

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 24, 2023

1:01 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

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

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."

- MOVED CSHB 66(JUD) OUT OF COMMITTEE

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
03/10/23 (H) Heard & Held
03/10/23 (H) MINUTE(JUD)
03/20/23 (H) JUD AT 1:00 PM GRUENBERG 120
03/20/23 (H) Heard & Held
03/20/23 (H) MINUTE(JUD)
03/22/23 (H) JUD AT 1:00 PM GRUENBERG 120
03/22/23 (H) -- MEETING CANCELED --
03/24/23 (H) JUD AT 1:00 PM GRUENBERG 120

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
03/03/23 (H) Heard & Held
03/03/23 (H) MINUTE(JUD)
03/06/23 (H) JUD AT 1:30 PM GRUENBERG 120
03/06/23 (H) Heard & Held
03/06/23 (H) MINUTE(JUD)
03/24/23 (H) JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

KATIE BOTZ, representing self
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 68.

CINDY ROQUE, representing self
Sterling, Alaska

POSITION STATEMENT: Testified during the hearing on HB 68.

RACHEL SMITH
Washington

POSITION STATEMENT: Testified in opposition to HB 68.

MAXINE DOOGAN

Community United for Safety and Protection
Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition to HB 68.

ANTONIA LEONARD, representing self

Eagle River, Alaska

POSITION STATEMENT: Testified in opposition to HB 68.

TERRA BURNS

Community United for Safety and Protection
Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition to HB 68.

KAT MCELROY, representing self

Nenana, Alaska

POSITION STATEMENT: Testified in opposition to HB 68.

TIM LYONS, representing self

Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 68.

MATTHEW LOHRSTORFER, representing self

Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 68.

JULIE SMYTH, representing self

Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition to HB 68.

TATIANA ROTHCHILD, Volunteer

Community United for Safety and Protection
Providence, Rhode Island

POSITION STATEMENT: Testified in opposition to HB 68.

ATHENA FLOWERS, representing self

Wasilla, Alaska

POSITION STATEMENT: Testified in opposition to HB 68.

DIANE CASTO, Executive Director

Council on Domestic Violence & Sexual Assault
Juneau, Alaska

POSITION STATEMENT: Offered invited testimony during the hearing on HB 68.

NANCY MEADE, General Counsel

Alaska Court System

Anchorage, Alaska

POSITION STATEMENT: Offered information on Section 29 of HB 68 and answered questions from the committee.

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

POSITION STATEMENT: Answered questions during the hearing on HB 68, on behalf of the House Rules Standing Committee, sponsor by request of the governor.

JAKE ALMEIDA, Staff
Representative Sarah Vance
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided a summary of changes in the proposed CS for HB 66, Version B, on behalf of Representative Vance.

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

POSITION STATEMENT: Answered questions during the hearing on HB 66, on behalf of the House Rules Standing Committee, sponsor by request of the governor.

ACTION NARRATIVE

[1:01:35 PM](#)

CHAIR SARAH VANCE called the House Judiciary Standing Committee meeting to order at 1:01 p.m. Representatives C. Johnson, Eastman, Gray, Groh, Allard, and Vance were present at the call to order. Representatives Allard and Carpenter arrived as the meeting was in progress.

HB 68-CRIME OF SEX/HUMAN TRAFFICKING

[1:02:47 PM](#)

CHAIR VANCE announced that the first 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."

[1:04:20 PM](#)

CHAIR VANCE opened public testimony on HB 68.

[1:04:41 PM](#)

KATIE BOTZ stated her support for HB 68. She shared some of the traumatic life experiences she endured during her childhood, including sexual assault at the age of 12 and suicidal ideations that resulted from witnessing [the terrorist attacks of September 11, 2001]. Additionally, she recounted her experience in chat rooms on the "dark web."

[1:12:46 PM](#)

CINDY ROQUE recalled several encounters from her time as a child protection officer for the Office of Children's Services (OCS), Department of Family and Community Services. She explained that cell phones were provided by OCS to allow children to visit their parents. She expressed concern about how the state-provided cell phones were being used by vulnerable children. She went on to discuss the lack of background checks for Lyft and Uber drivers and urged the legislature to implement fingerprinting at such agencies.

[1:16:44 PM](#)

RACHEL SMITH expressed her opposition to the bill, as a former sex worker. She stated that if HB 68 had been implemented during her time as a sex worker, she would have had an unclassified felony on her record, which would not have allowed her to seek employment outside of the food service industry. She shared her belief that with such limited options, she would have had no other choice than to return to sex work. She opined that the bill would bar sex workers from exiting the trade. She urged a "no" vote on HB 68.

