

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

March 22, 2022

3:33 p.m.

MEMBERS PRESENT

Senator Mike Shower, Chair
Senator Lora Reinbold, Vice Chair
Senator Mia Costello
Senator Roger Holland
Senator Scott Kawasaki

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 142

"An Act relating to the sovereignty of state elections."

- MOVED SB 142 OUT OF COMMITTEE

SENATE BILL NO. 207

"An Act restricting the release of certain records of convictions; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 214

"An Act relating to civil liability for censorship of speech by a social media platform."

- MOVED CSSB 214 (STA) OUT OF COMMITTEE

SENATE BILL NO. 129

"An Act relating to information on judicial officers provided in election pamphlets."

- BILL HEARING RESCHEDULED TO 3/24/22

SENATE JOINT RESOLUTION NO. 20

Urging the United States Congress to pass the Hearing Protection Act.

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 142

SHORT TITLE: SOVEREIGNTY OF STATE ELECTIONS

SPONSOR(s): SENATOR(s) SHOWER

05/19/21 (S) READ THE FIRST TIME - REFERRALS
05/19/21 (S) STA
02/03/22 (S) STA AT 3:30 PM BUTROVICH 205
02/03/22 (S) Heard & Held
02/03/22 (S) MINUTE(STA)
03/22/22 (S) STA AT 3:30 PM BUTROVICH 205

BILL: SB 207

SHORT TITLE: ACCESS TO MARIJUANA CONVICTION RECORDS

SPONSOR(s): SENATOR(s) SHOWER

02/22/22 (S) READ THE FIRST TIME - REFERRALS
02/22/22 (S) STA, JUD
03/10/22 (S) STA AT 3:30 PM BUTROVICH 205
03/10/22 (S) -- MEETING CANCELED --
03/17/22 (S) STA AT 3:30 PM BUTROVICH 205
03/17/22 (S) Heard & Held
03/17/22 (S) MINUTE(STA)
03/22/22 (S) STA AT 3:30 PM BUTROVICH 205

BILL: SB 214

SHORT TITLE: LIABILITY: SOCIAL MEDIA CENSORSHIP

SPONSOR(s): SENATOR(s) REINBOLD

02/22/22 (S) READ THE FIRST TIME - REFERRALS
02/22/22 (S) STA, JUD
03/10/22 (S) STA AT 3:30 PM BUTROVICH 205
03/10/22 (S) -- MEETING CANCELED --
03/17/22 (S) STA AT 3:30 PM BUTROVICH 205
03/17/22 (S) Heard & Held
03/17/22 (S) MINUTE(STA)
03/22/22 (S) STA AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

CLAIRE GROSS, Staff
Representative Jonathan Kreiss-Tompkins
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions and provided supporting information on SB 207.

NOAH KLINE, Legislative Counsel
Legal Services
Division of Legal and Research Services
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered legal questions during the hearing on SB 214.

SAMANTHA FILLMORE, State Government Relations Manager
Heartland Institute, Chicago, Illinois

POSITION STATEMENT: Provided invited testimony in support of SB 214.

ACTION NARRATIVE

[3:33:10 PM](#)

CHAIR MIKE SHOWER called the Senate State Affairs Standing Committee meeting to order at 3:33 p.m. Present at the call to order were Senators Reinbold, Kawasaki, Holland, and Chair Shower.

SB 142-SOVEREIGNTY OF STATE ELECTIONS

[3:33:45 PM](#)

CHAIR SHOWER announced the consideration of SENATE BILL NO. 142 "An Act relating to the sovereignty of state elections."

[This is the second hearing and public testimony was noticed.]

Speaking as sponsor, Senator Shower summarized that if the federal government were to infringe on the state's sovereign right to manage its internal election affairs, the state would bifurcate the election process such that the federal government would have to administer federal elections without using any state resources.

[3:34:43 PM](#)

CHAIR SHOWER opened public testimony on SB 142; finding none, he closed public testimony.

[3:35:11 PM](#)

CHAIR COSTELLO joined the committee.

SENATOR KAWASAKI asked if the state's membership in the Electronic Registration Information Center (ERIC) voter tracking system would be affected if the federal government were to enact a measure to require the state to register voters.

