

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

February 28, 2022

1:33 p.m.

MEMBERS PRESENT

Senator Roger Holland, Chair
Senator Mike Shower, Vice Chair
Senator Shelley Hughes
Senator Robert Myers
Senator Jesse Kiehl

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 31

"An Act relating to binding votes by or for a legislator under the Legislative Ethics Act."

- MOVED CSSB 31(STA) OUT OF COMMITTEE

SENATE BILL NO. 189

"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 vacatur of judgment for a conviction of prostitution; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 182

"An Act establishing the crime of interference with emergency communications."

- BILL HEARING RESCHEDULED TO 3/2/2022

PREVIOUS COMMITTEE ACTION

BILL: SB 31

SHORT TITLE: PROHIBITING BINDING CAUCUSES

SPONSOR(s): SENATOR(s) SHOWER

01/25/21 (S) PREFILE RELEASED 1/8/21
 01/25/21 (S) READ THE FIRST TIME - REFERRALS
 01/25/21 (S) STA, JUD
 03/18/21 (S) STA AT 3:30 PM BUTROVICH 205
 03/18/21 (S) Heard & Held
 03/18/21 (S) MINUTE(STA)
 05/04/21 (S) STA AT 3:30 PM BUTROVICH 205
 05/04/21 (S) Moved CSSB 31(STA) Out of Committee
 05/04/21 (S) MINUTE(STA)
 05/07/21 (S) STA RPT CS 2DP 2NR 1AM SAME TITLE
 05/07/21 (S) DP: SHOWER, REINBOLD
 05/07/21 (S) NR: COSTELLO, HOLLAND
 05/07/21 (S) AM: KAWASAKI
 05/10/21 (S) JUD AT 1:30 PM BUTROVICH 205
 05/10/21 (S) Heard & Held
 05/10/21 (S) MINUTE(JUD)
 02/02/22 (S) JUD AT 1:30 PM BUTROVICH 205
 02/02/22 (S) Heard & Held
 02/02/22 (S) MINUTE(JUD)
 02/11/22 (S) JUD AT 1:30 PM BUTROVICH 205
 02/11/22 (S) Heard & Held
 02/11/22 (S) MINUTE(JUD)
 02/16/22 (S) JUD AT 1:30 PM BUTROVICH 205
 02/16/22 (S) Heard & Held
 02/16/22 (S) MINUTE(JUD)
 02/28/22 (S) JUD AT 1:30 PM BUTROVICH 205

BILL: SB 189

SHORT TITLE: CRIME OF SEX/HUMAN TRAFFICKING
 SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/15/22 (S) READ THE FIRST TIME - REFERRALS
 02/15/22 (S) JUD, FIN
 02/28/22 (S) JUD AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

ED KING, Staff
 Senator Roger Holland
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Explained Amendment 1 to SB 31 on behalf of Senator Holland.

SCOTT OGAN, Staff
 Senator Mike Shower

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions on behalf of the sponsor of SB 31.

JOHN SKIDMORE, Deputy Attorney General
Office of the Attorney General
Criminal Division
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Introduced SB 189 on behalf of the administration.

NANCY MEADE, General Counsel
Office of the Administrative Director
Alaska Court System (ACS)
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 189.

KACI SCHROEDER, Assistant Attorney General
Legal Services Section
Criminal Division
Department of Law
Juneau, Alaska

POSITION STATEMENT: Provided the sectional analysis for SB 189.

ACTION NARRATIVE

[1:33:32 PM](#)

CHAIR ROGER HOLLAND called the Senate Judiciary Standing Committee meeting to order at 1:33 p.m. Present at the call to order were Senators Kiehl, Myers, Hughes, Shower, and Chair Holland.

SB 31-PROHIBITING BINDING CAUCUSES

[1:34:13 PM](#)

CHAIR HOLLAND announced the consideration of SENATE BILL NO. 31 "An Act relating to binding votes by or for a legislator under the Legislative Ethics Act."

[CSSB 31(STA) was before the committee. The bill was previously heard on 5/10/21, 2/2/22, 2/11/22, and 2/16/22. Public testimony was heard and closed on 2/2/22.]

[1:34:42 PM](#)

CHAIR HOLLAND moved to adopt Amendment 1, work order 32-LS0303\B.1.

32-LS0303\B.1
Klein
2/18/22

AMENDMENT 1

OFFERED IN THE SENATE BY SENATOR HOLLAND
TO: CSSB 31(STA)

Page 1, line 9:

Delete "a bill, appointment, veto, or other measure"

Insert "an appropriations bill or a matter governed by the uniform rules of the legislature"

SENATOR SHOWER objected for discussion purposes.

[1:34:58 PM](#)

CHAIR HOLLAND explained that Amendment 1 would narrow the scope from "any bill, appointment, veto, or other measure" to only apply to budget and procedural matters since those were the typical issues in a binding caucus agreement.

[1:35:21 PM](#)

SENATOR KIEHL offered his view that Amendment 1 does just the opposite since the Uniform Rules govern every vote and motion. He asked for clarification on Amendment 1.

CHAIR HOLLAND asked his staff to explain the Legislative Legal Services attorney's comments.

