

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 10, 2023

1:00 p.m.

MEMBERS PRESENT

Representative Sarah Vance, Chair
Representative Jamie Allard, Vice Chair
Representative Craig Johnson
Representative David Eastman
Representative Andrew Gray
Representative Cliff Groh

MEMBERS ABSENT

Representative Ben Carpenter

OTHER LEGISLATORS PRESENT

Representative Justin Ruffridge

COMMITTEE CALENDAR

CONFIRMATION HEARING(S)

Select Committee on Legislative Ethics

Deborah Fancher - Anchorage
Gerald "Jerry" McBeath - Fairbanks

- CONFIRMATION(S) ADVANCED

HOUSE BILL NO. 68

"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 prostitution; relating to sentencing for sex trafficking, patron of a victim of sex trafficking, and human trafficking; establishing the process for vacating judgments for certain convictions of prostitution and misconduct involving a controlled substance; relating to the Council on Domestic Violence and Sexual Assault; relating to permanent fund dividends for certain individuals whose convictions are vacated; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 68

SHORT TITLE: CRIME OF SEX/HUMAN TRAFFICKING

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/08/23 (H) READ THE FIRST TIME - REFERRALS
02/08/23 (H) JUD, FIN
03/10/23 (H) JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

DEBORAH FANCHER, Appointee
Select Committee on Legislative Ethics
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Select Committee on Legislative Ethics.

JERRY MCBEATH, Appointee
Select Committee on Legislative Ethics
Fairbanks, Alaska

POSITION STATEMENT: Testified as appointee to the Select Committee on Legislative Ethics.

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

POSITION STATEMENT: Presented HB 68, on behalf of the House Rules Standing Committee, sponsor by request of the governor.

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

POSITION STATEMENT: Provided the sectional analysis for HB 68, 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 68.

ACTION NARRATIVE

[1:00:52 PM](#)

CHAIR SARAH VANCE called the House Judiciary Standing Committee meeting to order at 1:00 p.m. Representatives C. Johnson, Eastman, Gray, Groh, Allard, and Vance were present at the call to order.

CONFIRMATION HEARING(S)
Select Committee on Legislative Ethics

[1:01:50 PM](#)

CHAIR VANCE announced that the first order of business would be confirmation hearings.

[1:02:05 PM](#)

DEBORAH FANCHER, Appointee, Select Committee on Legislative Ethics, shared a summary of her personal and professional background, highlighting her experience as a teacher for the Anchorage School District (ASD).

CHAIR VANCE asked why Ms. Fancher wanted to serve on the Select Committee on Legislative Ethics ("the committee").

MS. FANCHER said she enjoyed serving on the committee, as it kept her up to date with politics and allowed her to see the linear connection between law and science. She characterized herself as "completely unqualified" to serve on the committee, as she was not an attorney.

[1:06:02 PM](#)

REPRESENTATIVE ALLARD complimented Ms. Fancher's resume. She commended the fact that Ms. Fancher was not an attorney, as she could offer an outside perspective. She asked whether Ms. Fancher was planning on retiring from her work in education.

MS. FANCHER clarified that she had already retired from ASD as a Tier 1 employee. She said she continued to teach one week per month at a charter school in the Yukon Kuskokwim School District (YKSD) in addition to teaching science to homeschool students.

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REPRESENTATIVE EASTMAN shared his understanding that it had been difficult to fill vacancies on the committee. He asked whether that issue had been resolved.

MS. FANCHER did not know the answer.

REPRESENTATIVE EASTMAN asked whether Ms. Fancher, as a non-attorney member of the committee, had satisfactory access to the attorneys on payroll to ask for advice.

MS. FANCHER answered yes.

REPRESENTATIVE EASTMAN inquired about the frequency of meetings.

MS. FANCHER conveyed that the committee's administrator, Jerry Anderson, was frequently trying to schedule meeting times. She spoke to the difficulty of trying to coordinate five public members.

REPRESENTATIVE EASTMAN asked whether the committee had found a balance between meeting in person and meeting via teleconference.

MS. FANCHER opined that teleconferenced meetings did not provide the same value as face-to-face meetings.

CHAIR VANCE thanked Ms. Fancher for her honesty, candor, and sense of humor. She welcomed the next appointee, Jerry McBeath.

