKING; VACATE CONVICT.
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/27/20 (H) READ THE FIRST TIME - REFERRALS
01/27/20 (H) STA, JUD, FIN
02/20/20 (H) STA AT 3:00 PM GRUENBERG 120

WITNESS REGISTER

REPRESENTATIVE MATT CLAMAN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 148, as prime sponsor.

SOPHIE JONAS, Staff
Representative Matt Claman
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Reviewed the sectional analysis on HB 148
on behalf of Representative Claman, prime sponsor.

CIAN MULHERN, Reverend
Celtic Ministries
Wasilla, Alaska
POSITION STATEMENT: Testified in support of HB 148.

ERICA ROSE
Erica Rose Photography
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 148.

ERIN VELANDER
Alaska Destination Weddings
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 148

JOE CONNOLLY
Chugach Peaks Photography
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 148.

MIKE HARPER
Anchorage, Alaska
POSITION STATEMENT: Testified in support of SB 144.

BILL GORDON
Fairbanks, Alaska
POSITION STATEMENT: Testified in support of SB 144.

KATHERINE TRITT
Fairbanks, Alaska
POSITION STATEMENT: Testified during the hearing on SB 144.

JUDE HENZLER
Fairbanks, Alaska
POSITION STATEMENT: Testified during the hearing on SB 144.

JENNIFER HENZLAR
Chugiak, Alaska
POSITION STATEMENT: Testified in support of SB 144.

MARY EHRLANDER
Olympia, Washington
POSITION STATEMENT: Testified in support of SB 144.

JOHN SKIDMORE, Deputy Attorney General
Department of Law (DOL)
Anchorage, Alaska

POSITION STATEMENT: Presented HB 225 on behalf of the House Rules Committee by request of the governor.

SAMANTHA CHEROT, Public Defender
Public Defender Agency
Department of Administration (DOA)

POSITION STATEMENT: Answered questions during the hearing on HB 225.

ACTION NARRATIVE

[3:03:00 PM](#)

CO-CHAIR JONATHAN KREISS-TOMKINS called the House State Affairs Standing Committee meeting to order at 3:03 p.m. Representatives Hopkins, Thompson, Shaw, and Kreiss-Tomkins were present at the call to order. Representatives Story, Vance, and Fields arrived as the meeting was in progress.

HB 148-MARRIAGE WITNESSES

[3:03:59 PM](#)

CO-CHAIR KREISS-TOMKINS announced that the first order of business would be HOUSE BILL NO. 148, "An Act relating to solemnization of marriage."

[3:04:18 PM](#)

REPRESENTATIVE MATT CLAMAN, Alaska State Legislature, paraphrased from his written statement, which read:

Chairman, members of the committee, thank you for hearing House Bill 148 "An Act relating to solemnization of marriage."

At present, during the solemnization of marriage, couples must assent to the marriage in the presence of each other, the person solemnizing the marriage, and at least two additional witnesses. Afterward, all parties must sign the marriage certificates. House Bill 148 would eliminate the requirements for any additional witnesses at the marriage solemnization and the signatures of these witnesses on marriage certificates. These changes will bring our ceremonial requirements into the modern age and help support

Alaska's destination wedding industry while preserving the integrity of marriage solemnization.

Alaska is one of only 17 states that require two wedding witnesses in addition to the person officiating the marriage. Twenty five states do not require any wedding witnesses.

Wedding witnesses played a more critical role in past centuries when record keeping was less automated. In England, prior to the 18th century, the legal requirements of marriage were governed by the canon law of the Church of England. A marriage was considered valid as long as the union was consented to by both parties and celebrated by an Anglican clergyman. This largely informal process that dictated the validity of marriage allowed for the proliferation of clandestine marriages.

In 1746, a woman laid claim to the recently deceased Captain John Campbell's pension on the basis that she married him in a clandestine ceremony. The problem arose because another woman claimed she was the wife of the Captain. The confusion that ensued from inability to verify marriage claims led Parliament to pass the Act for the Better Preventing of Clandestine Marriage, known as the Marriage Act of 1753. The Act formalized the marriage process, requiring that marriages be viewed by witnesses who could later be called on to confirm that the marriage did or did not take place- an extra precaution of record-keeping should records of marriage be damaged or go missing. The Marriage Act is the historical basis for the 2 witness requirement.