[1:35:57 PM](#)

ED KING, Staff, Senator Roger Holland, Alaska State Legislature, Juneau, Alaska, stated that the request to Legislative Legal Services was to address only budget bills and procedural matters when drafting the language in Amendment 1.

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SENATOR KIEHL said he was impressed by the breadth of the amendment.

[1:36:48 PM](#)

SENATOR SHOWER stated that the binding caucus rule required members to vote for the budget and procedural items, typically housekeeping measures. He related that the intent of Amendment 1 was to limit the bill to budget and procedural votes. He said he did not intend for the bill to apply to anything other than the budget or procedural votes.

[1:38:11 PM](#)

SENATOR HUGHES offered her view that the language "or a matter governed by the uniform rules of the legislature" was quite broad. She asked whether the legislative legal attorney understood it was related to the rulings of the presiding officer. She said she understood the sponsor indicated the bill related to votes on the budget and rulings of the presiding officer. She expressed concern that the language was broad.

CHAIR HOLLAND stated that was not the intent of Amendment 1.

[1:38:55 PM](#)

MR. KING pointed out that the bill says it is on a matter relating to the uniform rules. Thus, it was not just the execution of the rules but would apply to a waiver of the 55 rules, so Amendment 1 would encompass any procedural matter that comes to the floor for a vote.

[1:39:25 PM](#)

SENATOR MYERS stated that Amendment 1 would delete "a bill, appointment, veto or other measure." He recalled that the veto overrides were held out as part of the binding caucus a few years ago, although it was before his legislative service so that he could be mistaken.

SENATOR SHOWER responded that the original agreement was on the budget and procedural votes, but it expanded to other matters, including the veto override. He stated that was the genesis of this bill.

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SENATOR MYERS said those remarks make him question Amendment 1. He suggested that it might be better to leave the language as "a bill, appointment, veto or other measure." He related his understanding that the language "or other measure" would include the procedural votes.

SENATOR SHOWER asked to have his staff speak to whether the bill should be left as is or if adding Amendment 1 would accomplish the goal.

[1:42:44 PM](#)

SCOTT OGAN, Staff, Senator Mike Shower, Alaska State Legislature, Juneau, Alaska, on behalf of the sponsor, stated that in his experience binding votes applied to procedural votes on the floor or related to the budget. He noted that when he served in the legislature, the caucus would listen to people's concerns and build consensus. He related his understanding that a few leaders recently dictated the caucus policy without considering member opinions. He deferred to the committee to decide whether Amendment 1 would accomplish the goal.

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SENATOR HUGHES agreed that leadership viewpoints change, but no one should be coerced into voting. She said she preferred the original language because it might apply to other votes.

[1:45:19 PM](#)

CHAIR HOLLAND stated the goal of Amendment 1 was to simplify the bill, but it did not seem to do so. He withdrew Amendment 1.

[1:46:16 PM](#)

SENATOR SHOWER said he appreciated the discussion and the opportunity to put some things on the record.

SENATOR SHOWER removed his objection.

[1:47:09 PM](#)

SENATOR SHOWER moved to report SB 31, work order 32-LS0303\B, from committee with individual recommendations and attached fiscal note(s).

CHAIR HOLLAND heard no objection, and CSSB 31(STA) was reported from the Senate Judiciary Standing Committee.

[1:47:28 PM](#)

At ease

SB 189-CRIME OF SEX/HUMAN TRAFFICKING

[1:49:29 PM](#)

CHAIR HOLLAND reconvened the meeting and announced the consideration of SENATE BILL NO. 189 "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

vacatur of judgment for a conviction of prostitution; and providing for an effective date."

He noted that this was the first hearing and invited John Skidmore to introduce the Governor's bill.

1:50:05 PM

JOHN SKIDMORE, Deputy Attorney General, Office of the Attorney General, Criminal Division, Department of Law, Anchorage, Alaska, stated that he had served as a prosecutor for over 24 years. He quoted Abraham Lincoln's 1854 comments, "Slavery is founded on the selfishness of man's nature - opposition to it - this love of justice." Six years later, he became president. In 1865, President Lincoln abolished slavery in the US. Yet, today, the modern form of slavery is human or sex trafficking. In 2017, despite slavery being abolished in 1865, every state in the union has reported human or sex trafficking cases. While it has been challenging to establish the exact numbers in the US, from various studies, including the United Nation's Office on Drug and Crime, human and sex trafficking is the second most profitable criminal enterprise globally. He reported that \$32 billion is earned from it. The only criminal enterprise that is more profitable is drug trafficking.