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JERRY MCBEATH, Appointee, shared a summary of his personal and professional background, highlighting his experience as a professor from 1970-2014. He stated that although retired, he was actively engaged in research, publications, and service work, including his service on the committee. He noted his involvement in local government and local politics.

CHAIR VANCE asked Mr. McBeath why he wanted to serve on the committee.

MR. MCBEATH discussed the challenges he had experienced in his work on the committee. He said the goal was to inform legislators and legislative staff on the rules of ethics via training sessions provided annually. He added that a lot of informal advice was offered by Jerry Anderson. He conveyed that "the meat" of the work was offering formal advisory opinions and

investigating complaints. He shared his belief that if the public's perception of the legislature was self-serving, it would tarnish the reputation of the institution as a whole. He believed that the ethics committee could help combat the public's perception, and in that respect, he wished to contribute his skills and abilities to the process as he had great respect for the legislative body.

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REPRESENTATIVE EASTMAN asked whether it was difficult to fill vacancies on the committee.

MR. MCBEATH did not know the answer. He expressed his hope that the recruitment process was open and that a number of potential nominees were "in the pipeline."

REPRESENTATIVE EASTMAN asked whether Mr. McBeath's seat would go vacant for a period of time if his appointment was not confirmed.

MR. MCBEATH suspected that the position would be filled. He reiterated that he was not familiar with the recruitment process.

REPRESENTATIVE EASTMAN suggested that some people had used the legal system to accomplish political aims. He asked whether that was something the committee had discussed or considered.

MR. MCBEATH responded that the committee was familiar with what some interpretations had termed "weaponizing the law." He added, "I don't believe this is a factual statement of the legal profession today."

REPRESENTATIVE EASTMAN pointed out that the four seated legislators who had been subject to lawsuits over the past two years belonged to one particular party.

MR. MCBEATH remarked, "Are you asking me to explain a situation and from perspective would you like me to explain it?"

[1:28:49 PM](#)

REPRESENTATIVE EASTMAN characterized the committee as, effectively, a law enforcement entity. He asked whether Mr. McBeath was aware that the four seated legislators who had been

subject to lawsuits over the past two years belonged to one particular party. He asked whether that was a concern.

MR. MCBEATH confirmed that he was aware of the attempt to reach just conclusions based on the evidence presented by members of the Select Committee of Legislative Ethics. He added that it was hard to talk about the members of the committee as "ethics cops," as they worked in coordination with the Alaska Public Offices Commission (APOC). He opined that the committee's actions were justifiable.

REPRESENTATIVE EASTMAN asked whether there were areas of the Legislative Ethics Act that should be amended for clarity or substance.

MR. MCBEATH referred to the issuance of advisory opinions. He reiterated the importance of understanding that members of the committee were not legislators. He confirmed that there was a provision in the committee's procedures for making recommendations to legislators. He reiterated that it was not the committee's job to make global statements.

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CHAIR VANCE highlighted his 18-page resume and thanked Mr. McBeath for his willingness to serve on the committee.

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CHAIR VANCE moved to advance the confirmation of Deborah Fancher and Jerry McBeath to the Select Committee on Legislative Ethics for consideration in the joint session of the House and Senate. She reminded members that signing the reports regarding appointments to boards and commissions in no way reflected individual members' approval or disapproval of the appointees, and that the nominations were merely forwarded to the full legislature for confirmation or rejection. There being no objection. The confirmations were advanced.

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The committee took a brief at-ease.

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CHAIR VANCE thanked the appointees for their desire to serve.

HB 68-CRIME OF SEX/HUMAN TRAFFICKING

1:37:30 PM

CHAIR VANCE announced that the final order of business would be HOUSE BILL NO. 68, "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 prostitution; relating to sentencing for sex trafficking, patron of a victim of sex trafficking, and human trafficking; establishing the process for vacating judgments for certain convictions of prostitution and misconduct involving a controlled substance; relating to the Council on Domestic Violence and Sexual Assault; relating to permanent fund dividends for certain individuals whose convictions are vacated; and providing for an effective date."

1:37:58 PM

JOHN SKIDMORE, Assistant Attorney General, Criminal Division, Department of Law (DOL), presented HB 68, on behalf of the House Rules Standing Committee, sponsor by request of the governor. 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 to clarify and improve Alaska's sex trafficking and human trafficking laws; establish the crime of patron of a victim of sex trafficking; and create a process for a sex trafficking victim convicted of prostitution to have that conviction vacated.