[1:17:57 PM](#)

MAXINE DOOGAN, Community United for Safety and Protection, disclosed that she was a sex worker of 30-plus years and planned to continue for 30-plus more. She stated her opposition to HB 68, as it relied on the continued criminalization of sex workers under the guise of rescuing sex trafficking victims. She reported that police crackdowns on the trade did not reduce incidents of prostitution or sex trafficking. Rather than taking a punitive approach, she urged the committee to expand the immunity section to encourage clients to report crime and to remove the use of condoms as evidence, which would decrease public health costs. She advocated for the repealing of the criminalization of prostitution.

[1:19:28 PM](#)

ANTONIA LEONARD expressed concern about the language in the proposed legislation. She characterized the bill as "musical theater" attempting to play on the heartstrings of those who were passionate about ending domestic violence and sex crimes.

[1:21:58 PM](#)

TERRA BURNS, Community United for Safety and Protection, stated her opposition to HB 68. After being trafficked as a minor in Alaska, she went on to work in Alaska's sex industry for several decades before conducting her graduate research at UAF on the lived experiences and policy recommendations for people in Alaska's sex trade. She expressed her concern about the proposed legislation, offering to provide an independent sectional analysis upon request.

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KAT MCELROY expressed strong opposition to HB 68. She shared her belief that it was nobody's business if she, as a citizen of Alaska, decided to sell her sexual services. She emphasized that prostitution was not sex trafficking. She opined that in an attempt to further criminalize prostitution, the bill was attempting to make felons out of sex workers and their clients. Further, she remarked that HB 68 conflated prostitution with sex trafficking. Her greatest concern, she said, was that the bill would put the State of Alaska at odds with the people most able to report sex trafficking. She urged the legislature to better serve the state and its people by engaging sex workers in its efforts to create public safety.

[1:26:27 PM](#)

TIM LYONS disclosed that he was the owner and operator of three night clubs in Alaska, one of which featured drag and adult theme productions. He conveyed that his employees, entertainers, and actors were equally terrified by the criminal implications loosely defined in HB 68. He expressed his confusion as to why the adult entertainment industry was being targeted in the bill, as Alaska's industry had demonstrated a responsible track record by keeping the element of sex trafficking out of its venues. He highlighted his membership in the national Club Owners Against Sex Trafficking (COAST) organization, reporting that the adult industry accounted for less than 1 percent of sex trafficking occurrences in the U.S. He offered to follow up with the relevant data.

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MATTHEW LOHRSTORFER urged a "no" vote on HB 68. He questioned why the legislature would want to criminalize consenting adults. He believed that the bill would discourage reporting of sex trafficking by clients out of fear of felony charges. He argued that criminalizing an already marginalized community was illogical. He stated his strong opposition to the bill.

[1:29:53 PM](#)

JULIE SMYTH expressed her opposition to HB 68. She recalled the aftermath of the 2012 trafficking legislation, which resulted in an independent sex worker being charged with trafficking. She suggested that police and prosecutors could not be trusted to follow the legislative intent. She shared a personal anecdote. She urged a "no" vote on the bill.

[1:31:42 PM](#)

TATIANA ROTHCHILD, Volunteer, Community United for Safety and Protection, PhD candidate in political science at Northeastern University, shared that she worked in the anti-human trafficking field for over a decade. She expressed her opposition to HB 68, opining that the expansion of the definition of sex trafficking would directly harm sex trafficking victims and sex workers. She shared her belief that the bill would increase charges brought against sex trafficking victims. By including language that allows for others in a "place of prostitution" to be charged with trafficking, she said, the legislation would open doors for sex workers to be charged with trafficking even without evidence of force, fraud, or coercion. She opined that

HB 68 would drive the sex workers and victims further underground where they face more violence and discourage clients from reporting to law enforcement.

[1:33:51 PM](#)

REPRESENTATIVE EASTMAN asked whether it was Ms. Rothchild's contention that the bill would increase the number of charges brought against sex workers for simple prostitution.

MS. ROTHCHILD expressed concern that sex workers could be charged with trafficking without engaging in trafficking.

REPRESENTATIVE EASTMAN asked whether Ms. Rothchild was familiar with how many sex workers had been charged with prostitution in Alaska.

MS. ROTHCHILD did not have the figures on hand.

REPRESENTATIVE EASTMAN pointed out that a small number of Alaskans had been charged with prostitution in recent years. He asked how HB 68 would change that.