1:51:51 PM

MR. SKIDMORE stated that there are over 40 million people worldwide that are victims of sex trafficking. Although it is difficult to obtain statistics, a study in 2014 estimated the value of sex trafficking in eight US cities as between \$40 to \$290 million. None of the cities listed were the largest cities in the US, but they include Atlanta, Miami, Dallas, Denver, Kansas City, St. Louis, San Diego, and Seattle. He stated that this should give an idea of the magnitude of the problem in the US. He referred to the Polaris Project Study that estimated the US has over 100,000 human or sex trafficking victims. He reported that the Polaris hotline receives over 1,500 calls a day reporting sex trafficking in every state each year. The study identified over 49,000 victims. He related that the US Attorney's Office prosecuted cases against those running sex trafficking rings in Alaska. In 2020, the Journal of Interpersonal Violence reported that one in seven runaways were victims of sex trafficking, and 60 percent of the victims in sex trafficking were runaways who have a relationship with their trafficker. He reported that 92 percent of those involved in sex trafficking have substance abuse. The at-risk factors include family members in sex work or friends who purchase sex. He reported that 88 percent of the victims had suffered sexual or

physical abuse, 52 percent were motivated by money, and 72 percent of victims still live at home with their parents.

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MR. SKIDMORE read from the January 2020 National Human Trafficking Prosecution Best Practices Guide.

[Original punctuation provided.]

Many trafficking victims are not abducted, they are recruited. They have been seduced into their circumstances by traffickers posing as friends, mentors, or adoring suitors. Only after victims have become emotionally involved in the relationship will the sinister nature of the true relationship come to light.

The most common scenario for trapping girls in the sex trade is a trafficker posing as an older boyfriend. In the beginning, Romeo-like tactics are used to lure the victim into what is portrayed as a romantic relationship. The "boyfriend," who is really a pimp, doles out compliments, gifts and attention that the teen craves. Soon he asks her to sell her body for sex, "just this one time." It is never just one time. But, now that she's done it once, the victim can be demeaned and shamed into continuing to sell her body for sex. The trafficker brainwashes the young woman into believing he is the only person who will accept her after what she has done.

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There's no way out. She's physically forced into everyday prostitution through starvation, coercion, threats, forced drugging and eventually addiction. This insidious progression might involve picking up one or more drug charges, which can negatively impact future educational or professional opportunities. In some cases, the next step might be branding - a form of control and ownership that takes on many forms such as the trafficker's prison number, his name or his moniker. The tattoo often includes references to money. This is a game of psychological warfare that preys on the challenges of being an immature teenager.

Other recruitment methods include using women already involved in sex work, either those who are working

together as a method of survival, or who want to maintain their relationship with their pimp. They often recruit impressionable girls from school, inviting them to parties and enticing them with drugs and material items.

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MR. SKIDMORE emphasized the first item on the following list.

Those susceptible to being recruited include:

- Children who have witnessed domestic violence

MR. SKIDMORE reminded members to consider that Alaska has issues with domestic violence. The 2020 Alaska Victimization Study released on October 15, 2021, by the Council on Domestic Violence and Sexual Assault stated that 58 percent of women in Alaska have been victims of sexual assault or domestic violence during their lifetime.

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MR. SKIDMORE continued reading the list of those susceptible to being recruited from the January 2020 National Human Trafficking Prosecution Best Practices Guide.

- Children who have been victims of sexual or physical abuse
- Children with mental or learning disabilities
- Children with addiction problems
- Children with school attendance problems
- Children with gang ties
- Runaways
- Marginally housed or homeless youth
- LGBTQ youth

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MR. SKIDMORE stated that while the state may not have concrete numbers on the total number of human or sex trafficking cases in Alaska, no one should be fooled into thinking it does not exist

here. He stated that this is based on cases with the district attorney's office, discussions with the Federal Bureau of Investigations, and conversations with Covenant House about those who come to them for assistance. He reported that Covenant House sheds light on how victims are recruited. Staff reports that recruiters stake themselves outside of the Covenant House, waiting for the young people to come outside so that they can attempt to recruit them. He stated that the concept of someone being physically abducted off the street is wrong. He reminded members that 72 percent of victims live at home with their parents. Although sex trafficking is not done through physical violence, sex trafficking and human trafficking are done by someone who recruited, not abducted the victim. He emphasized that those are the dangers the state must address.

MR. SKIDMORE noted that Priceless is an organization that helps victims of human and sex trafficking.

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MR. SKIDMORE outlined the key elements in SB 189. First, it reorganizes human trafficking and sex trafficking crimes. It increases the classification of these offenses to give more effective tools for law enforcement and prosecution to handle these crimes.

MR. SKIDMORE said it takes the most serious of these offenses, including those who recruit and traffic someone under the age of 20, those who have legal custodianship or guardianship of the victim, or those who run a business, such as a place of prostitution or criminal enterprise, and classifies these offenses as sex trafficking in the first degree, an unclassified felony.

MR. SKIDMORE related that sex trafficking in the second degree includes obtaining or recruiting people. This bill introduces concrete concepts in the definition section to better understand recruiting.

MR. SKIDMORE stated that sex trafficking in the third degree relates to those providing assistance or support. The crime is not solely about recruiting but about those who support human trafficking or sex trafficking overall.

[2:01:08 PM](#)

MR. SKIDMORE stated that the bill would also delineate human trafficking from sex trafficking. It will clarify that sex trafficking is a sex crime, with enhanced penalties under AS

12.55.155(i). SB 189 would also make "sex trafficking in the first and second degree" registrable offenses. The bill increases some penalties for human trafficking, but the bill emphasizes that human trafficking relates solely to labor. Any sex trafficking component will not be part of human trafficking crimes, which are subject to slightly lower penalties.