Alaska's sex trafficking and human trafficking statutes do not adequately address the serious nature of these offenses or provide sufficient protections for underage victims. The current language in these statutes is archaic and fails to address the realities faced by individuals forced into the labor or sex trade, creating situations where victims are unaided and perpetrators go undetected.

This legislation will restructure the human trafficking and sex trafficking statutes to address the realities of how these offenses are committed and to protect underage victims. The bill increases the penalties for all forms of trafficking, placing the

most serious classification on those crimes that use force to traffic an underage person. Sex trafficking in the first, second, and third degree is now treated as a sex offense for purpose of sentencing, thereby enhancing the penalties. Sex trafficking in the first and second degree would also require sex offender registration, while sex trafficking in the third and fourth degree would not require registration.

The legislation also establishes the new crime of "patron of a victim of sex trafficking." While it is crucial to target those who traffic individuals, it is equally important to address those who create a demand for victims of sex trafficking, specifically underage victims.

The legislation also targets person who patronize those engaging in sex work. First, it increases the penalties for this conduct and establishes mandatory minimums based on the number of times a person is convicted. If a person is convicted three times within five years, the offense will become a felony. Sex trafficking would not exist without those who pay for sex. We cannot begin to address this scourge if we continue to look the other way as people continually fund the sex trafficking industry.

Finally, the legislation establishes a mechanism by which a person convicted of prostitution or low-level drug possession can request that the conviction be vacated if they were a victim of sex trafficking at the time of the offense. The threat of being charged with a crime is often something that traffickers will use to continue to control their victims. It is important for society to recognize that these victims often have no other choice, and they should not be treated as criminals when they are, in fact, victims themselves.

Human trafficking and sex trafficking are insidious crimes that ruin lives. It is time that our statutes adequately address the devastation this predatory conduct has on our society and protect those who need it most.

I urge your prompt and favorable action on this measure.

[1:51:27 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 68 [included in the committee packet], which read as follows [original punctuation provided]:

Section 1. This section makes a conforming change to reflect the amendments made in section 4.

Section 2. This section makes confidential communications between a victim of sex trafficking and a victim counselor privileged.

Section 3. This section makes a conforming change to reflect the amendments made in section 4.

Section 4. 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 (1) uses force or the threat of force to coerce someone to engage in a commercial sexual acts; (2) traffics a person under the age of 20 or who is in the person's legal custody; or (3) manages, supervises, or controls a prostitution enterprise or a place of prostitution.

A person is guilty of sex trafficking in the second degree (class A sex felony) if the person induces or causes another person to engage in commercial sexual acts.

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 provided in furtherance of trafficking is \$200 or more or a class C felony if the value of the resources is less than \$200. Sex

trafficking in the third degree is sentenced as a class B or C sex felony and is not a registerable sex offense.

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 commercial sexual acts with reckless disregard that the person they are soliciting is a victim of sex trafficking, or if they solicit sexual acts from a person under the age of 18. If the person solicited is under 18 years of age, this offense will be a class B sex felony. If the person solicited is an adult, this offense will be a class C sex felony. This crime would be sentenced under the enhanced penalties for sexual felonies and the person would be required to register as a sex offender.

Section 5. This section amends the crime of human trafficking in the first degree to be an unclassified felony when the person induces or causes a person to engage in adult entertainment or labor through the use of force against the victim or if the victim is under the age of 20.

Section 6. This section denotes that human trafficking in the first degree is an unclassified felony.

Section 7. This section amends human trafficking in the second degree to include situations in which the person induces or causes another person to engage in adult entertainment or labor by

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

(2) destroying, concealing, or threatening to destroy or conceal an actual or purported passport or immigration document or another actual or purported identification document of any person;

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

(4) threatening to collect a debt;

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

- (6) providing or withholding controlled substances from the person; or
- (7) deceiving the victim.

Under this section, human trafficking in the second degree is a class A felony.

Section 8. 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.

The section also clarifies that human trafficking does not include normal caretaker interactions with a minor (for example, asking a child to shovel the driveway in exchange for an item of clothing etc.).

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

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.