Today, however, the role of a wedding witness is ceremonial. In Alaska, while the person solemnizing the marriage must meet certain criteria, the law does not require any form of witness verification (proof of identification, language comprehension, address validation, etc.). HB 148 would allow Alaska to compete more directly with states like Hawaii and Florida, which require no wedding witnesses and lead the nation in destination weddings.

Destination weddings, often on mountain tops and glaciers, are a growing business in Alaska. The

requirement of two wedding witnesses makes the state less attractive for many couples who travel from farther away or who do not want the financial burden of a larger wedding. Couples who come to the state without their own witnesses are tasked with finding strangers to witness their wedding. The burden of supplying these witnesses often falls to those who work in Alaska's wedding industry who ask friends and family to witness the weddings of their out-of-town clients.

In addition to the awkwardness of having strangers witness the wedding, the additional witness requirement can place an increased financial burden on the couple. For example, in a wedding in a more remote location like a glacier via helicopter, they must pay extra seating costs to transport the witnesses. At present, destination weddings bring in an estimated \$1 million in revenue to the state in the form of roughly 500 destination weddings a year. This revenue figure doesn't consider the fact that more than 90% of the out-of-state couples who come to Alaska to get married stay for days and weeks to explore our great state. The resulting benefit to Alaska's tourism industry is substantial. HB 148 would simplify the wedding process by reducing the number of hurdles a couple must address to get married.

[3:08:45 PM](#)

SOPHIE JONAS, Staff, Representative Matt Claman, Alaska State Legislature, on behalf of Representative Claman, prime sponsor of HB 148, reviewed the sectional analysis, which read:

Section 1

Amends AS 25.05.301:

Eliminates requirement of two witnesses at a marriage solemnization.

Section 2

Amends AS 25.05.32:

Eliminates requirement of the signatures of two witnesses on marriage certificates.

Section 3

Amends AS 25.05.361: Deletes language to conform with changes made in section 1 of the bill.

Section 4

Repeals AS 25.05.041(a)(3) and AS 25.05.041(a)(5):
Repeals subsections to conform with changes made in
section 1 of the bill.

[3:10:15 PM](#)

REPRESENTATIVE HOPKINS referred to page 1, line 7-8, of HB 148, which read in part, "... they take each other to be husband and wife." He asked whether this was the standard language in statute regardless of the allowance for same sex marriages.

REPRESENTATIVE CLAMAN expressed his belief that since the federal courts ruled that [Federal Marriage Amendment (FMA), 2006] was unconstitutional, changing every reference in the Alaska Statutes to comply with that ruling would just take time away from more important legislative work, and it is possible members would not achieve resolution on the language.

REPRESENTATIVE HOPKINS referred to his own marriage experience and stated that the process was incredibly complicated. He offered his support for the proposed legislation and suggested there may be other statutory changes that would facilitate the process.

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REPRESENTATIVE STORY asked whether any concerns have emerged for states that do not require two witnesses.

REPRESENTATIVE CLAMAN reiterated that over 25 states require no witness [for marriage solemnization]; staff research on the issue did not identify any resulting problems.

REPRESENTATIVE VANCE asked whether the states with no required witnesses have seen an increase in the rate of marriages.

REPRESENTATIVE CLAMAN responded that he does not know. He added that the issue was brought to his attention by wedding photographers who contacted his office. Hawaii leads the nation in destination weddings; it does not have a witness requirement. The photographers maintained that in their line of work, they would do a much better job of serving their clients if they didn't have to recruit two witnesses.

REPRESENTATIVE VANCE maintained that marriage is one of the more respected unions; it is a legal process. She offered that she struggles with the idea of removing the two witnesses for the sake of commerce. She mentioned that she is not aware of the requirement of two witnesses being a burden. She acknowledged the desire to promote Alaska as a destination marriage location but said that she wanted stronger data demonstrating that the requirement for two witnesses is burdensome.