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MR. SKIDMORE explained that the January 2020 National Human Trafficking Prosecution Best Practices Guide points out that simply addressing the supply side won't address the problem since demand makes human and sex trafficking profitable.

MR. SKIDMORE explained that SB 189 would address demand in two ways. First, it would establish a new crime of "patron of a victim of sex trafficking." Some states uniformly punish those supplying or purchasing sex trafficked victims at the same level. The patron could be prosecuted for an unclassified felony under the enhanced sex sentences.

MR. SKIDMORE related that Alaska chose to increase the penalties and to create a new class C felony for those who are "patrons of a victim of sex trafficking" instead. It uses the standard "reckless disregard," which requires a substantial and unjustifiable risk that the person they are purchasing sex from is, in fact, the victim.

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MR. SKIDMORE acknowledged that prosecuting a person as a patron will be difficult. Establishing that the individual knows that the person they are purchasing sex from is a victim or is reckless to that will not be easy. Thus, this bill would target the demand by increasing the penalties for someone purchasing a sex act from another person. The bill does not increase the penalties for the average prostitute or sex worker from a class B misdemeanor. However, the patron, the person purchasing sex in a commercial setting, will face a class A misdemeanor, with the first offense subject to 72 hours in jail. A second offense within five years would increase the jail time to 20 days, and a third offense within five years would be a class C felony. He emphasized that going after the demand side is critical to addressing this insidious problem in Alaska.

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MR. SKIDMORE stated that SB 189 would also help victims of sex trafficking. The bill introduces a new concept in Alaska law, the ability to vacate a conviction. The bill also establishes a

mechanism by which a person who has been convicted of prostitution can have that conviction vacated if they were a victim of sex trafficking at the time of the prostitution offense using a preponderance of the evidence. He noted that vacating the conviction can be retroactive. The standards are the same ones used in the bill for those who entice or recruit someone to become a victim of sex trafficking.

2:06:08 PM

MR. SKIDMORE read the types of conduct sex traffickers use to entice someone into sex trafficking:

Exposing or threatening to expose confidential information, or a secret, whether true or false; tending to subject a person to hatred, contempt or ridicule; destroying, concealing, or threatening to conceal or destroy an actual or purported passport; immigration document; or another actual or purported identification document of any person; threatening to report a person to a government agency for the purpose of arrest or deportation; threatening to collect a debt; instilling a fear the person will withhold from any person lodging, food, clothing, or medication; providing or withholding controlled substances for the benefit of that person; or deception as defined by AS 11.81.900.

MR. SKIDMORE reiterated that these are the types of methods reported in the documentation, from the January 2020 National Human Trafficking Prosecution Best Practices Guide or found in other states to recruit individuals. These things need to be outlawed in Alaska.

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SENATOR SHOWER asked if the supplier must be convicted in order for the victims to have their conviction vacated. He further asked how the victims would prove it.

MR. SKIDMORE answered no, the sex trafficker would not need to be convicted. The victims would establish by a preponderance of the evidence the conduct sex traffickers used to coerce in order to have their convictions vacated.

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SENATOR SHOWER asked if a class C felony could be pled down. He related his understanding that sex offenders never get past

their issues, so he wondered if the penalty provision was tough enough.

MR. SKIDMORE answered that a patron of a victim of sex trafficking begins as a class C felony, but if the person they solicit is under the age of 18, it would be elevated to a class B felony. He explained that when he mentioned that the third offense was a class C felony, he was referring to those who purchased sex from another person, but the department could not identify whether that person was a victim of sex trafficking.

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SENATOR SHOWER asked if he had the figures for the number of victims of sex trafficking who are male versus female.

MR. SKIDMORE did not have precise statistics, but he recalled that approximately 90 percent of victims of sex trafficking are women.

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SENATOR SHOWER asked whether he had statistics for the number of victims who were addicts before being sex trafficked as compared to those who the sex trafficker hooked on drugs.

MR. SKIDMORE said that the study asked victims of sex trafficking if they currently had substance abuse problems but did not ask if the victims had preexisting issues. He highlighted that those with substance abuse problems were at a greater risk of being sex trafficked and supplying or withholding the drugs is a common technique for sex traffickers. If the person does not have an addiction, it is one of the primary ways the oppressor tries to exercise control over their victims. He offered to make the study available to the committee.

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SENATOR HUGHES related that it is an unclassified felony if a person uses force, but luring, perhaps with drugs, is a class A felony. She offered her view that force could be grabbing and pushing someone into the room. That behavior could be worse than someone luring by drugs. She opined that it would be more difficult for victims to overcome drug addiction. She asked for the rationale for the disparity. Second, allowing vacating the conviction of prostitution might include drug offenses. She asked whether the administration considered allowing victims to vacate drug offenses. She explained that these victims would have difficulty obtaining employment. She further asked if a

victim had their conviction for prostitution vacated if the drug offenses would appear on CourtView. She related her understanding that drug addiction is the primary tool. She expressed an interest in making those penalties more stringent since the sex trafficker has enslaved their victims. She acknowledged the immense suffering victims endure.

