

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 3, 2023

1:00 p.m.

MEMBERS PRESENT

Representative Sarah Vance, Chair
Representative Ben Carpenter
Representative Craig Johnson
Representative David Eastman
Representative Andrew Gray
Representative Cliff Groh

MEMBERS ABSENT

Representative Jamie Allard, Vice Chair

COMMITTEE CALENDAR

HOUSE BILL NO. 66

"An Act relating to homicide resulting from conduct involving controlled substances; relating to the computation of good time; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 67

"An Act relating to criminal law and procedure; relating to the crime of stalking; relating to consecutive sentencing for violation of conditions of release; relating to the duty to register as a sex offender; amending the definition of 'sex offense'; amending the definition of 'crime involving domestic violence'; relating to multidisciplinary child protection teams; amending Rule 6(r), Alaska Rules of Criminal Procedure; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 66

SHORT TITLE: CONTROLLED SUB.;HOMICIDE;GOOD TIME DEDUC.

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/08/23	(H)	READ THE FIRST TIME - REFERRALS
02/08/23	(H)	JUD, FIN

02/27/23 (H) JUD AT 1:30 PM GRUENBERG 120
02/27/23 (H) Heard & Held
02/27/23 (H) MINUTE (JUD)
03/01/23 (H) JUD AT 1:00 PM GRUENBERG 120
03/01/23 (H) Heard & Held
03/01/23 (H) MINUTE (JUD)
03/03/23 (H) JUD AT 1:00 PM GRUENBERG 120

BILL: HB 67

SHORT TITLE: HARASSMENT; SEX OFFENDERS & OFFENSES

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/08/23 (H) READ THE FIRST TIME - REFERRALS
02/08/23 (H) JUD, FIN
03/03/23 (H) JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

JOHN SKIDMORE, Deputy Attorney General
Criminal Division
Department of Law
Juneau, Alaska

POSITION STATEMENT: Provided an overview of HB 66, on behalf of the House Rules Standing Committee, sponsor by request of the governor.

SANDY SNODGRASS, Founder
Alaska Fentanyl Response
Anchorage, Alaska

POSITION STATEMENT: Offered invited testimony during the hearing on HB 66.

MIKE DUNDES
Representing Self
Juneau, Alaska

POSITION STATEMENT: Testified in opposition to HB 66.

THOMAS NORRIS
Representing Self
Juneau, Alaska

POSITION STATEMENT: Testified in opposition to HB 66.

JOHN SKIDMORE, Deputy Attorney General
Criminal Division
Department of Law
Juneau, Alaska

POSITION STATEMENT: Presented HB 67 on behalf of the House Rules Standing Committee, sponsor by request of the governor.

NANCY MEADE, General Counsel
Alaska Court System
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 67.

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

POSITION STATEMENT: Presented the sectional analysis for HB 67, on behalf of the House Rules Standing Committee, sponsor by request of the governor.

ACTION NARRATIVE

[1:00:32 PM](#)

CHAIR SARAH VANCE called the House Judiciary Standing Committee meeting to order at 1:00 p.m. Representatives Carpenter, C. Johnson, Gray, Groh, and Vance were present at the call to order. Representative Eastman arrived as the meeting was in progress.

HB 66-CONTROLLED SUB.;HOMICIDE;GOOD TIME DEDUC.

[1:01:27 PM](#)

CHAIR VANCE announced that the first order of business would be HOUSE BILL NO. 66, "An Act relating to homicide resulting from conduct involving controlled substances; relating to the computation of good time; and providing for an effective date."

[1:01:48 PM](#)

JOHN SKIDMORE, Deputy Attorney General, Criminal Division, Department of Law (DOL), on behalf of the House Rules Standing Committee, sponsor by request of the governor, provided a brief overview of HB 66. He stated that the bill would change the classification for the distribution of drugs to another person that results in that person's death from manslaughter to murder in the second degree. Further, it would place restrictions on the ability to receive good time for those individuals convicted of distributing a schedule IA through IVA controlled substance.

CHAIR VANCE opened invited testimony.