Section 10. This section is a conforming change which references the new sex trafficking statutes in the prostitution statute.

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 for being a "John", 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

section 11, any property used in order to commit the offense may be forfeited.

Sections 13 and 14. These sections make conforming changes related to the amendments made in section 4 - 9.

Section 15. This section adds the definitions that apply to the prostitution statutes and the sex trafficking statutes to the general definition statute in Title 11 (AS 11.81.900).

Section 16. This section establishes that there is no statute of limitations for sex trafficking and human trafficking in the first and second degrees. However, the statute of limitations for sex trafficking in the third degree and human trafficking in the third degree is ten years.

Section 17. This section makes conforming changes reflecting the amendments to sex trafficking and human trafficking.

Section 18. This section makes confidential communications between a victim of sex trafficking and a victim counselor privileged.

Sections 19 - 21. These sections make conforming changes to sex trafficking and human trafficking references that appear in those statutes.

Section 22. This section establishes that human trafficking, as an unclassified felony, will be sentenced between 5 and 99 years.

Section 23. This section amends 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.

Section 24. This section establishes mandatory minimum terms of imprisonment for repeat "Johns." Upon the

second conviction with five years, the person will be subject to a class A misdemeanor with a mandatory minimum of 72 hours to serve. If the person is convicted three times within five years, the person is subject to the class C felony sentencing provisions.

Section 25. This section makes conforming changes to the definition of "most serious felony" reflecting the new sex trafficking statutes.

Section 26. 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 27. This section makes changes to the definition of "serious offense" reflecting the new sex trafficking and human trafficking statutes.

Section 28. 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 or production of a picture under AS 11.61.123.

Section 29. This section establishes a process whereby a person who has been convicted of prostitution can get that conviction or a conviction for possession of a controlled substance vacated if they are able to show that they were a victim of sex trafficking at the time that they committed the 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.

Sections 30 - 32. These sections add the prevention of sex trafficking to the subjects that the Council on Domestic Violence and Sexual Assault should consider and develop educational materials and programs for.

Sections 33 and 34. These sections make conforming changes to the limitations on privileged communications and add a victim of sex trafficking to the definition of "victim."

Section 35. This section adds victims of sex trafficking to the list of victims whom a crisis intervention and prevention program is designed to assist.

Section 36. This section adds victims of sex trafficking to the list of victims who can receive assistance from the Violent Crimes Compensation Board.

Section 37. This section allows the public defender to represent an indigent person during a vacation of judgment proceeding.

Sections 38 and 39. These sections make conforming changes referencing the changes made to the sex trafficking statutes.

Section 40. This section makes a person who has had their conviction for prostitution vacated eligible for a permanent fund dividend.

Section 41. This section authorizes administrative subpoenas for sex trafficking in the first, second, and third degrees.

Sections 42 - 45. These sections make conforming changes referencing the changes made to the sex trafficking statutes.

Section 46. This section is the repealer section.

Section 47. This section is the applicability section. The majority of this bill will apply to offenses occurring on or after the effective date.

Section 48. This section makes the vacation of judgment sections of the bill effective on January 1, 2024.

Section 49. This section makes the remainder of the bill effective July 1, 2023.

MS. SCHROEDER noted that all changes would be applied prospectively.

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CHAIR VANCE asked Ms. Schroder to provide the definitions of "adult entertainment" and "commercial sexual act."

MS. SCHROEDER noted that the definitions were found on page 11 [Section 15] of HB 68. The definition of "adult entertainment" included simulated acts, such as sexual penetration; the lewd exhibition or touching of a person's genitals, anus, or breast; or bestiality, she explained. "Commercial sexual act" was defined as "a sexual act for which anything of value is given or received by any person; in this paragraph, 'anything of value' does not include compensation for reasonably apportioned shared expenses of a residence." She expounded, relating that the sharing of rent between two sex workers would not count for the purposes of the definition. Lastly, she noted that "sexual act" meant sexual penetration or sexual conduct.

CHAIR VANCE inquired about the differences in statute. She sought to verify that some adult entertainment was legal whereas commercial sexual acts were not.

MS. SCHROEDER clarified that "commercial sexual act" was a broader term used in relation to sex trafficking, whereas "commercial sexual conduct" was used in the existing prostitution statutes. She explained that both terms were used in HB 68 to preserve the prostitution statutes.