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MR. SKIDMORE stated that the bill would vacate convictions for prostitution. The administration is open to amendments to add in other convictions that should be vacated. He explained that when a conviction is vacated, it is removed from the person's record in the Alaska Public Safety Information Network (APSIN), and from court records, including CourtView.

MR. SKIDMORE reviewed the penalties for sex trafficking, which are the highest in the state. Sex trafficking in the first degree has a presumptive sentence of 20 to 30 years, with a maximum of 99 years. Sex trafficking in the second degree is a class A felony. He was unsure of the penalty but believed it was 15-25 years with a maximum of 99 years.

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MR. SKIDMORE explained that other states' crimes focused on force and underage sex trafficking as the most serious crimes. The typical recruiting falls into the next category. He acknowledged that the legislature could elevate those instances where the victim became addicted to a controlled substance. He cautioned that doing so would risk that the offense becomes the highest penalty. However, using force is typically considered the most serious offense. It would include threatening someone or physically hurting the victim. He highlighted that the legislature is the policymaking body so that members can make the determination.

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SENATOR HUGHES expressed concern that a sex trafficker who gets someone addicted may only serve a fraction of their sentence. She asked if the Alaska Court System could respond to information about CourtView.

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NANCY MEADE, General Counsel, Office of the Administrative Director, Alaska Court System (ACS), Juneau, Alaska, responded that CourtView could remove entire cases but not parts of a case. She explained that what the public sees on the Alaska Court System's CourtView is a subset of the entirety of

CourtView. ACS cannot remove items from CourtView without removing them from the official court records in entirety. CourtView shows actions taken in a case. She reiterated that ACS could remove cases, for example, confidential cases involving juvenile delinquents. Further, ACS can retroactively identify cases with a prostitution conviction. If the defendant goes through the process described in Section 27 and prevails, the court will grant the petition, and ACS could remove the entire case from CourtView. However, if that case also involved another conviction, ACS could remove the whole case or none of it.

MS. MEADE reported ACS data that shows that most cases that have a conviction for practicing prostitution have only that charge. She acknowledged that some cases have other convictions. She stated that the bill would be problematic for ACS. She referred to page 21, lines 26-28, which would leave ACS discretion to determine whether to remove the case or leave it posted. She suggested language might need clarification to provide specific direction to the court system.

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SENATOR KIEHL recalled that the committee heard from the administration two years ago about the sex trafficking of minors. The committee asked the administration to identify the most important way to help minors. He was surprised to learn that the answer was not adopting stiffer penalties or changes in the law but removing the victims from their circumstances for more than 30 days. The primary reason was so they would be free. Second, if the victim was unable to house, feed, and clothe themselves except through their trafficker or they perceived they could not, it was unlikely the case would be prosecuted. In addition, the victim might have charges brought against them. He asked for the administration's proposal to arrest the trafficker and get the sex-trafficked victims out of their situations to live safe and independent lives.

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MR. SKIDMORE agreed that the most significant thing the department can do would be to establish a relationship and rapport with the victim. He referred to the white paper from January 2020 National Human Trafficking Prosecution Best Practices Guide White Paper, which contains several sections that discuss methods to establish that rapport and trust, so victims don't leave, enabling law enforcement a better chance to arrest the sex trafficker. He offered to provide the White Paper to the committee. The state has some resources available to assist with those efforts, although he did not have the list

before him today. He related that the administration's "People First" initiative also focuses on sex trafficking and human trafficking. He offered to provide additional information to the committee.

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MR. SKIDMORE corrected an earlier reference he made to AS 12.55.155. He said he misspoke and meant to say AS 12.55.125 when referring to sex trafficking in the first degree. The sentencing range for a first offense of sex trafficking in the first degree is 20-30 years, for sex trafficking in the second degree is 15-30 years, and the maximum is 99 years.

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KACI SCHROEDER, Assistant Attorney General, Legal Services Section, Criminal Division, Department of Law, Juneau, Alaska, prefaced comments on the sectional analysis by stating that sex trafficking is illegal. One thing the department has done was to make changes to sex trafficking statutes and relocate them. She explained that many changes in the bill are conforming changes, such as changing the cross-references. These statutes were previously listed in AS 11.66, but they are now located in AS 11.41. She paraphrased the sectional analysis for SB 189.

[Original punctuation provided.]

[2:27:40 PM](#)

Section 1. This section is a conforming change to the amendments made in sections 2-9.

Section 2. This section 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 they recruit, entice, or otherwise induce or cause 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.

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.

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MS. SCHROEDER referred to Sec. 11.41.350 on page 3 of SB 189. She paraphrased the sectional analysis.

[Original punctuation provided.]

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 they solicit 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 those offenses will now appear in AS 11.41 as specified in this section.

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MS. SCHROEDER continued to paraphrase the sectional analysis.

Section 3. This section 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. This section denotes that this offense is an unclassified felony

[2:30:02 PM](#)

Section 5. This section 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 actor 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. This section denotes that this offense is a class A felony.

MS. SCHROEDER continued to paraphrase the sectional analysis for SB 189.

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Section 7. This section enacts the new crime of human trafficking in the third degree. A person is guilty of human trafficking in the third degree if they provide 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.