REPRESENTATIVE CLAMAN responded that the interest of commerce brought the proposed legislation to his attention; however, the real issue is the purpose that wedding witnesses serve as a matter of law and procedure. He referred to the Marriage Act of 1753 in England as being the foundation for the requirement of witnesses. The problem of clandestine marriages in England in the 1700s was due to the lack of proof of marriage and central record keeping authority. With Alaska's very detailed current recordkeeping requirement within the Health Analytics & Vital Record Section (HAVRS), the need for witnesses does not exist, and in fact, no one looks for the witnesses to authenticate a marriage. He maintained that he was involved in a case in which a marriage needed to be verified; he relied on the vital statistics records and not the witnesses. He concluded that wedding witnesses originally served the purpose of proving the validity of a marriage; they do not serve that purpose today.

[3:18:47 PM](#)

REPRESENTATIVE THOMPSON asked whether an underage legal marriage requires certification from the parents.

REPRESENTATIVE CLAMAN expressed his belief that proof of age is required for a marriage license; the witness requirement is not involved.

REPRESENTATIVE THOMPSON asked about the procedure for a 15-year-old getting married.

REPRESENTATIVE CLAMAN answered that he assumes the parents would need to give consent at the courthouse. He acknowledged the possibility that an underage person might use a fraudulent identification (ID) to circumvent the requirement.

REPRESENTATIVE HOPKINS maintained that completing the marriage paperwork correctly, mailing it to HAVRS, and needing additional signers made his wedding less romantic with less of a feeling of

being sanctified. He said that getting witnesses to sign the forms and all that entailed was not optimal.

[3:22:11 PM](#)

REPRESENTATIVE SHAW relayed a personal experience with his own wedding, in which the requirement of witnesses was not a burden.

REPRESENTATIVE VANCE compared the requirement of witnesses for marriage to the requirement of witnesses for a permanent fund dividend (PFD) application to verify residency and intent to remain in Alaska. She asked, "What's the difference in ... the burden on providing two witnesses?"

REPRESENTATIVE CLAMAN replied that there is a substantial history of fraud in connection with PFD applications. Every year there are prosecutions of people fraudulently filing for PFD applications. He stated that he is not aware of any cases in Alaska of a false marriage claim. He said they are two very different situations; the PFD is an appropriation from the state, and fraudulently getting a PFD constitutes theft from the state, which is why there is a verification requirement.

[3:25:37 PM](#)

CO-CHAIR KREISS-TOMKINS opened invited testimony on HB 144.

[3:26:15 PM](#)

CIAN MULHERN, Reverend, Celtic Ministries, testified that he has performed weddings for over 21 years. He said that it is a great burden for ministers to find witnesses and described the inconvenience to himself and to the witnesses. He stated that he does about 150 weddings per year, and over 90 percent are destination weddings in Alaska. Couples come from all over the world; most come for a small intimate elopement; they then "spend lots of time here honeymooning in the state." These couples do not know anyone in Alaska; therefore, the burden is on him or another person in the wedding industry to find witnesses. He maintained that most couples are not thrilled to have two people, whom they have never met, as part of their very special day and find it intrusive.

REVEREND MULHERN relayed that he also performs many wedding for military personnel; many are new to Alaska and don't have many acquaintances yet. The witnesses are not being used to verify who the couples are or to check IDs. That is what HAVRS does

when a couple applies for a marriage license. Witnesses are not used to verify the wedding or its legitimacy. He mentioned that witnesses for the PFD application are people that the applicant knows.

CO-CHAIR KREISS-TOMKINS asked whether Reverend Mulhern solemnizes the destination wedding marriages.

REVEREND MULHERN responded affirmatively.

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ERICA ROSE, Erica Rose Photography, testified that she has been a wedding photographer for 10 years and shoots about 40 wedding each year; many are small elopements for people who come from out of state. Hundreds of people come to Alaska each year to get married. She expressed that one of the best facets of her work is the privilege of being part of a very sacred moment in people's lives; although it is her business, she takes seriously the gravity of the event. She said that she has learned through her business that Alaska is an incredibly desirable destination for weddings, and she believes there is potential for growth in the industry. She relayed that the current trend is weddings in adventure and mountain locations like Alaska, and the benefits are felt by many other businesses. She maintained that when people decide to elope, it is not always to save money, but to spend the money on experiences.