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REPRESENTATIVE ALLARD asked Ms. Schroeder to provide an example of paragraph (69), subparagraphs (A) and (B), in Section 15.

MS. SCHROEDER explained that paragraph (69) offered the definition of "adult entertainment," which was targeted at strip clubs. She explained that forcing someone to remove his/her clothes or dance in any other manner exhibiting the individual's body would be considered human trafficking, as opposed to sex trafficking.

REPRESENTATIVE ALLARD asked what would happen if an adult were engaging in that behavior in front of a child.

MS. SCHROEDER shared her understanding that Representative Allard was referring to the separate crime of indecent exposure, which was unrelated to the bill.

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CHAIR VANCE asked whether employment was a qualifier for adult entertainment.

MS. SCHROEDER answered yes.

CHAIR VANCE asked whether "prostitution" and "sex trafficking" were defined in the bill.

MS. SCHROEDER cited AS 11.41.345 [Sex trafficking in the second degree] on page 3 for the core definition of sex trafficking. Similarly, the definition of prostitution was found in the crime itself under AS 11.66.100.

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REPRESENTATIVE EASTMAN inquired about the legal distinction between prostitution and sex trafficking.

MS. SCHROEDER said the main difference was that sex trafficking involved a third party, or the individual who is forcing another person to engage in a commercial sexual act. Conversely, prostitution was the selling of sex by an individual.

REPRESENTATIVE EASTMAN asked whether an employer who fired an employee would be considered "withholding."

MS. SCHROEDER said it would need to be more direct, as the intent was not to interfere with employers who engage in normal, legal conduct.

REPRESENTATIVE EASTMAN asked whether perception mattered in reference to the simulation of illegal, indecent, or lewd exhibition, act, or practice.

MS. SCHROEDER answered no, it would still be considered simulated.

[2:17:28 PM](#)

REPRESENTATIVE GROH directed attention to the provision relating to vacation in HB 68, which included a later effective date. He asked for the rationale behind that decision.

MS. SCHROEDER shared her understanding that the Alaska Court System ("the court system") requested the delayed effective date.

[2:18:33 PM](#)

NANCY MEADE, General Counsel, Alaska Court System, confirmed that the provision in question would affect processes within the court system; consequently, a delayed effective date was requested to ensure timely implementation.

REPRESENTATIVE GROH inquired about factual scenarios or defenses that might arise in the prosecution of AS 11.41.355 [Patron of a victim of sex trafficking]."

MS. SCHROEDER acknowledged that it would be a difficult crime to routinely prove; nonetheless, she stated that the department wanted to have the necessary tools for conviction when possible. She remarked, "someone would have to have a reason ... to think that the person they solicited from was a victim of sex trafficking." She provided examples.

REPRESENTATIVE GROH expressed his desire to have tough laws on sex trafficking in Alaska; however, he opined that fewer resources should be put towards fighting voluntary prostitution. He inquired about DOL's position on "drawing that line."

MS. SCHROEDER deferred to Mr. Skidmore.

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MR. SKIDMORE asked Representative Groh to restate the question.

REPRESENTATIVE GROH inquired about DOL's philosophy in regard to the distribution of resources [for fighting sex trafficking versus prostitution].

MR. SKIDMORE clarified that the bill would not impact the selling of commercial sex, other than sex trafficking. Further, HB 68 would provide additional protections for individuals reporting sex trafficking to ensure that the reporters would not be prosecuted as a patron of prostitution. Lastly, he reiterated that the bill would introduce the concept of vacating previous convictions for prostitution if the individual was a victim of sex trafficking. He submitted that the bill would ensure that resources were devoted to the area of primary concern, which was sex trafficking, as opposed to individuals engaging in prostitution on their own accord.

[2:25:37 PM](#)

CHAIR VANCE asked why Alaska Statutes weren't consistent with the federal definition of human trafficking, which included both labor and sex trafficking.

MR. SKIDMORE provided the rationale, explaining that sex trafficking was viewed as a more serious violation than human trafficking and for that reason, the state had chosen to carve out sentences for sex offenses with greater penalties.

[2:28:19 PM](#)

REPRESENTATIVE C. JOHNSON asked why the crime of sex trafficking was separated into the first, second, and third degree.