[1:02:42 PM](#)

SANDY SNODGRASS, Founder, Alaska Fentanyl Response, shared that in 2021, her only son, Robert Bruce Snodgrass, was killed by fentanyl at age 22 in Anchorage. His death was ruled an accidental overdose; however, she argued that it should have been ruled a "drug-induced homicide" and prosecuted as second-degree murder. She argued that the bill would serve as a deterrent to individuals dealing illegal drugs and enable law enforcement and district attorneys to negotiate cooperation from lower-level drug dealers in exchange for higher level associates. She emphasized that the intent of the legislation was to reach high level dealers bringing Fentanyl into Alaska at alarming rates. She opined that the legislation would demonstrate to Alaskans that their leaders were taking action to protect the state and punish perpetrators who were poisoning members of the community. She urged the committee to advance HB 66 to the House Finance Committee. She discussed the Alaska Fentanyl Response project. She outlined a three-pronged approach to the [Fentanyl] epidemic: AK Fentanyl Response Project, which provided prevention, awareness, and education to Alaska communities; law enforcement, which the bill would enable; and substance abuse treatment.

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CHAIR VANCE opened public testimony on HB 66.

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MIKE DUNDES, Representing Self, stated his opposition to Section 2 of HB 66, which would remove the possibility of good time deductions from a long list of drug-related crimes. He shared that he was presently overcoming his struggles with alcohol addiction. He stressed that by removing the possibility of receiving a good time deduction, the incentive to seek treatment would also be reduced. He emphasized the importance of good time for first time offenders, as it offered a second chance to become a better citizen. He argued that removing the incentive could cause first time law breakers to give up hope and become less likely to continue on a path of recovery.

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THOMAS NORRIS, Representing Self, expressed his opposition to Section 2 of HB 66. He said he was speaking as a man in recovery who had made bad decisions in his past that he regretted wholeheartedly. He opined that three factors could deter a person from repeating past mistakes: hope, support, and labels. He shared his belief that addicts did not deserve to be judged as "monsters," nor should they be locked away without the possibility of getting help or seeing their family. He urged the committee to fight the stigma for those struggling with addiction.

[1:13:30 PM](#)

The committee took a brief at-ease.

[1:13:48 PM](#)

CHAIR VANCE closed public testimony on HB 66. She announced that the bill was held over.

HB 67-HARASSMENT; SEX OFFENDERS & OFFENSES

[1:14:18 PM](#)

CHAIR VANCE announced that the final order of business would be HOUSE BILL NO. 67, "An Act relating to criminal law and procedure; relating to the crime of stalking; relating to consecutive sentencing for violation of conditions of release; relating to the duty to register as a sex offender; amending the definition of 'sex offense'; amending the definition of 'crime involving domestic violence'; relating to multidisciplinary child protection teams; amending Rule 6(r), Alaska Rules of Criminal Procedure; and providing for an effective date."

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JOHN SKIDMORE, Deputy Attorney General, Criminal Division DOL, on behalf of the House Rules Standing Committee, sponsor by request of the governor, introduced HB 67. He paraphrased the transmittal letter [included in the committee packet], which read as follows [original punctuation provided]:

Under the authority of Article III, Section 18, of the Alaska Constitution, I am transmitting a bill relating to increase protection for victims of sex offenses and domestic violence.

This legislation eliminates gaps in Alaska's criminal justice system and improves our law to help victims. Specifically, the bill removes incentives for sex offenders from out of state to relocate to Alaska; helps our law enforcement personnel better monitor the activities of sex offenders within our state; more appropriately groups violations of protective orders for stalking and sexual assault with violations of protective orders for domestic violence; ensures adequate sanctions for repeat violations of conditions of release; reduces the trauma victims experience by participating in our justice system; and ensures professional can engage with children involved in sex offenses to provide help to those children.

For too long Alaska has had the unfortunate distinction of having the highest rates of sexual assault in the United States According to GBI data. Alaska's sexual assault rate is more than four times the national average, and more than double that of the next closest state. Given these statistics, it is deeply troubling that our existing laws has critical gaps that allow convicted sex offenders to go undetected, makes Alaska a refuge for sex offenders, and leaves our most vulnerable citizens exposed.

This legislation eliminates Alaska as an option for sex offenders from other states seeking to avoid registration requirements by updating Alaska's registration requirement to be more in line with the federal scheme. Under existing law, a sex offender who is required to register in their state of conviction is not always required to register in Alaska. This makes Alaska attractive to sex offenders who seek to avoid registration. This legislation closes that gap and simply says: "If you are required to register in your home state and you come to Alaska, u will be required to register here, regardless of when you were convicted." This change will respect the decision made in the person's home state that required the person to register, as well as protect Alaskans. A sex offender should not be allowed to avoid registration simply by moving to Alaska.