MS. ROTHCHILD clarified that she was concerned about sex trafficking charges being brought against sex workers or people who were not involved in trafficking.

[1:36:11 PM](#)

ATHENA FLOWERS stated her opposition to HB 68. She opined that the bill was not addressing the issue of sex trafficking specifically. As a sex worker herself, she attested to participating in the industry willingly. She shared her belief that HB 68 would take away the bodily autonomy of sex workers. She said urged the committee to rewrite the bill to target sex trafficking rather than consenting adults.

CHAIR VANCE closed public testimony on HB 68. She assured testifiers that she heard their concerns, adding that a forthcoming committee substitute would distinguish between prostitution and sex trafficking. She invited Diane Casto to discuss Section 30 and the inclusion of sex trafficking under the purview of the Council on Domestic Violence and Sexual Assault (CDVSA) ("the council").

[1:39:57 PM](#)

DIANE CASTO, Executive Director, Council on Domestic Violence & Sexual Assault, provided a detailed history of the CDVSA, noting that much of the work done by the council was focused on allocating funding to empower communities and create programming that catered to the needs of Alaskans.

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MS. CASTO continued to explain that the CDVSA was currently funding 34 agencies from Utqiagvik to Unalaska. She recounted how the CDVSA became the primary home for helping victims of sex trafficking, noting, however, that it changed the primary work objective of the council, as trafficking was an enterprise and different than domestic violence between intimate partners. She admitted that the council could take this on, but it would take time and resources to do the work, which would be difficult to accomplish without diminishing the primary work done by the CDVSA. Ms. Casto indicated that the council was considering its options and had reviewed its report on human and sex trafficking in which the CDVSA was identified as the lead agency in various areas of recommendation. Additionally, she believed that the gaps in victim services needed to be better understood.

[1:51:50 PM](#)

CHAIR VANCE directed attention to Section 29 and Section 37 of the bill, which addressed the vacation of judgement.

[1:52:45 PM](#)

NANCY MEADE, General Counsel, Alaska Court System, offered a summary of how the court system planned to implement Section 29. She noted that there had been no convictions for practicing prostitution since 2017; however, in total, the aggregate number of convictions in the court system's system was 1,000. Therefore, if HB 68 were to pass, any person convicted of prostitution could submit a petition to the courts to vacate the judgement. She explained that absent opposition from prosecution, the bill allowed the court to grant the petition without further proceedings. She noted that the case would then be removed from Court View as long as the individual had not been convicted of any felony charges in the case. Returning to page 22, lines 21-22, she pointed out that as drafted, HB 68 would allow anyone with a misdemeanor conviction for misconduct involving a controlled substance under AS 11.71.050 or AS 11.71060 to request that same vacation of judgment if the individual had been a victim of sex trafficking. She noted that

the court system had a total of 20,000 such cases listed in Court View.

[1:58:57 PM](#)

REPRESENTATIVE GRAY asked for an example of misconduct involving a controlled substance and how that differed from a felony drug possession charge.

MS. MEADE explained that two categories of people could get relief under this provision: those with a prostitution conviction and those with a misdemeanor drug charge.

REPRESENTATIVE GRAY sought to confirm that a person convicted of both prostitution and a felony drug conviction would not be eligible for the vacation of judgement. He asked whether that was accurate.

MS. MEADE clarified that if the court granted the vacation of judgment for a person convicted of either prostitution or a misdemeanor drug charge [if the individual was a victim of sex trafficking at the time], the case would be pulled from Court View; however, it would only be removed if the same case did not involve a felony charge of any sort.

REPRESENTATIVE GRAY sought to verify that a person convicted of misconduct involving a controlled substance for heroin or meth would not be eligible for the vacation of judgement.

MS. MEADE confirmed that a felony drug charge would make a person ineligible for the vacation of judgement even if the individual could prove that he/she was a victim of sex trafficking at the time.

[2:03:51 PM](#)

REPRESENTATIVE EASTMAN inquired about the 4-day timeframe allotted to the prosecuting attorney [to respond to the vacation of judgement]. He asked whether 45 days was an appropriate amount of time.

MS. MEADE said she had no view on that. She shared her understanding that in the vast majority of cases, the prosecuting attorney would not file a response.

REPRESENTATIVE EASTMAN referred to the fiscal note from the Alaska Court System, pointing out that 20,000 defendants could

file a petition under this provision. He surmised that the corresponding zero fiscal note from the Department of Law (DOL) suggested that department had no intention of opposing the petitions. For that reason, he opined that the 45 days seemed unnecessary and wasteful. He asked whether there was a better option than holding each petition for 45 days.