MR. SKIDMORE stated that sex trafficking in the first degree captured the most significant conduct, including the use of force to cause another person to engage in commercial sexual acts. Sex trafficking in the second degree was associated with inducing another person to engage in commercial sex acts by deception or coercion. Sex trafficking in the third degree, he said, spoke to a person who provided services, resources, or other assistance in the furtherance of sex trafficking in the first or second degree, thereby advancing the enterprise.

REPRESENTATIVE C. JOHNSON opined that all the aforementioned conduct [outlined in the crime of sex trafficking in the first, second, and third degree] was heinous. He suggested that all the behavior described by Mr. Skidmore should be classified under sex trafficking in the first degree.

MR. SKIDMORE responded that in Alaska Statutes, the variation of conduct was often separated and classified by degree. Ultimately, he said, it was a policy call.

[2:35:09 PM](#)

REPRESENTATIVE EASTMAN asked whether slavery was illegal in Alaska.

MR. SKIDMORE shared his understanding that slavery was illegal under current human trafficking laws.

REPRESENTATIVE EASTMAN asked why a distinction was being drawn between human trafficking, which he equated to slavery, and sex trafficking.

MR. SKIDMORE clarified that the distinction between human trafficking and sex trafficking was the difference between labor trafficking and forcing someone to engage in sexual conduct. He reiterated that while both were bad, Alaska Statutes applied a harsher penalty to the sexual conduct.

[2:37:48 PM](#)

REPRESENTATIVE EASTMAN maintained his belief that there should not be a distinction between the penalties for sex trafficking and human trafficking. He asked, "Has there been a lot of thought put into this or did we just borrow the template from our other statutes and, sort of, apply it to this situation?"

MR. SKIDMORE disputed the notion that the bill was a template; nonetheless, he acknowledged that it used existing statutory structures. He referred to Section 6 on page 5 of the bill and argued that human trafficking was treated more significantly, as HB 68 sought to increase the penalties for human trafficking in the first and second degree. He opined that the bill was appropriately addressing the horrendous conduct that occurred in human trafficking.

REPRESENTATIVE EASTMAN directed attention to page 6, line 25, and asked why corroboration would not be required for certain testimony.

MR. SKIDMORE clarified that the statute in question, AS 11.41.368, was preexisting.

REPRESENTATIVE EASTMAN asked whether the provision applied to other crimes as well.

MR. SKIDMORE said the concept applied elsewhere. He cited case law that discussed whether a sex worker could be trusted or believed.

REPRESENTATIVE EASTMAN returned to the definition of "commercial sex act" on page 11, which he characterized as "strangely specific and somewhat weird." He asked why it referred to shared expenses of a residence.

MR. SKIDMORE stated that the intent was to exclude roommates who were pooling their resources to pay for utilities and rent from the definition of commercial sex act.

REPRESENTATIVE EASTMAN requested an example.

MR. SKIDMORE declined. He reiterated that under the definition of prostitution, it was still illegal for a person to engage in sex acts in exchange for something of value. He added that the intent was to ensure that only those people who were compelling others to engage in sexual conduct could be charged with sex trafficking, as opposed to sex workers who were sharing a residence.

REPRESENTATIVE EASTMAN asked whether the definition of "selling" included the trading of victims.

MR. SKIDMORE stated that any transaction in which any anything of value was traded for a sex act would qualify as a commercial sex act. He sought to clarify the meaning of victim trading.

[2:47:19 PM](#)

REPRESENTATIVE EASTMAN provided a hypothetical scenario.

MR. SKIDMORE confirmed that the scenario in question would qualify as a commercial sex act.

REPRESENTATIVE EASTMAN asked whether a school bus attendant, as opposed to a school bus driver, would be barred from work if convicted of the offenses outlined in HB 68.

MR. SKIDMORE did not know whether school bus attendants were included.

REPRESENTATIVE EASTMAN asked how reckless disregard was distinguished from normal disregard.

MR. SKIDMORE discussed the concepts of mens rea, or the mental element, and actus reus, or the act itself. He noted that "reckless" was defined under AS 11.81.900(a)(3) as follows:

(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; a person who is unaware of a risk of which the person

would have been aware had that person not been intoxicated acts recklessly with respect to that risk;

CHAIR VANCE announced that HB 68 would be held over.

[2:54:45 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:54 p.m.