This legislation also protects victims of stalking by increasing the level of offense where a person stalks someone in violation of a stalking or sexual assault

protective order. Under current law, a person can be convicted of stalking in the first degree, which is a felony, for stalking someone when violating a domestic violence protective order. However, it is only a misdemeanor for violation of a stalking protective order. This legislation would close the gap and include stalking someone in violation of a stalking or sexual assault protective order among the conduct that will elevate the offense to stalking in the first degree (class C felony).

The legislation further protects victims and the public by mandating additional sanctions when defendants repeatedly violate conditions of release. Unfortunately, defendants often disregard the conditions and bail imposed by the court. This conduct returns our jails into revolving doors and is a drain on Alaska's justice system. To help address this growing problem, the legislation requires that the court impose additional jail time for each conviction of violation of conditions of release under AS 11.56.757. This additional sanction will send a message that bail and conditions imposed by the court are to be followed and that there are consequences for failing to do so.

The legislation also reduces the stress that victims are forced to experience when required to testify at grand jury. More than 30 other jurisdictions allow grand jury proceedings without requiring the victim to testify, and insists those victims relive their trauma before the grand jury - a room of strangers. This is required even though the victim provides statements to law enforcement usually mere days earlier. This all makes the grand jury process cumbersome and inefficient and causes a hardship on the victim and witness. This legislation relaxes the rules and allows key witnesses, typically the officer in the case, to summarize the testimony of other witnesses. This will permit prosecutors to call fewer witnesses at the grand jury phase of the case, reducing the need for victims to relive their trauma so soon after the crime occurred. It will also make the process more efficient and reduce the backlog that was created when grand juries were suspended due to COVID-19.

Finally, the legislation makes changes aimed at protecting our most vulnerable citizens: our children. The legislation allows multidisciplinary child protection teams to accept referrals of cases where there has been sexual contact or sexual penetration that occurs between children under the age of 13. Typically, when children who are under 13 engage in this type of behavior, prosecution or adjudication is not considered appropriate or effective. Rather the mental and physical well-being of both children becomes the singular goal. However, without this change, the multidisciplinary child protection teams cannot engage at all. Giving multidisciplinary child protection teams, who are the experts in this field the statutory authority to accept referrals of these cases will make it easier to appropriately address this behavior in young children and provide the children with any needed therapeutic assistance.

This legislation will close the gaps in our laws and better protect Alaskans. The legislation will provide tools for us to monitor offenders and protect Alaskans from future victimization.

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CHAIR VANCE sought questions from members of the committee.

REPRESENTATIVE EASTMAN asked Mr. Skidmore to address Section 1 of the bill.

MR. SKIDMORE explained that Section 1 would overturn the decision in State v. Powell, effectually allowing a recorded witness statement to be presented at a grand jury.

REPRESENTATIVE EASTMAN inquired about the language, "The legislature finds that it is not now, nor has it ever been," on page 1, lines 10-11 of the bill.

MR. SKIDMORE conveyed that the language in question related to the overturning of the State v. Powell decision. The language would allow the use of video testimony at grand jury and protect instances in which those recordings had been used in the past, without which, those particular jury proceedings could be viewed as flawed and potentially overturned, he said.

REPRESENTATIVE EASTMAN directed attention to Section 1, subsection (b), of the bill and asked, "If there's a situation where a prosecutor is not signing off on evidence going to a grand jury, wouldn't this language basically say that no one can present that information before a grand jury?"

MR. SKIDMORE clarified that the purpose of the language was to ensure that prosecutors were only presenting evidence that would be admissible at trial to the grand jury. He confirmed that a prosecutor must be present at grand jury proceedings for the filing of an indictment to provide legal advice to the grand jury.

REPRESENTATIVE EASTMAN considered a scenario in which a prosecutor didn't want to present evidence to the grand jury. He asked whether there was an exception in statute to ensure that the evidence would come before the grand jury despite the prosecutor not wanting to present it.