MS. ROSE asserted that the two-witness rule presents a large hurdle for the industry. When people choose to elope, they often do it for the privacy; they don't want extra people around; and they go out of their way to find an intimate setting. They often look for a stunningly beautiful location; it can be difficult and expensive to transport two extra people to the location. She relayed an experience of a wedding in a remote area, in which they waited in the parking to ask the next hiker to witness the wedding; it detracted from the event. She said that anyone in the business has similar stories. She concluded by saying that the main goal for her as a wedding professional is to make the important day in her clients' lives as special as possible and provide good service, and these stories [regarding marriage witnesses] feel like small failures in that effort.

CO-CHAIR KREISS-TOMKINS asked for the meaning of the term "elopement" in the wedding industry.

MS. ROSE explained that elopement is currently a trend, and it refers to a bride and a groom "going off to do their own private wedding."

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ERIN VELANDER, Alaska Destination Weddings, testified that the proposed legislation impacts many small businesses and small business owners. She stated that she has been an adventure wedding planner for about 20 years. She assists couples who want to elope in Alaska and be married in extreme places. She relayed that she also operates her business in Hawaii; she has planned hundreds of weddings; and [the requirement of witnesses] deters people from eloping in Alaska. She maintained that data shows the discrepancy between the two states as far as numbers of destination weddings.

MS. VELANDER stated that she used to plan very large weddings and from her experience, the number of witnesses at a wedding does not determine "the sacredness of that moment." She maintained that couples should be able to choose how they get married. She offered that the very small wedding with just the couple and the officiant often feels more sacred than the wedding that is a "huge production." She implored the committee to consider that the two witnesses, who are often strangers to the couple eloping in Alaska, do not make the marriage any more sacred, and at times, even less sacred, because they are strangers. She asserted that Alaska does not have the right to deny the wishes of people who choose to get married "just the two of them."

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JOE CONNOLLY, Chugach Peaks Photography, offered a definition for elopement: Elopement is often used to refer to a marriage conducted in sudden and secretive fashion, usually involving a hurried flight away from one's place of residence together with one's beloved with the intention of getting married. He added that in most cases it is less sudden but equally private and small.

MR. CONNOLLY relayed that the economic impact that weddings have on the state is probably more significant than one would expect. He said that requiring the presence of two witnesses is an unfair burden and an awkward intrusion into what the couple intended - a private and personal event. He said that the act of eloping is for the purpose of getting away to have a small

wedding with no family and friends present. He maintained that for those who had a big wedding with family and friends, elopement might seem unusual. He offered that there are many people who do not want a big fancy wedding with many guests. Hundreds of couples from the Lower 48 and from all over the world come to Alaska every year to get married in one of the last truly "free and wild" places in the U.S. They come up to Alaska without family and friends; they don't know anyone in Alaska; marketing has attracted them to the state; they all want to get married on a glacier, a rocky beach, next to a waterfall, or in a flowering meadow, with mountains and glaciers behind them; none want random strangers at their wedding. If a couple needs to hire a helicopter to get to the destination, most helicopters can only seat three people plus the pilot; therefore, they must hire another helicopter to fly the witnesses. Often people back off due to the extra expense - all because of an "ancient state law that is probably not relevant anymore." Mr. Connolly relayed that when hiking into a wilderness area, he is tasked with finding witnesses to accompany the hike and "give up a day." He maintained that the economic impact of the weddings far exceeds the direct benefits to the vendors in the wedding industry. The couples typically spend a week to ten days, rent a car, spend money on food, and book tours. He asserted that HB 148 would put Alaska in a more competitive place within the destination wedding market.

CO-CHAIR KREISS-TOMKINS stated that HB 148 would be held over.

SB 144-ESTABLISH JUNE 7 AS WALTER HARPER DAY

[3:42:49 PM](#)

CO-CHAIR KREISS-TOMKINS announced that the next order of business would be SENATE BILL NO. 144. "An Act establishing June 7 of each year as Walter Harper Day."

[3:43:20 PM](#)

CO-CHAIR KREISS-TOMKINS opened public testimony on SB 144.

[3:43:29 PM](#)

MIKE HARPER testified in support of SB 144 as the grandnephew of Walter Harper. He added that 30 living family members of Walter Harper support the proposed legislation as well. He expressed his appreciation for the effort.