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MS. SCHROEDER related that Sec. 11.41.367 and 11.41.368 in Section 7 of the bill were restatements of current law for sex trafficking to clarify that it is not necessary to have corroborating evidence when a person who is testifying has been compelled to engage in sex trafficking. Property used to

institute, aid, or facilitate human or sex trafficking includes real property.

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MS. SCHROEDER referred to page 6, lines 1-3, provides a definition of "victim of sex trafficking."

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

[2:32:02 PM](#)

MS. SCHROEDER related that Section 9 provides a technical change, that there is some overlap between the human and sex trafficking statutes and the crime of coercion.

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

MS. SCHROEDER referred to page 8, to Section 10. She stated that this provides a conforming change by correcting the cross-references from AS 11.66 to AS 11.41.

Section 10. This section cleans up the references to sex trafficking in the prostitution statute. Sectional Analysis Page 3 Prepared by Department of Law

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MS. SCHROEDER continued to paraphrase the sectional analysis.

[Original punctuation provided.]

Section 11. This section increases the penalty for being a "John" from a class B misdemeanor to a class A misdemeanor. Upon a third conviction within five years the offense is again elevated to a class C felony.

Section 12. This section states that if a "John" is convicted under the class C felony provision in sec. 11, any property used in order to commit the offense may be forfeited. This section also clarifies that the definition of sexual conduct used in the prostitution statutes is the same definition that is used in the sex trafficking and human trafficking statutes.

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Section 13. This section makes a conforming change related to the changes made in secs. 2-9.

Sections 14 - 19. These sections make conforming changes to sex trafficking and human trafficking references that appear in those statutes.

MS. SCHROEDER elaborated on Section 14-19. She stated that these make conforming changes to incorporate the new sex trafficking and human trafficking statutes related to the statute of limitations, interceptions of communications, and fines for convictions. Section 18 relates to suspended entries of judgment, and Section 19 relates to imposition of sentences. If a person is prosecuted for sex trafficking and human trafficking, the court may not suspend the entries of judgment or the imposition of sentence.

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MS. SCHROEDER referred to page 13 of the bill. She continued to paraphrase the sectional analysis.

Section 20. This section establishes that human trafficking, as an unclassified felony, will be sentenced between five and 99 years.

Section 21. This section 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. This section also corrects an error in the citation of unlawful exploitation of a minor under AS 11.41.455(c)(1) and indecent viewing of a picture under AS 11.61.123.

[2:35:25 PM](#)

MS. SCHROEDER referred to page 17 of the bill.

[Original punctuation provided.]

Section 22. This section establishes mandatory minimum terms of imprisonment for "Johns." Upon the first conviction the person will be subject to a mandatory minimum term of 72 hours and upon the second and subsequent conviction, the person will be subject to a

mandatory minimum term of 20 days. The 20 day mandatory minimum term will not apply if the person is convicted three times within 5 years and is, therefore, subject to the class C felony sentencing provisions.

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Section 23. This section makes conforming changes to the definition of "most serious felony" reflecting the new sex trafficking statutes.

Section 24. This section adds sex trafficking and patron of a victim of sex trafficking to the definition of "sexual felony" and corrects the citation to indecent viewing of a picture under AS 11.61.123.

Section 25. This section makes changes to the definition of "serious offense" reflecting the new sex trafficking and human trafficking statutes.

Section 26. This section adds sex trafficking in the first and second degrees and patron of a victim of sex trafficking to the list of registerable sex offenses. This section also corrects the citation to indecent viewing of a picture under AS 11.61.123.

[2:36:43 PM](#)

MS. SCHROEDER continued to paraphrase the sectional analysis. She referred to pages 20-21 to the vacatur of judgment in Section 27, which would be based on a preponderance of the evidence. There would be a rebuttable presumption that a person under 18 years of age when they committed the offense would be considered a victim of sex trafficking.

Section 27. This section establishes a process whereby a person who has 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.

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Section 28. This section amends the Violent Crime Compensation Board statutes to include an applicant who was a victim of sex trafficking.

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Section 29- 30. These sections make conforming changes to the changes made to the sex trafficking statutes.

Section 31. This section makes a person who has had their conviction for prostitution vacated eligible for a permanent fund dividend.

Section 32-35. These sections make conforming changes to the changes made to the sex trafficking statutes.

MS. SCHROEDER explained that Section 32 referred to the Child in Need of Aid statutes, Section 33, relates to the juvenile delinquent statutes, Section 34 provides conforming changes to those adjudicated for sex trafficking, and Section 35 relates to child protection statutes.

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Section 36. This section is the repealer section.

Section 37. This section is the applicability section. The majority of this bill will apply to offenses occurring on or after the effective date.

Section 38. This section establishes the effective date as July 1, 2022.

[2:39:36 PM](#)

SENATOR SHOWER asked whether the bill addresses sex trafficking and human trafficking on the internet.

MR. SKIDMORE answered that 92 percent of recruitment happens online. The bill covers sex trafficking and human trafficking, whether it happens online or in person.

[2:40:10 PM](#)

SENATOR SHOWER referenced Section 12 and asked what protections the bill has for people renting property who are not part of any sex or human trafficking. He noted that many military members rent property.