MR. SKIDMORE explained that it was the prosecutor's responsibility to ensure that the evidence met the evidentiary standard of being admissible at trial, which was a legal determination, as opposed to a want or desire of the prosecutor.

[1:38:42 PM](#)

REPRESENTATIVE GRAY directed attention to Section 5 of the bill and asked whether someone who was convicted of public urination in Texas, would be required to register as a sex offender in Alaska.

MR. SKIDMORE stated that if a person was required to register as a sex offender in another state, he/she would be required to register in Alaska.

REPRESENTATIVE GRAY asked, "Why don't we just make it so that these crimes in other states that we would like them to register for here - why don't we make that a crime here?"

MR. SKIDMORE pointed out that there were 50 different states with 50 different approaches to classifying sex offenses. He added that it would be impossible to ensure that Alaska Statutes were identical to 50 other states, as that would require constant monitoring for amendments and updating for consistency. He clarified that the concept was not to criminalize the same conduct of all 50 states; instead, it was to dissuade people from moving to Alaska to avoid registration requirements.

REPRESENTATIVE GRAY inquired about the process for amending court rules.

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NANCY MEADE, General Counsel, Alaska Court System, explained that for all court rules other than the Rules of Administration, the Alaska Court System ("the court") had a rule referred to as "rule making," for which the court appointed a committee corresponding to each category of rules, i.e. Criminal Rules Committee, Civil Rules Committee, Appellate Rules Committee, etcetera. The rules committees met anywhere from 4-6 times per year and were staffed with a full-time, court rules attorney, she said. She continued to explain that the committees were comprised of well-respected attorneys in the subject matter and were tasked with discussing proposals and making recommendations to the Alaska Supreme Court - the entity with the authority to adopt or decline rule changes.

REPRESENTATIVE GRAY asked whether the rule change proposed in Section 12 had been considered by a rules committee.

MS. MEADE answered no, the rule change had not been reviewed by the Criminal Rules Committee.

REPRESENTATIVE GRAY shared his understanding that the legislature had the ability to amend court rules. He inquired about the procedure for legislative court rule changes and asked whether the change proposed in HB 67 was unique.

MS. MEADE acknowledged that per the Constitution of the State of Alaska ("the constitution"), the legislature had the right to amend the rules of practice and procedure with a two-thirds vote. She explained the legislative process for amending court rules, noting that the change proposed in HB 67 was "a more direct reach by the legislature into the process of changing rules."

REPRESENTATIVE GRAY asked for the definition of hearsay.

MS. MEADE defined hearsay as "a statement made outside of court that's used in court to prove the truth of what that statement is." She reported that hearsay was generally inadmissible at trial, as it was not considered reliable in and of itself; however, there was a list of admissible exceptions.

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REPRESENTATIVE CARPENTER asked whether court rules were allowed to contradict Alaska Statutes.

MS. MEADE acknowledged that court rules and statutes were related; however, she emphasized the difference between substance and procedure. She explained that the legislature was in charge of creating substantive law, while the court was responsible for creating procedures to effectuate those substantive laws. She noted that it was permissible for court rules to contradict state statute if the legislature passed a procedural statute, in which case the court could amend the procedural statute via court rule.

REPRESENTATIVE CARPENTER sought to verify that Ms. Meade had indicated that statutes could be overridden or changed via court rule.

MS. MEADE confirmed that court rule could take precedence over statutes on procedural matters. She shared an example.

REPRESENTATIVE CARPENTER considered an example in which a statute and a court rule were conflicting. He asked who decided which took precedence.

MS. MEADE reiterated that for procedural matters, the court would apply its own procedures. She supposed that the conflict could be resolved through litigation. In regard to Section 12 of HB 67, she observed no conflict with a substantive law.

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REPRESENTATIVE C. JOHNSON sought to confirm that the proposed court rule change in HB 67 was not procedural.

MS. MEADE clarified that it was procedural. She reiterated that she did not see a conflict with any existing substantive law.

REPRESENTATIVE C. JOHNSON sought to confirm that because the statute was making a procedural change, the court could choose to accept or reject it.

MS. MEADE said if the proposed legislation were to pass the legislature with a two-thirds majority vote, it would become a court rule. She stressed that the court was not interested in

conflict with the legislature by acting contrary to its determination.

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REPRESENTATIVE EASTMAN asked whether the legislature was entitled to determine its internal procedures.