[3:45:12 PM](#)

BILL GORDON testified that his father told him the story of Walter Harper and Episcopal Archdeacon [Hudson] Stuck when they were in Fort Yukon; his father piloted planes to the villages. Harper and Stuck were "friends, mentors, and benefactors" to each other. His father stressed the importance of Walter Harper to Alaska's history. He maintained that Harper was a "gift" to early Alaska's relationship to the Alaska Native people. Even when discrimination was rampant in the Territory of Alaska, Harper and Stuck gave a blueprint to future generations to follow that still serves the state well. He expressed his support for special days and statutes to tell the stories to visitors and to Alaskans. He mentioned that passage of SB 144 would help in the effort to erect a statue to Walter Harper, which is to be dedicated on Walter Harper Day 2021.

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KATHERINE TRITT testified that she is a Gwich'in Alaska Native and expressed her concern that the other Alaska Natives who assisted with Walter Harper's ascent of Denali are not being recognized.

[3:50:01 PM](#)

JUDE HENZLER testified that three young Alaska Natives were involved in the ascent [of Denali] - Walter Harper, John Fredson, and Esiais George. Both George and Harper died young; John Fredson was the first Alaska Native to graduate from a university - [Sewanee, The University of the South, an Episcopal college in Middle Tennessee]. He stated that Fredson was the author and creator of the Venetie Arctic Village 1.4-million-acre Indian Reservation. He was the informant for noted linguist Edward Sapir for the Gwich'in language and authored a book of 52 Indian stories. He was the father of Lu Young, first wife of U.S. Congressman Don Young. Mr. Henzler expressed that his intention is not to detract from Walter Harper, but to recognize the two other young men who were involved.

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JENNIFER HENZLAR testified that her mother is the niece of Esiais George. She stated that she fully supports SB 144 honoring Walter Harper and his amazing accomplishments; there is a serious dearth of Alaska Native heroes and heroines who are included in public school education and who are in public view;

[Walter Harper Day] would help to alleviate that. She said that she would be amiss by not acknowledging John Fredson's accomplishments. She expressed the importance of recognizing Walter Harper but believes that the other two young Alaska Native men should be recognized as well. It is not known what Harper and George would have been able to accomplish having died so young.

[3:54:26 PM](#)

MARY EHRLANDER testified that she spent most of her life in Alaska; she wrote Walter Harper's biography, [Walter Harper, Alaska Native Son]; and she supports the proposed legislation. She maintained that being the first person to summit Denali was just a part of what made Walter Harper noteworthy. His ability to achieve that feat and to contribute so centrally to the success of the expedition were due to the skills and character traits that made him the great Alaskan he was. His superb subsistence skills, developed as a young person and honed during his years on the trail and river with Episcopal Archdeacon Hudson Stuck, along with his stellar character and his remarkable ability to navigate comfortably in both his Athabascan birth culture and mainstream Western society, were admirable. She continued by saying that his capacities and qualities, especially his strong sense of identity and purpose, are equally admirable today. She said, "So designating June 7, the '1913 summit day' as Walter Harper Day will ensure that Alaskans will know of this great young man, and perhaps most importantly, it will mean that young people will learn of him and many will see him as a hero." She maintained that having strong role models can make all the difference for young people as they find their way in life. She offered that she can hardly imagine a more appropriate hero and role model for a young Alaskan than Walter Harper. She urged the committee to consider the value of designating June 7 as Walter Harper Day. She added that she agrees that there should be more recognition of admirable and heroic Alaska Natives for young Alaskans to respect and admire; the proposed legislation is not meant to take away from other people deserving of recognition. She maintained that the statue [erected] will clarify the roles of all the participants of the expedition, and her biography describes the contribution of all key members of the expedition.

CO-CHAIR KREISS-TOMKINS closed public testimony.

REPRESENTATIVE SHAW relayed that his experiences on mountains gives him an appreciation for the accomplishments of the

expedition team. He said, "All efforts in mountaineering are team efforts, and generally the recognition is given to the first to summit. Walter Harper was the first man to summit this mountain ever, and so the recognition to Walter Harper ... definitely takes nothing away from the team that supported him." He reiterated that from a historical perspective, all the individuals will be noted through the biography and the statue.

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CO-CHAIR FIELDS moved to report SB 144 out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, SB 144 was reported from the House State Affairs Standing Committee.