CHAIR SHOWER answered no, because ERIC is a private organization, not government.

CHAIR SHOWER found no further questions or comments and he solicited a motion.

[3:36:34 PM](#)

SENATOR REINBOLD moved to report SB 142, work order 32-LS0936\A, from committee with individual recommendations and attached fiscal note(s).

[3:36:51 PM](#)

CHAIR SHOWER found no objection and SB 142 moved from the Senate State Affairs Standing Committee.

[3:36:56 PM](#)

At ease

SB 207-ACCESS TO MARIJUANA CONVICTION RECORDS

[3:39:07 PM](#)

CHAIR SHOWER reconvened the meeting and announced the consideration of SENATE BILL NO. 207 "An Act restricting the release of certain records of convictions; and providing for an effective date."

Speaking as sponsor, Senator Shower invited Representative Jonathan Kreiss-Tomkins' staff to provide the answers to questions that were asked during the previous hearing.

[3:39:56 PM](#)

CLAIRE GROSS, Staff, Representative Jonathan Kreiss-Tompkins, Alaska State Legislature, Juneau, Alaska, stated that SB 207 automatically removes from CourtView convictions under AS 11.71.060 or a municipal ordinance with similar elements, for possession of less than one ounce of a Schedule VI controlled substance; the individual was 21 years of age or older when they committed the offense; and the individual was not convicted of any other criminal charges in the case. The Court has said it could absorb any cost associated with removing these records from CourtView. The bill also shields from view those same convictions when an employer makes an Any Persons Report request

for a background check from the Department of Public Safety (DPS) database called the Alaska Public Safety Information Network (APSIN).

MS. GROSS stated that the DPS fiscal note reflects the cost for the department to research the criminal history records in APSIN to determine whether the conviction qualifies to be shielded from public view. DPS proposes hiring one person for two years to do this research. Defendants must request the department determine whether their conviction qualifies to be shielded and those requests will be prioritized, although all the criminal convictions will eventually be reviewed. She noted that there is also a minor cost associated with the software change for APSIN.

[3:45:45 PM](#)

CHAIR SHOWER listed who was available to answer questions.

[3:46:07 PM](#)

SENATOR REINBOLD recalled that the Court submitted a fiscal note when a similar bill was introduced in a previous legislature.

MS. GROSS deferred to Ms. Meade to discuss how that bill was a little different.

[3:46:37 PM](#)

NANCY MEADE said that to her knowledge the Court System has never attached a fiscal note to similar bills introduced in prior years. When the first bill similar to SB 207 was introduced five or six years ago, the Court System's IT staff counted and identified the case numbers for those marijuana possession cases that would be affected so that they could be removed from CourtView somewhat automatically. That list has not grown since the conduct is now legal and it will take just a little work to fully implement the automation.

SENATOR REINBOLD mentioned hypothetical non-marijuana possession cases that might affect a person's life and asked for her view of having less information available for view on CourtView.

MS. MEADE replied the court does not have a preference for how the legislature decides to do this, but the Court can only remove the entire case from CourtView, not just one charge in a case that remains posted.

CHAIR COSTELLO asked if she views the intent language in the bill as helpful, confusing, or not helpful.

MS. MEADE offered her belief that this and prior sponsors believe the intent language in Section 1 is helpful because it tells why the legislature is removing these cases from CourtView. She asked if she has asking about the intent language in Section 5 about prior court records.

[3:50:01 PM](#)

SENATOR COSTELLO clarified that she was uncomfortable with the term "low-level crimes" on page 1. She said she assumes it would not affect the bill if the intent were removed.

MS. MEADE said she agrees with the last statement, but since it is a policy call she would defer to either Ms. Gross or the sponsor.

[3:50:36 PM](#)

CHAIR SHOWER said he was flexible, but the purpose of the intent was to inform people that the bill was solely about convictions in marijuana crimes for conduct that is no longer illegal. He asked Ms. Gross to comment.

[3:51:22 PM](#)

MS. GROSS said the language provides an explanation for what the bill does, but she believes the sponsor of the companion bill would be amenable to removing it if the committee believes it is confusing.

[3:52:23 PM](#)

SENATOR COSTELLO said the first sentence of the intent language achieves the goal and she would suggest the committee remove the second sentence on page 1, lines 8-11.