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MR. SKIDMORE responded that when someone owns the leased or rented property and sex trafficking or human trafficking occurs, the investigation must identify the person engaged in the illegal conduct. If the owner is the person involved in unlawful conduct, the property could be forfeited. He was unsure whether any protections were available to renters. Conversely, suppose a renter is involved in the illegal activity, and the owner is unaware of it. In that case, the property cannot be forfeited unless the state can prove the owner "knowingly" was aware of sex trafficking or human trafficking. He noted that is based on case law related to forfeiture.

[2:41:43 PM](#)

SENATOR KIEHL related his understanding that the bill is prospective. He asked whether the vacatur was retroactive.

MS. SCHROEDER answered yes. She clarified that prospective applied to petitions filed for vacating any judgment from the effective date forward. However, it would allow reviewing convictions that occurred before that date.

[2:42:15 PM](#)

SENATOR MYERS directed attention [page 5, lines 17-18] to the definition in paragraph (6). He read:

"place of prostitution" means any place where another person engages in commercial sexual conduct;

SENATOR MYERS stated that it doesn't indicate the owner knows what is occurring. For example, a large hotel could unintentionally be a place of prostitution. He asked whether a hotel owner would be held accountable for sex trafficking in the first degree if the party was unaware of the activity occurring in the property.

MR. SKIDMORE answered no. He explained that the mens rea or mental element requires that the person engaged in conduct "knowingly" and is reckless to the circumstance. He referred to page 2, Section 2.

Sec. 11.41.340(a) Sex trafficking in the first degree.

(a) A person commits the 11 crime of sex trafficking in the first degree if the person ...

(4) "manages, supervises, controls, or owns, either alone or in association with others, a prostitution enterprise or a place of prostitution.

MR. SKIDMORE stated that another statute applies since the mens rea was not specifically mentioned in that statute. The person would need to be "knowing" as to the conduct and "reckless" as to the circumstance. This means the person would need to know they owned it and "reckless" as to the conduct occurring in that location.

[2:43:53 PM](#)

SENATOR MYERS referred to page 2, line 15, to sex trafficking in the first degree. He asked why the language in paragraph (2) refers to a victim under 20 years of age rather than 18 years of age.

MR. SKIDMORE answered that language is the current law for sex trafficking. He stated that was the result of an amendment in 2012 proposed by then-Representative Gara to change the age from 18 to 20. It was based on the belief that someone 18 years of age, typically the age of someone graduating from high school through 20 years of age, was still young and impressionable.

[2:45:11 PM](#)

SENATOR MYERS reviewed the elements for sex trafficking in the first degree and sex trafficking in the second degree. He related that sex trafficking in the first degree includes "use of force or threat of force" but it appeared something like "blackmailing" would fall under sex trafficking in the second degree.

MR. SKIDMORE answered yes.

[2:45:42 PM](#)

SENATOR MYERS referred to page 3, line 8, to the language "with reckless disregard" [in Sec. 11.41.350] related to the patron of a victim of sex trafficking. He asked how the prosecutor would prove "reckless disregard."

MR. SKIDMORE answered that the definition of "reckless" is in statute. He paraphrased [AS 11.81.900], which read:

(3) a person acts "recklessly" with respect to a result or to a circumstance described by a provision of law defining an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a

gross deviation from the standard of conduct that a reasonable person would observe in the situation;

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MR. SKIDMORE stated that in terms of a patron of a victim of sex trafficking, the prosecutor would consider the patron disregarded a substantial and unjustifiable risk that the person they were purchasing sex from was actually a victim of sex trafficking. He explained that the prosecutor would consider all of the ways someone could be forced into sex trafficking. For example, did the patron notice that the person appeared to be addicted to drugs or was malnourished; something that showed the patron was aware or recklessly disregarded that the person was a victim of sex trafficking. He noted he was not saying that it would be easy for a prosecutor to establish. The elevated penalties of a class C or class B felony would apply if a prosecutor could establish proof beyond a reasonable doubt that the patron disregarded a substantial and unjustifiable risk the person was a victim of sex trafficking.

[2:47:30 PM](#)

SENATOR MYERS pointed out that the bill has a long list of ways a person could be enticed into human trafficking but not for sex trafficking.

MR. SKIDMORE answered that the exact list of inducements also applies to sex trafficking [as shown in Sec. 8]. He referred to page 6 to the definition of "victim of sex trafficking."

[2:48:08 PM](#)

SENATOR MYERS pointed out that the language lacked an explicit linkage between committing sex trafficking and the victim of sex trafficking. He acknowledged that it was a common-sense linkage, but he wondered if it needed to be tightened up.

[2:48:35 PM](#)

SENATOR KIEHL indicated that the definition of a "victim of sex trafficking" means "a person who has been induced or caused to engage in," but earlier in the bill [in Sec.2 on page 2, lines 23-24] it uses the language "recruits, entices, or otherwise induces or causes..." He asked for the difference between the terms "recruit," "induce," "entice," and "cause".