[4:00:58 PM](#)

The committee took an at-ease from 4:01 p.m. to 4:03 p.m.

HB 225-PROSTITUTION/TRAFFICKING; VACATE CONVICT.

[4:03:37 PM](#)

CO-CHAIR KREISS-TOMKINS announced that the final order of business would be HOUSE BILL NO. 225, "An Act relating to sex trafficking; establishing the crime of patron of a victim of sex trafficking; relating to the crime of human trafficking; relating to sentencing for sex trafficking and patron of a victim of sex trafficking; establishing the process for a vacation of judgment for a conviction of prostitution; and providing for an effective date."

[4:03:49 PM](#)

JOHN SKIDMORE, Deputy Attorney General, Department of Law (DOL), on behalf of the House Rules Committee by request of the governor, stated that human trafficking is "forced labor"; over 1 million people per year are forced into labor trafficking - or human trafficking - and 25 million currently are victims of human trafficking globally. He mentioned a USA Today article [2/20/20] discussing Airbnb's commitment to fight human trafficking. He said that there are approximately 20,000-50,000 individuals in the U.S. who are victims of human trafficking; and according to [Encyclopedia] Britannica, the U.S. is one of the most significant destinations for victims of sex trafficking. Sex trafficking is the third most profitable business for organized crime, following drug trafficking and

arms trades. Organized crime is making \$32 billion per year from human trafficking and sex trafficking. He offered that there are federal laws addressing the issue and several states have begun to adjust their laws to align with those of the federal government to ensure that they can appropriately respond to these issues. He cited a 1/30/18 USA Today article which stated that every year 10,000 minors become victims of sex trafficking in the U.S. A 2016 study from the Center for Court Innovation, [entitled "Youth Involvement in the Sex Trade"], reported 8,900-10,500 victims of sex trafficking between the ages of 13-17. He mentioned that the number of women in Alaska domestic violence shelters who are victims of sex trafficking or human trafficking increased 115 percent from 2016 and 2019. He acknowledged that the number is not large - in 2019 only 42 people - but it is increasing. The Alaska Native Justice Center worked with 126 victims in 2018; Priceless Alaska - an anti-sex trafficking organization in Anchorage - is working with 150 survivors of sex trafficking and 16 are in shelter currently.

MR. SKIDMORE maintained that human and sex trafficking are issues that impact the state, and Alaska must be prepared to respond appropriately. He said that the goal of HB 225 is to bring Alaska closer in line with the federal government and other states in classifying and in responding to sex trafficking and human trafficking. Under HB 225, Alaska will look at best practices. The effort will take coordination with police departments, the Department of Public Safety (DPS), and the Department of Law (DOL). He asked the committee to assist in ensuring that law enforcement and prosecutors have the tools necessary to participate in this effort effectively. He said that most of the cases in Alaska have been referred to the Federal Bureau of Investigation (FBI) because law enforcement personnel do not believe that Alaska statutes are adequate.

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MR. SKIDMORE reviewed the sectional analysis, which read:

Section 1 is conforming changes to the amendments made in section 2.

Section 2 enacts a new offense series; sex trafficking in the first, second, and third degrees. In essence a person is guilty of sex trafficking in the first degree (unclassified sex felony) if the person traffics a person under the age of 20, uses force when trafficking a person, or manages a place of

prostitution. A person is guilty of sex trafficking in the second degree (class A sex felony) if the person recruits, entices, or otherwise induces or causes a person to engage in commercial sexual conduct. Sex trafficking in the first and second degrees would be sentenced under the enhanced penalties for sexual felonies and the person would be required to register as a sex offender.

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A person is guilty of sex trafficking in the third degree if the person provides resources in furtherance of the commission of sex trafficking. Sex trafficking in the third degree is a class B felony if the value of the resources is \$200 or more and a class C felony if the value of the resources is less than \$200. A person who commits sex trafficking in the third degree would be sentenced under the enhanced sexual felony sentences but would not be required to register as a sex offender.

This section also enacts the new crime of "patron of a victim of sex trafficking." A person is guilty of being a patron of a victim of sex trafficking if the person solicits sexual conduct with reckless disregard that the person they are soliciting is a victim of sex trafficking. If the person solicited is under 18 years of age this offense will be a B sex felony. If the person solicited is an adult, this offense will be a C sex felony. This crime would be sentenced under then enhanced penalties for sexual felonies and the person would be required to register as a sex offender.