MS. MEADE answered in the affirmative

REPRESENTATIVE EASTMAN asked whether that authority for a branch of government to determine its internal procedures was granted under the separation of powers doctrine.

MS. MEADE answered yes. She shared, for example, that the court would abstain from opining on any litigation about the propriety of the legislature's rules of conduct.

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REPRESENTATIVE GRAY asked Ms. Meade to summarize the State v. Powell decision.

MS. MEADE, firstly, directed attention to Section 12 of HB 67, which proposed a direct amendment to court rules by providing that hearsay would be admissible at grand jury. She highlighted page 11, line 22 of the bill, explaining that in a prosecution for a sex offense, hearsay made by a child victim may be admitted in front of the grand jury if the child was under 10 years of age. In the State v. Powell case, the victim was 14, so the child victim's testimony could not be admitted in front of the grand jury under that exception. The argument in the Powell case, she said, centered on whether the hearsay rule could be admitted in front of the grand jury in general. Ultimately, the court decided that the hearsay exception for certain recorded testimony by child victims under 16 years of age only applied at trial, not grand jury.

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REPRESENTATIVE GROH, referring to Section 12, asked whether evidentiary questions other than hearsay were involved.

MS. MEADE deferred to DOL.

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MR. SKIDMORE, in response to Representative Groh, confirmed that there were other evidentiary rules that would constrain the evidence admissible at grand jury.

REPRESENTATIVE GROH asked Mr. Skidmore to provide examples of the other evidentiary rules.

MR. SKIDMORE offered the example of "relevance 401," which required that the information was relevant to the determination in front of the grand jury. He noted that there were a number of other significant rules, such as privileges and inadmissible character evidence.

REPRESENTATIVE GROH inferred from page 11, lines 13-14 of the bill, that a variety of potential rules and objections went substantially beyond hearsay.

MR. SKIDMORE answered yes, after a grand jury proceeding the defense could file other motions contesting the admissibility of that evidence at trial and therefore, questioning the admissibility of that evidence at grand jury.

REPRESENTATIVE GROH concluded that the rule change offered in Section 12 of HB 67 went far beyond hearsay. He asked whether that was accurate.

MR. SKIDMORE did not understand the question.

REPRESENTATIVE GROH sought to confirm that the language on page 11, lines 13-14, would allow substantial evidence other than hearsay, such as relevance and privileges, to be admissible before the grand jury.

MR. SKIDMORE shared his belief that the language would not allow such information to be admitted, unless the prosecutor believed it was admissible at trial. He added that the provision was limited to only expanding the ability to summarize evidence, which some referred to as hearsay.

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REPRESENTATIVE GROH asked whether the prosecutor's "belief" was subjective.

MR. SKIDMORE answered no, he explained that in Alaska, the defense had the opportunity to review a transcript of the grand jury proceeding and could file a motion to dismiss an

indictment's validity based on the admission of irrelevant evidence.

REPRESENTATIVE GROH inquired about the practical effect of inserting the language, "the prosecutor believes", on page 11, line 13, of HB 67.

MR. SKIDMORE said the language would simply clarify that the prosecution was presenting admissible evidence. He added that the language was intended to provide clarity - not to change substantive operations.

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REPRESENTATIVE GRAY asked why the court system wasn't being used as the vehicle for amending the court rule change proposed in Section 12.

MR. SKIDMORE explained that the courts required multiple years to amend court rules via the committee process, which may or may not be adopted by the Alaska Supreme Court. He believed that waiting multiple years to reverse the State v. Powell decision was problematic, opining that the legislature was capable of effecting that faster.

REPRESENTATIVE GRAY asked whether this rule change had been proposed to the Criminal Rules Committee.

MR. SKIDMORE answered no, as the committee had been tied up in discussions about other rules.

REPRESENTATIVE GRAY asked how often the grand jury returned an indictment.

MR. SKIDMORE did not know the answer. He anecdotally reported that in Alaska, the grand jury offered returns of indictment 75 percent of the time whereas in other states, the rate was 98 percent.

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REPRESENTATIVE CARPENTER asked whether the proposed court rule change would prevent the grand jury from calling a child to testify if it was in the best interest of the case.

MR. SKIDMORE answered, "Absolutely not."