By protecting records of those low-level crimes from certain types of criminal history background checks, it is the legislature's intent to increase the likelihood that people convicted of those low-level crimes will become contributing members of society.

CHAIR SHOWER agreed and asked if she wanted to offer a conceptual amendment.

[3:53:27 PM](#)

SENATOR COSTELLO moved Conceptual Amendment 1 to SB 207.

Page 1, lines 8-11:

Delete entire sentence that begins "By protecting records..."

CHAIR SHOWER objected to ask if there were questions or comments to the proposed amendment.

[3:54:08 PM](#)

SENATOR REINBOLD said she could go either way. She understands what Senator Costello is saying about low-level crimes, but she found the intent to help people become contributing members of society helpful.

[3:54:48 PM](#)

CHAIR SHOWER said the intent seems to be covered in the first sentence of the intent language. He read:

It is the intent of the legislature to reduce barriers to employment for people who have been convicted of low-level marijuana possession crimes that would be legal on January 1, 2023.

[3:55:10 PM](#)

CHAIR SHOWER removed his objection; finding no further objection, Conceptual Amendment 1 to SB 207 passed.

[3:55:43 PM](#)

SENATOR KAWASAKI asked if his understanding was correct that the bill is limited to persons 21 years of age or older because that language was in the initiative.

MS. GROSS replied the intent was to limit the scope to conduct that is not a crime now. Marijuana possession by persons younger than age 21 is still a crime in Alaska.

MS. MEADE agreed.

SENATOR KAWASAKI asked if anything other than cannabis was a Schedule VI A controlled substance.

MS. GROSS answered no.

CHAIR SHOWER noted that she had used a lifeline before she responded.

[3:56:52 PM](#)

CHAIR SHOWER opened public testimony on SB 207; finding none, he closed public testimony.

CHAIR SHOWER held SB 207 for future consideration.

SB 214-LIABILITY: SOCIAL MEDIA CENSORSHIP

[3:57:38 PM](#)

CHAIR COSTELLO announced the consideration of SENATE BILL NO. 214 "An Act relating to civil liability for censorship of speech by a social media platform."

He noted that Senator Holland had an amendment for the committee to consider. He asked the sponsor for a high level summary of the bill.

[3:58:02 PM](#)

SENATOR LORA REINBOLD, speaking as sponsor, stated that SB 214 is an anti-censorship bill that targets the large social media platforms. The bill imposes penalties for shadow banning or otherwise restricting users within certain parameters. She read the following paragraph from written testimony submitted by the Hartland Institute:

As partisans squabble and media apparatchiks chirp, the social media companies have ascended from mere stages where players perform to being the protagonists and villains rolled into one driving force of the storyline. The result has been near universal frustration with the behavior of what has become colloquially known as Big Tech.

She offered her belief that the people need to act to prevent being censored for posting their opinions on these social media platforms. She noted that this is a new and evolving area of law.

[3:59:30 PM](#)

SENATOR KAWASAKI asked her to comment on the case in Texas in which a federal judge blocked a law similar to SB 214, stating that "Social media platforms have a First Amendment right to moderate content disseminated on their platforms." The judge further found that the Texas law "compelled social media platforms to disseminate objectionable content that impermissibly restricts their editorial discretion."

[4:00:14 PM](#)

SENATOR REINBOLD replied she cannot address all cases, but she had provided the committee with the Legislative Legal Services' memo. She summarized the following from that legal memo that suggested the sponsor consider the following:

1. First Amendment issues. Please be aware that the draft bill raises significant issues under the United States Constitution's First Amendment and art. I, sec. 5, of the Alaska Constitution. Because social media websites are private entities and not government actors, they are entitled to freedom of speech protections. Government regulation of a social media website's speech is therefore held to the same standard as government regulation of a private individual's speech.

The draft bill seeks to compel speech and suppress fact-checking. The U.S. Supreme Court has stated that "[t]here is certainly some difference between compelled speech and compelled silence, but in the context of protected speech, the difference is without constitutional significance, for the First Amendment guarantees 'freedom of speech,' a term necessarily comprising the decision of both what to say and what not to say." The interplay of free speech protections and internet forums such as social media is an evolving area of law. Because the draft bill requires a social media website to disseminate content with which it disagrees, and prohibits a website from speaking through fact checking, a court may, however, find the provisions in the bill unconstitutional.