While there are sex trafficking crimes already in statute, these new crimes are broader and have updated language to capture the ways in which sex trafficking actually occurs. The sex trafficking statutes in current law are repealed as that offense will now appear in AS 11.41 as specified in this section.

MR. SKIDMORE added that AS 11.41 is traditionally the location of all statutes that represent crimes against persons. He also discussed "a place of prostitution" as not being clearly defined in the proposed legislation: it is not a residence someone is using for himself or herself, but one that the person is allowing someone else to lease for sex trafficking. He

acknowledged that the definition needs adjustment. He also explained the justification for the \$200 threshold in third degree sex trafficking in terms of the cost of moving victims around Alaska.

[4:18:07 PM](#)

MR. SKIDMORE continued to review the sectional analysis, which read:

Section 3 amends the crime of human trafficking in the first degree to be an unclassified felony when the person uses force against the victim or the victim is under the age of 20.

Section 4 denotes that human trafficking in the first degree is an unclassified felony.

Section 5 amends human trafficking in the second degree to include situations in which the perpetrator

(1) exposes or threatens to expose confidential information or a secret, whether true or false, tending to subject a person to hatred, contempt, or ridicule;

(2) destroys, conceals, or threatens to destroy or conceal an actual or purported passport or immigration document or another actual or purported identification document of any person;

(3) threatens to report a person to a government agency for the purpose of arrest or deportation;

(4) threatens to collect a debt;

(5) instills in another person a fear that the person will withhold from any person lodging, food, clothing, or medication;

(6) provides or withholds controlled substances from the person; or

(7) deceives the victim.

Section 6 denotes that human trafficking in the second degree is a class A felony.

Section 7 Enacts the new crime of human trafficking in the third degree. A person is guilty of human trafficking in the third degree if the person provides resources in furtherance of human trafficking. Human trafficking in the third degree is a class B felony if

the value of the resources is \$200 or more and a class C felony if the value of the resources is less than \$200.

This section also clarifies that corroboration of a victim's testimony is not necessary. This codifies current law in that a jury has the ability to convict based on a victim's testimony alone. This section is in current law and is simply relocated to AS 11.41 along with the rest of the sex trafficking statutes. This section also makes clear that any property used to commit sex or human trafficking may be forfeited.

Section 8 is the definition section for sex trafficking and human trafficking.

Section 9 clarifies that the crime of coercion is only to be used if the sex trafficking or human trafficking elements are not present.

Section 10 cleans up the references to sex trafficking in the prostitution statute.

Section 11 makes a conforming change to a provision that is repealed in the repealer section (being a patron of a prostitute under the age of 18).

Sections 13 - 19 make conforming changes to sex trafficking and human trafficking references that appear in those statutes.

Section 20 establishes that human trafficking in the first degree, as an unclassified felony, will be sentenced between five and 99 years.

Section 21 makes conforming amendments to AS 12.55.125(i), the sex offense sentencing statutes, incorporating the new sex trafficking statutes and patron of a victim of sex trafficking statute. This ensures that these offenses will be subject to the higher sentences associated with sex offenses.

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Section 22 makes conforming changes to the statutory definition of "most serious felony," by removing sex trafficking in the first degree, which is then added

to the statutory definition of "sexual felony" in section 23.

Section 23 adds sex trafficking and patron of a victim of sex trafficking to the definition of "sexual felony."

Section 24 makes changes to the definition of "serious offense" reflecting the changes made to the sex trafficking and human trafficking statutes.

Section 25 adds sex trafficking in the first and second degree and patron of a victim of sex trafficking to the list of registerable sex offenses.

Section 26 establishes a process whereby people who have been convicted of prostitution can get that conviction vacated if they are able to show that they were a victim of sex trafficking at the time that they committed the prostitution offense. If the conviction is vacated the court system may not publish records relating to the conviction on CourtView nor may the Department of Public Safety release that information as part of an employment background check.

CO-CHAIR KREISS-TOMKINS asked whether the provision described in Section 26 exists in other states.