REPRESENTATIVE CARPENTER asked why the proposed court rule change was not limited to evidence concerning children.

MR. SKIDMORE suggested that, similar to children, victims of sexual assault shouldn't be required to relive their trauma. He indicated that it was within the legislature's authority to decide how victims ought to be treated for purposes of grand jury.

REPRESENTATIVE CARPENTER asked whether grand jury members could decipher admissible evidence from inadmissible evidence.

MR. SKIDMORE answered no, which was why grand jury proceedings were recorded, transcribed, and provided to the defense.

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REPRESENTATIVE EASTMAN directed attention to page 9, line 4, and asked to what extent indecent viewing of a picture was being classified as a sex offense.

MR. SKIDMORE offered to follow up with the requested information.

REPRESENTATIVE EASTMAN sought to confirm that nothing would preclude the prosecutor from bringing a victim in front of the grand jury.

MR. SKIDMORE confirmed.

REPRESENTATIVE EASTMAN pointed out that prosecutors could be criticized for bringing a young victim in front of the grand jury and asked whether, in practice, that would deter them from doing so.

MR. SKIDMORE said prosecutors were subject to criticism regardless.

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CHAIR VANCE sought to verify that the bill would allow law enforcement to summarize a recorded witness statement.

MR. SKIDMORE clarified that it would allow an officer to summarize statements made to the officer, either recorded or not.

CHAIR VANCE asked whether a transcript would be provided in addition to the summary.

MR. SKIDMORE said, as the bill was currently drafted, either version would be acceptable.

CHAIR VANCE asked why a broad approach was being taken, as opposed to a more proscriptive approach.

MR. SKIDMORE recalled that a survey was conducted of policies in other states and in 29 of them, as well as the federal government, a broad approach was utilized.

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CHAIR VANCE invited Ms. Schroeder to provide a sectional analysis of HB 67.

[2:28:25 PM](#)

KACI SCHROEDER, Assistant Attorney General, Criminal Division, DOL, on behalf of the House Rules Standing Committee, sponsor by request of the governor, presented the sectional analysis for HB 67, which read as follows [original punctuation provided]:

Section 1. This is a legislative findings and intent section. The section clarifies that evidence the prosecutor believes will be admissible at trial should be admissible at grand jury. The section also overturns the decision in *State v. Powell*, 487 P. 609 (Alaska App. 2021) to the extent that it held that testimony may not be summarized at grand jury under Alaska Rule of Evidence 801(d)(3).

Section 2. This section amends stalking in the first degree (class C felony) to include situations where an individual continues to stalk someone in violation of a stalking or sexual assault protective order.

Section 3. If a person is being sentenced for a violation of a condition of release under AS 11.56.757, this section requires the court to impose some additional time for the underlying offense and any additional crimes of violation of a condition of release.

Section 4. This section amends AS 12.63.010(b) to require a person who must register as a sex offender to report additional information, such as professional licensing information and passport information, to the Department of Public Safety.

Section 5. This section makes a conforming amendment in AS 12.63.010(d) to account for the changes made in section 6.

Section 6. This section adds two new subsections to AS 12.63.010 that require a person who must register as a sex offender to notify the Department of Public Safety if the person plans to leave the state or is away from any address provided to the department for seven days or more.

Section 7. This section amends AS 12.63.020(a) to clarify the duration of the tolling period for sex offenders who are in noncompliance with the chapter. The tolling will be day for day.

Section 8. This section corrects a cross reference AS 11.61.123 and makes sexual penetration with a corpse and sex trafficking in the first and second degrees registerable.

Sectional Analysis Page 2 Prepared by Department of Law

Section 9. This section amends the definition of "crime involving domestic violence" to include the crimes of unlawful contact and interfering with a report of a crime of domestic violence.

Section 10. This section amends AS 47.14.300(a) to allow multidisciplinary child protection teams to assist in the evaluation and investigation of cases involving reports of sexual contact and sexual penetration where both the perpetrator and the victim are children under the age of 13. The purpose of this section is to be able to provide both children the resources necessary to address this type of behavior.

Section 11. This section makes the applicability section in ch. 4, FSSLA 2019 (HB 49), retroactive as it pertains to the requirement for sex offenders who have to register in another state to also register in

Alaska when they are present in Alaska regardless of when they were convicted.