SENATOR REINBOLD noted that the second consideration was about damages. She paraphrased the third suggested consideration about jurisdiction. It read as follows:

3 Jurisdiction. Although the draft bill provides an individual with a cause of action against a social media website, it is not clear that an Alaska court would have personal jurisdiction over the social media website. As a result, an Alaska court may dismiss a case brought under this statute for lack of personal jurisdiction.

SENATOR REINBOLD said the fourth consideration discusses her preference to place the bill in AS 45.45 and that the drafter placed it in AS 09 because it regulates conduct, prohibits harassing behavior, and imposes liability for the conduct. She decided not to object to the placement but said she continues to

believe there is an argument either way in this emerging area of law.

[4:02:13 PM](#)

CHAIR SHOWER asked if the Texas ruling was under appeal in the Fifth Circuit [Court of Appeals].

SENATOR KAWASAKI clarified that it was a district court case.

CHAIR SHOWER asked if the court discussed whether or not large social media companies would be regulated by the FCC in the same way as newspapers.

SENATOR KAWASAKI replied he only knew that the Texas law was struck down on First Amendment grounds. He acknowledged that he didn't know the background.

CHAIR SHOWER asked him to forward that information for the record because it goes to the sponsor's statement that there are two sides to the matter.

[4:03:22 PM](#)

SENATOR KAWASAKI read the last sentence in the Legislative Legal Services' memo regarding First Amendment issues in the bill and opined that it aligns with what the district court judge said about the Texas law.

Because the draft bill requires a social media website to disseminate content with which it disagrees, and prohibits a website from speaking through fact checking, a court may, however, find the provisions in the bill unconstitutional.

He acknowledged that his concerns about First Amendment rights would be more appropriately considered in the Judiciary Committee.

[4:04:15 PM](#)

SENATOR REINBOLD said she had several other cases to add to the record in this or the next committee of referral if Senator Kawasaki intended to add the Texas district court case. She stressed the importance of SB 214, stating the following:

That the platforms that are making beaucoup bucks on us, want to restrict us and want to shut us down without penalty because they want to hide behind some other source of law. But yet when we try to ban or

block somebody that we disagree with, that we think is false information, you know, then they want to have these people come after us.

So we're damned if you do and we're damned if you don't. And that's why this is so doggone important. We have to allow the platform users to have some power here and we can't let the big tech just have a stranglehold on all sides. It's just not fair.

CHAIR SHOWER said he'd appreciate receiving all the data and it would be forwarded to the Judiciary Committee.

[4:05:21 PM](#)

SENATOR COSTELLO requested his office post all the court cases it receives to BASIS.

CHAIR SHOWER agreed to do so.

[4:05:41 PM](#)

SENATOR KAWASAKI asked the sponsor if her last statement was specifically about the case relating to public officials removing or blocking critics [from Facebook], because public officials are held to a higher standard than the general public.

SENATOR REINBOLD replied it depends. The Legislative Legal Services memo states that media websites are private entities and as such are entitled to freedom of speech protections. The bottom line is that these are private platforms and we are users. She said she is in charge of her Facebook page but she doesn't see it as official communication. That is different for the executive branch. She said they're held to a completely different standard because they can enact things on their own, whereas the legislature has to enact something as a body.

SENATOR REINBOLD stated that she was aware of five cases that make the distinction between executive branch postings on official sites and individual legislator postings on their private sites.

CHAIR SHOWER asked Noah Kline if he had any thoughts about the court cases that were mentioned.

[4:08:11 PM](#)

NOAH KLINE, Legislative Counsel, Legal Services, Division of Legal and Research Services, Alaska State Legislature, Juneau, Alaska, said he was aware of the district court case in Texas

that Senator Kawasaki described as well as a district court case in Florida in the last year. In both cases the federal district courts enjoined legislation similar to SB 214 on First Amendment and potentially other constitutional grounds. Federal preemption questions were raised in those cases as well.

CHAIR SHOWER asked if either of those cases were moving forward.

MR. KLINE said he believes the cases are on appeal, but he could not state that for certain. He reiterated that in both cases the courts found a likelihood of success on a First Amendment challenge.