MR. SKIDMORE responded that induce, entice, or cause sound similar, but it is a pattern used in drafting. He was unsure whether he could explain the minute differences. He stated that causing might not always apply because the person entices or

induces the victim during recruitment. He offered his view that using all three terms attempted to capture the sentiment adequately. He suggested that to get into the nuances of the language, he would need to look it up in a dictionary.

SENATOR KIEHL acknowledged that the breadth was good, but the committee might need to understand the nuances and meaning.

[2:51:01 PM](#)

SENATOR HUGHES said she reviewed the range of sentences for sex trafficking and human trafficking in Sections 7 and 20. She asked whether other states have a duty to report activity because it may save some of the victims many years of agony. She further asked what services someone would provide that would further the industry, and whether the person was picking up dry cleaning, cleaning their rooms, or something else.

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MR. SKIDMORE responded that he was unsure whether other states had a duty to report. For instance, for sexual abuse of a minor, the department currently imposes a duty to report on certain individuals who come into contact with minors, including teachers and medical professionals. He was unsure whether the same duty to report would apply for minor victims of sex trafficking, but it is certainly possible. He suggested that there might need to be an educational component. He recalled reading a substantial number of myths or misconceptions around sex trafficking and how to identify victims. Thus, it would take training before expecting people to see the signs.

MR. SKIDMORE explained that the language "services" was a term used by other states to capture things like providing transportation or chaperoning the sex-trafficked person to ensure that the party pays, but the "chaperone" might not be the person keeping the profits. The person who accompanies the sex-trafficked person would be providing a service. It is difficult to know or quantify every nuance, so the bill uses the language "... provides services, resources, or other assistance in furtherance of a violation..." He explained that the person would be assisting in helping the violation, the commercial sexual conduct, occur.

[2:55:55 PM](#)

SENATOR KIEHL turned to unclassified felonies. He related his understanding that for commercial sexual conduct, it doesn't matter whether a person was made to engage in sexual penetration

or to watch someone engaged in heavy petting. He asked why the bill doesn't differentiate the severity of the conduct.

MR. SKIDMORE turned to page 5, to the definition in AS 11.41.370 (5), which read "commercial sexual conduct" means sexual conduct for which anything of value is given or received by any person;.... He acknowledged that this language could be tightened up. He stated that "(9) "sexual conduct" means participating in, observing, or requiring another person to observe sexual contact, sexual penetration, or the conduct described in AS 11.61.140(f);." He stated that under that definition, he understands the tiered approach Senator Kiehl mentioned.

[2:58:21 PM](#)

SENATOR MYERS referred to page 5, lines 2-6 related to corroboration of certain testimony not required. He asked whether any other crimes do not require corroboration.

MR. SKIDMORE responded that this language is the current statute. He said he could not think of any other crime that expressly does not require corroboration. He stated that it would not alter the burden of proof which is proof beyond a reasonable doubt. It ultimately would be for the jury to decide.

[2:59:22 PM](#)

SENATOR MYERS referred to page 5. He said a victim could accuse someone of sex trafficking without corroboration. However, referring to page 8, line 15, he related his understanding that the victim would have to corroborate that they were a victim of sex trafficking to avoid being charged for prostitution.

MR. SKIDMORE said this language is the current statute. He offered his belief that this provision does not require corroboration. This statute, AS 11.66.100, states that a person cannot be prosecuted for one of the enumerated crimes against a person. He read a portion of AS 11.66.100(d)(2) "evidence supporting the prosecution under (a)(1) of this section was obtained or discovered as a result of the person reporting the crime to law enforcement, and (3) person cooperated with law enforcement personnel." It means that a sex worker reporting one of the enumerated crimes cannot be prosecuted for prostitution. For example, the person might say they were involved in a commercial sex act, but the person who was supposed to pay pulled a gun and robbed them. In this instance, the prosecutor would not prosecute the sex worker and would give them immunity because they would seek to charge the higher crime. This

paragraph requires cooperation with law enforcement but no corroboration.

[3:02:56 PM](#)

SENATOR KIEHL referred to page 3, line 24, Section 3, AS 11.41.360(a)(1) and stated that this removes the language "in the state." He related his understanding that it would not require that sex trafficking occur in the state, but he was unsure what bad conduct would not be required to occur in Alaska.

MR. SKIDMORE answered that the language "in the state" might be confusing. He explained that jurisdiction for criminal conduct requires an actus reus, and that act has to occur within the state. Jurisdictional law would require either the trafficker or the victim to be in the state. For example, someone could be engaging in commercial fishing activity in waters beyond the state's jurisdiction. Still, prosecutors could prosecute a person for sex trafficking in Alaska if the trafficker is present in Alaska. The jurisdictional protection still exists. The state could not prosecute someone in Washington state if the trafficker and the victim were both in Washington and there was no nexus or connection to Alaska.

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SENATOR KIEHL asked for confirmation that the forced labor or the forcing must happen within Alaska for the state to prosecute.

MR. SKIDMORE answered yes.

[3:06:02 PM](#)

CHAIR HOLLAND held SB 189 in committee.

[3:06:15 PM](#)

There being no further business to come before the committee, Chair Holland adjourned the Senate Judiciary Standing Committee meeting at 3:06 p.m.