Section 12. This section is a direct court rule amendment allowing witnesses to summaries the testimony of other witnesses before the grand jury if the prosecutor believes that that evidence would be admissible at trial.

Section 13. This section repeals AS 12.40.110, which allows out of court statements provided by children in sex offense cases to be presented to the grand jury. The amendments made in sec. 10 of the bill, alleviate the need for this statute.

Section 14. This section is the applicability section.

Section 15. This section is the conditional effect section for the court rule change.

Section 16. This section makes the bill effective July 1, 2023.

[2:34:16 PM](#)

CHAIR VANCE sought questions from members of the committee.

[2:34:44 PM](#)

REPRESENTATIVE EASTMAN directed attention to page 6, line 30 of the bill, and asked why the term "the period" was replacing "each year."

MR. SKIDMORE explained that the language was trying to implement a more equitable and fair system for people on the [sex offender] registry by aligning a registrant's period of noncompliance with the length of the toll, as opposed to tolling all sex offenders or child kidnappers who failed to comply with an extension of one year.

REPRESENTATIVE EASTMAN inquired about Section 6 of the bill.

MR. SKIDMORE said the provision concerned sex offenders or child kidnappers who planned to leave the country or travel out of state. The idea, he said, was to require sufficient notice to allow the department to communicate the registrant's plans to enter another state or country.

REPRESENTATIVE EASTMAN asked whether it was the state's intention to notify other states of the registrant's plans to travel to or through them.

MR. SKIDMORE deferred the question to Ms. Purinton.

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REPRESENTATIVE CARPENTER asked whether evidence could be withheld from the grand jury if the prosecutor believed it would be inadmissible at trial.

MR. SKIDMORE confirmed that prosecutors would not submit evidence that was believed to be inadmissible. If the grand jurors were asking for that evidence, he added, it would be the prosecutor's job to explain why certain information was not being presented to them.

REPRESENTATIVE CARPENTER asked who ultimately determined the admissibility of evidence at trial.

MR. SKIDMORE stated that the courts were the ultimate arbiter of that information if an objection was made by the defense.

REPRESENTATIVE CARPENTER asked who determined the admissibility of evidence at trial.

MR. SKIDMORE reiterated that the prosecution, having received legal training, would select the proper evidence to present to a grand jury, which was subject to review by the defense lawyer.

REPRESENTATIVE CARPENTER asked what authority enabled the prosecuting attorney to determine the admissibility of evidence at the grand jury.

MR. SKIDMORE explained that the prosecutor was statutorily required to bring cases forward to the grand jury; further, the prosecutor was obligated, via case law and ethics rules, to present evidence to the grand jury. Suggesting that someone other than the prosecutor would be making that determination, he said, would fundamentally change the system as it was designed.

REPRESENTATIVE CARPENTER maintained his concern about the added language in Section 12, "the prosecutor believes," which was a judgement call made by the prosecuting attorney. He insisted that per Article 1 of the constitution, the grand jury had the

constitutional right to review all information regardless of its admissibility at court.

MR. SKIDMORE disagreed with Representative Carpenter's assessment. He clarified that the grand jury did not have the right to any and all available information, reiterating that only admissible evidence was allowed to be presented by the prosecutor. He emphasized that the constitution did not possess contrary language in that regard.

REPRESENTATIVE CARPENTER asked whether a specific statutory provision was leading Mr. Skidmore to that conclusion.

MR. SKIDMORE stated that his answer was based on a compilation of case law, statutes, and rules. He offered to follow up with Representative Carpenter to provide the requested information.

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REPRESENTATIVE EASTMAN sought to confirm that if the bill were to pass, information could not be brought before a grand jury unless the prosecutor signed off on it.

MR. SKIDMORE clarified that the bill was not impacting the evidential screening process conducted by the prosecutor, which was an existing practice.

[2:54:15 PM](#)

REPRESENTATIVE GRAY asked which states constitutionalized the right to a grand jury.

MR. SKIDMORE listed Ohio, Hawaii, and Texas, among others.

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REPRESENTATIVE GRAY posed a hypothetical scenario.

MR. SKIDMORE indicated that the hypothetical example posed by Representative Gray was unrelated to the proposed legislation.

[3:00:17 PM](#)

CHAIR VANCE announced that HB 67 would be held over.

[3:00:51 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:00 p.m.