CHAIR SHOWER asked if he was aware of anything on antitrust implications on those cases.

MR. KLINE replied he was not specifically aware of any antitrust findings.

CHAIR SHOWER asked if he was aware of any arguments in these cases about bringing large tech social media companies under FCC regulation as a content manager as opposed to a service provider.

MR. KLINE said he was not aware of any such cases. He asked the chair if he was referring to social media companies as editors as opposed to having no impact on what is posted.

CHAIR SHOWER confirmed that was what he was talking about.

MR. KLINE said both district court cases he referred to earlier held that social media companies have editorial ability.

[4:11:40 PM](#)

CHAIR SHOWER found no further questions and turned to invited testimony.

[4:12:01 PM](#)

SAMANTHA FILLMORE, State Government Relations Manager, Heartland Institute, Chicago, Illinois, provided invited testimony in support of SB 214. She stated that in the last year some 35 states have introduced about 80 pieces of legislation challenging the seemingly unilateral control big tech has had over free speech in the de facto modern public square. She offered her perspective that this clearly shows that censorship by social media platforms is the minds of all legislators and their constituents.

MS. FILLMORE stated that just three companies control 97 percent of the traffic on social media platforms, so First Amendment rights are at the core of the debate. SB 214 seeks to find a way for these platforms to work in a free and fair way, although unilateral control over a stage based on algorithms or certain points of view is not slightly fair and it flies in the face of what the First Amendment was designed to protect.

MS. FILLMORE said these companies have First Amendment rights and they claim to be an avenue for free speech, but that is nothing more than a deceptive trade practice. She said it's time to stop talking about the inalienable rights of these multinational companies, because the First Amendment applies differently to speakers than to those who host or transmit speech. "In other words, while a government forcing a group or person to speak a specific message causes First Amendment concerns, requesting transparency from the terms under which entities host or transmit other speech is entirely complicit with the Constitution."

MS. FILLMORE cited the Turner case in Texas where the court upheld must-carry requirements on cable systems and it premiered another case that upheld requirements that privately owned shopping centers allowed free speech on their premises. She said House Bill 20 in Texas protected Texans against social media's discriminatory practices regarding political viewpoints, and that fell within the general rule of how courts have long treated companies and places of public accommodation. However, when that law was challenged she believes the court got it wrong when it relied on an exception to the rule and not what generally has been followed for decades.

[4:15:53 PM](#)

SENATOR KAWASAKI asked if either the Texas or Florida decisions were under appeal.

MS. FILLMORE answered yes; both were appealed and are going through that process. She added that Heartland filed an amicus curiae brief in the Texas case in an effort to maintain the forward momentum. She expressed hope that Alaska would exert its autonomy such that something that occurred in Texas or Florida wouldn't occur in Alaska.

CHAIR SHOWER asked her to comment on the question about potential FCC regulation of big tech and whether an appeal in the Texas case would go to the Fifth Circuit.

MS. FILLMORE said she would follow up with an informed answer about whether or not an appeal in the Texas case would go to the Fifth Circuit.

CHAIR SHOWER asked if she was aware of any cases concerning potential FCC regulation of big tech.

MS. FILLMORE explained that Section 230 of the Communications Decency Act governs the way big tech acts as a platform. Initially, Section 230 was intended to address publishers such as newspapers, television, radio and other forms of media. With the advent of social media, tech companies claimed that a posting on their platforms was not their own speech because the platforms were merely bulletin boards. The argument was successful and the government essentially gifted liability protections to these tech companies under Section 230.

MS. FILLMORE said the reasoning and the caveat for that gift from the federal government was that these tech companies were not editors and could not control what was on their platform. However, the reality is that these platforms have since entered into an editorial context. Now many people argue that if big tech wants to edit content on these platforms, it should forfeit the gift from the federal government. That debate is taking place in Congress now.

MS. FILLMORE highlighted that subsection (e)(3) of Section 230 allows for state-based laws. She interpreted the provision as the federal government's way to allow individual states to figure out this new method of communicating political free speech.

[4:20:27 PM](#)

CHAIR SHOWER said he was relying on the fact that her perspective was broader than just the state of Alaska.