MR. SKIDMORE responded that some states have provisions under which the conviction can be removed; some states mandate that a person under the age of 18 cannot be convicted for prostitution. He added that such modifications could be made to the proposed legislation; he is open to suggestion.

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REPRESENTATIVE HOPKINS asked why, under the proposed legislation, the victim in a class B misdemeanor would be defined as a criminal.

MR. SKIDMORE answered that sex trafficking can victimize anyone of any age; therefore, Section 26 provides that anyone who is a victim could have the conviction removed. He relayed that the focus of many other states is on minors; federal law automatically considers a person under the age of 18 involved with sex trafficking a victim. He maintained that HB 225 is trying to achieve this "best practice"; however, for someone who

is age 18 or older, engaging in prostitution is still a class B misdemeanor with a penalty of up to 90 days in jail. For people who are trafficked, the state would still pursue the traffickers while providing the trafficked person a means to maintain that he/she was a victim and should not have the conviction on his/her record.

REPRESENTATIVE HOPKINS referred to paragraph four of the 1/24/20 transmittal letter from Governor Michael J. Dunleavy, included in the committee packet, which read:

The threat of being charged with a crime is often a tactic that traffickers will use to continue to control their victims. It is important for society to recognize that these victims often have no other choice, and they should not be treated as criminals when they are, in fact, victims themselves.

REPRESENTATIVE HOPKINS stated that under Alaska law all the trafficked victims are being criminalized and the burden of proof is on them to have the conviction vacated. He described a scenario of a shipload or a truckload of trafficked victims brought into Alaska from a foreign country or a 20-year-old who has been sex trafficked for the past ten years. The victim would be required to produce evidence and navigate the Alaska Court System. He asked why HB 225 is not written so that these victims would not have to go to court.

MR. SKIDMORE responded that individuals in those circumstances would not be prosecuted for prostitution; the state would have no interest in prosecuting them. Law enforcement would ask their cooperation and work with them to build a case for prosecution [of the traffickers]. In answer to Representative Hopkins's question, he offered that the legislature could make the law specific to prevent them from being prosecuted.

REPRESENTATIVE HOPKINS asked why that specific law was not included in the proposed legislation.

MR. SKIDMORE replied that the approach of the administration was to correct past harms that occurred. The past harm involves people who have already been prosecuted; the proposed legislation was drafted to help those people vacate their convictions. He stated that in the scenario described, prosecutors would not pursue those victims for prosecution; therefore, it was not addressed in HB 225; however, the

legislature could prevent it from ever happening through legislation.

REPRESENTATIVE HOPKINS expressed his interest in incorporating that provision into the proposed legislation.

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REPRESENTATIVE VANCE asked whether the wording in the proposed legislation is to distinguish between someone who chooses prostitution and someone who is a victim of sex trafficking.

MR. SKIDMORE restated the question: How would we differentiate between those who are victims and those who are not? He maintained that it is an important challenge - how to differentiate and who makes that determination. He offered that other states have focused on minors; he hasn't seen a provision that addresses adults.

MR. SKIDMORE continued to review the sectional analysis, which read:

Sections 27 - 29 make conforming changes to the changes made to the sex trafficking statutes.

Section 30 clarifies that if a person's prostitution conviction made them ineligible for a permanent fund dividend and that conviction was vacated under section 26 of the bill, the person would be eligible for a permanent fund dividend from the date of the vacation forward.

Sections 31-34 make conforming changes to the changes made to the sex trafficking statutes.

Section 35 is the repealer section.

Section 36 is the applicability section. The majority of this bill will apply to offenses occurring on or after the effective date.

Section 37 establishes the effective date as July 1, 2020.

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REPRESENTATIVE HOPKINS asked whether a victim working to vacate a class B misdemeanor crime would have access to a public defender or would have to hire an attorney.

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SAMANTHA CHEROT, Public Defender, Public Defender Agency, answered that under HB 225, there would not be a mechanism for the victim to have an appointed counsel in that type of situation.

REPRESENTATIVE STORY relayed that she has heard that for people engaged in prostitution, it is not a choice; it has more to do with the economic system, a limited income, and the need to provide for a family.

CO-CHAIR KREISS-TOMKINS stated HB 225 would be held over.

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ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 4:42 p.m.