[4:21:15 PM](#)

CHAIR SHOWER opened public testimony on SB 214; finding none, he closed public testimony.

CHAIR SHOWER asked Senator Holland to offer his amendment.

[4:21:35 PM](#)

SENATOR HOLLAND moved Amendment 1 to SB 214, work order 32-LS1577\B.1.

AMENDMENT 1

OFFERED IN THE SENATE
TO: SB 214

BY SENATOR HOLLAND

Page 3, lines 25-28:

Delete all material and insert:

"(6) "religious" means relating to or
manifesting faithful devotion to an acknowledged
ultimate reality or deity."

CHAIR SHOWER objected for discussion purposes.

SENATOR HOLLAND said the only thing in the bill that he found problematic was the definition of religious because it referred to "unproven faith-based assumptions." He read the definition in the above amendment.

CHAIR SHOWER asked the sponsor to comment.

[4:22:30 PM](#)

SENATOR REINBOLD said she was happy with the amendment.

[4:22:56 PM](#)

SENATOR KAWASAKI asked the bill sponsor if she worked with Legislative Legal Services to come up with the definition of "religious" in the bill or if it was a term of art.

SENATOR REINBOLD answered that she first introduced this legislation in 2019 and she believes a staff member at the time provided direction to Legal Services.

CHAIR SHOWER, in response to a query from Senator Reinbold, advised that he had released Noah Kline for the day, although he could call him back.

[4:23:56 PM](#)

SENATOR KAWASAKI asked Senator Holland whether the definition he proposed for "religious" appeared elsewhere in statute or if it was a term of art.

[4:24:36 PM](#)

SENATOR HOLLAND said his intention with the amendment was to provide a definition that 1) defined "religious" without using the word and 2) seemed appropriate to the service. He offered to follow up with the source.

[4:25:16 PM](#)

SENATOR KAWASAKI read the definition of "religion" that Black's Law dictionary uses. "A human's relation to divinity, to reverence, worship, obedience, submission to mandates and precepts of supernatural or superior beings." He said he would be more comfortable using a definition in this bill that can be found somewhere in law, as opposed to the committee trying to settle on a definition.

SENATOR HOLLAND offered his perspective that striking those four lines essentially leaves the definition in Webster's.

[4:26:14 PM](#)

MR. KLINE advised that he had not heard the question.

CHAIR SHOWER asked Senator Kawasaki to repeat the question.

[4:26:28 PM](#)

SENATOR KAWASAKI said his question was about the definition of "religious" in bill Section 3 on page 3, lines 25-28. He asked if that definition appears somewhere else in statute or if it's a new definition specifically for SB 214. He noted there was also an amendment that offered another definition for "religious."

[4:26:54 PM](#)

MR. KLINE answered that both the definition in the bill and the definition in the amendment are new definitions that are specifically limited to the proposed new section of law, Sec. 09.68.055.

SENATOR KAWASAKI asked how the definition come about.

MR. KLINE restated that Legal Services drafts according to the request it receives, so he would defer to the sponsor of bill or the sponsor of the amendment. He added that he would need to

review Black's Law Dictionary to see if either of the definitions were consistent to Black's.

CHAIR SHOWER summarized that Senator Reinbold did not recall which staff in her office may have offered direction for the definition because it was in 2019.

[4:28:21 PM](#)

SENATOR HOLLAND asked if a standard definition of "religion" would be applied if the definition of "religious" in paragraph (6) were eliminated from the bill entirely and no other definition was added.

MR. KLINE answered that if a court was in the position of trying to interpret whether or not a specific type of speech was religious speech, it would look to other historic court definitions of religious or the common usage of the term. If the court thought there was ambiguity, the intent of the legislature in adopting this legislation could also come into play.

SENATOR REINBOLD said she believes that Legal Services provided the definition in the bill based on her direction to define the terms "religious" and "political." She offered her perspective that the definition for "religious" could be improved by deleting the word "unproven" from page 3, line 25. The definition would read:

(6) "religious" means a set of faith-based assumptions or assertions that attempt to answer questions relating to how the world was created, what constitutes right and wrong human action, and what happens to humans after death;

[4:30:18 PM](#)

SENATOR HOLLAND advised that the definition in the amendment is from Merriam Webster. He added that it would also be acceptable to delete the word "unproven" from the definition in paragraph (6).

SENATOR COSTELLO asked the sponsor to consider that deleting the definition entirely and relying on the courts to use the common definition, as Mr. Kline said would happen, might result in a broader, more all-encompassing definition.

[4:31:38 PM](#)

CHAIR SHOWER pointed out that the sponsor's intent was to protect both religious speech and political speech so the term should be mentioned, even if it isn't defined.

[4:32:14 PM](#)

SENATOR REINBOLD said her preference was to leave the definition in paragraph (6), but delete the word "unproven." She believes it encompasses a vast majority of mainstream religion.

CHAIR SHOWER asked Mr. Kline for the best path to capture all political speech and religious speech, and how the courts might look at that.

MR. KLINE said he wasn't able to answer the question because there was nothing to stop the committee from defining religious speech much more broadly than it has historically been defined or defining political speech more broadly than it is currently defined by the courts.

CHAIR SHOWER asked if there were any more questions for Mr. Kline.

[4:34:18 PM](#)

SENATOR KAWASAKI asked whether the definition for "pornographic" in paragraph (5)(C) on page 3 came from another area of statute. It read:

(5) "pornographic" means material that
(C) lacks serious literary, artistic,
political, or scientific merit;

He commented that it seems a little out of place to identify pornographic material as something that lacks scientific merit.

[4:34:59 PM](#)

MR. KLINE said the definition may or may not be substantially similar to a definition used elsewhere but he would have to look through the statutes and at case law before he could say whether or not that is a fact. He restated that his role is to draft according to request and he can talk about whether there are legal issues, what the bill does, and what the bill means, but how a word is defined is not a choice he makes.

[4:36:07 PM](#)

CHAIR SHOWER opined that the following might help answer some of the questions:

Question: Has the Supreme Court defined religion?

Answer: Although it has attempted to create standards to differentiate religious beliefs and actions from similar nonreligious beliefs, the Supreme Court has never articulated a formal definition for religion. Given the diversity of America's religious experience since the constitution was created, a single comprehensive definition has proved elusive.

SENATOR REINBOLD disagreed with Senator Kawasaki's comment that defining pornographic as "material that lacks scientific merit" was out of place, because it acknowledges such things as anatomy in a biology textbook. However, she did wonder why the definition included "material without political merit."

MR. KLINE responded that Legislative Legal Services drafts according to intent. He explained the definition is saying that if material is descriptive of paragraph (5)(A), (B), and (C), then it is pornographic.

SENATOR REINBOLD expressed satisfaction with the answer.

[4:38:48 PM](#)

CHAIR SHOWER said the committee will decide what it wants to do with the amendment and the bill but his belief is that this matter will ultimately play out in the courts.

[4:39:36 PM](#)

SENATOR HOLLAND withdrew Amendment 1.

[4:39:51 PM](#)

SENATOR REINBOLD suggested the committee consider conceptually amending the definition of "religious" by inserting "may" before "means" and deleting "unproven" before "faith-based...".

[4:40:28 PM](#)

At ease

[4:41:03 PM](#)

CHAIR SHOWER reconvened the meeting and asked Senator Reinbold to offer the conceptual amendment.

[4:41:09 PM](#)

SENATOR REINBOLD moved Conceptual Amendment 1 to SB 214.

Page 3, line 25 following: "(6) religious"

Delete "means a set of unproven"
Insert "may mean a set of"

CHAIR SHOWER objected for discussion purposes.

SENATOR HOLLAND said he found the amendment acceptable.

CHAIR SHOWER removed his objection; finding no further objection, Conceptual Amendment 1 to SB 214 passed.

[4:43:05 PM](#)

SENATOR REINBOLD moved to report SB 214, work order 32-LS1577\B as amended, from committee with individual recommendations and attached fiscal note(s).

[4:43:25 PM](#)

CHAIR SHOWER found no objection and CSSB 214(STA) was reported from the Senate State Affairs Standing Committee.
#

[4:43:31 PM](#)

At ease

[4:47:39 PM](#)

CHAIR SHOWER reconvened the meeting. There being no further business to come before the committee, Chair Shower adjourned the Senate State Affairs Standing Committee meeting at 4:47 p.m.