MS. MEADE explained that the 45-day timeframe was added to ensure that the petitions weren't waiting in limbo indefinitely. She welcomed a change if DOL was in agreement. With regard to the court system's fiscal note, she noted that even if 10 percent of the 20,000 convicted individuals filed a petition with no opposition from DOL, the court system would need a clerk to process those 2,000 documents.

REPRESENTATIVE EASTMAN questioned how the court would respond to a number of cases in which, after close scrutiny of the cases, the offenders appeared ineligible. Without DOL opposing the petition, he asked whether the court system would choose to grant the petition.

MS. MEADE explained that it would be fairly impossible for the courts to draw any conclusion from the case file as to whether the offender was a victim of sex trafficking at the time of conviction. She confirmed that the petition would likely be granted absent evidence that the petitioner was not a victim of sex trafficking.

[2:11:25 PM](#)

The committee took an at-ease from 2:11 p.m. to 2:16 p.m.

[2:16:24 PM](#)

REPRESENTATIVE ALLARD asked Mr. Skidmore to respond to Representative Eastman's question.

[2:18:13 PM](#)

JOHN SKIDMORE, Deputy Attorney General, Criminal Division, DOL, referring to Section 29 of the bill, he explained that that the 45-day timeframe was requested by the department to allow for enough time to pull records from archives when necessary. He suspected that the department would not be responding to every petition; nonetheless, he assured the committee that each petition would be reviewed, analyzed, and evaluated on legitimacy. Regarding DOL's zero fiscal note, he shared his

belief that any efforts to respond to the requests for a vacation of judgement could be absorbed by the department's current resources.

2:20:54 PM

REPRESENTATIVE EASTMAN asked how DOL could feasibly respond to up to 20,000 requests at no cost to the department.

MR. SKIDMORE pointed out that "20,000" was a figure representing the total number of convictions that qualified for the vacation of judgement; however, DOL was operating under the presumption that far fewer requests for vacation would actually be submitted.

REPRESENTATIVE EASTMAN asked whether DOL's assertion that the department would not be responding to most of the petitions would effectively create a "cottage industry" for attorneys.

MR. SKIDMORE suspected that of the 20,000, far fewer convictions occurred as a result of being sex trafficked. He reiterated that the department would need to analyze the petitions on a case-by-case basis, which would not require significant resources, he believed. As to whether a cottage industry would emerge in private practices, he had no opinion.

2:25:01 PM

REPRESENTATIVE EASTMAN asked whether the department would prioritize the allocation of resources to oppose a petition if the case was deemed ineligible for the vacation of judgement.

MR. SKIDMORE said it would not be prioritized over prosecution of homicides or sexual assaults, for example, but an opposition would be filed.

REPRESENTATIVE EASTMAN inquired about the necessary resources, cost, and degree of success with which the department would oppose ineligible petitions. He asked how the department would disprove a fraudulent claim.

MR. SKIDMORE declined to predict the potential conditions of each petition. He reiterated that a zero fiscal note was filed because the prosecuting authority planned to respond to petitions as they come in; however, he maintained that it should not be a significant drain on the department's resources.

[2:27:24 PM](#)

REPRESENTATIVE ALLARD inquired about the historical rates of requests for repealing or sealing cases.

MR. SKIDMORE said he did not have relevant figures on hand. He presumed that in accordance with Section 29, the court system would be developing simple, one-page petitions that required minimal effort from DOL.

CHAIR VANCE asked whether, as drafted, the bill language made it clear that any vacation of judgement for misconduct involving a controlled substance required proof that the offender had been a victim of sex trafficking at the time of conviction.

MR. SKIDMORE answered yes, citing page 2, lines 18-20, and page 23, lines 6-11.

[2:31:42 PM](#)

CHAIR VANCE expressed concern that judgments could be easily vacated without proof of sex trafficking.

MR. SKIDMORE maintained that as drafted, a person convicted for an offense under AS 11.71.050 or AS 11.71.060 would be eligible to receive a vacation of judgement if, by preponderance of the evidence, it was demonstrated that the individual was a victim of sex trafficking.

CHAIR VANCE asked whether a preponderance of evidence had been established in cases of sex trafficking.

MR. SKIDMORE said that was not something that could be determined through legislation, as the rules of evidence were evaluated by the courts.

CHAIR VANCE asked whether vacated judgements would be removed from courthouse documents, in addition to Court View.

MR. SKIDMORE was unsure how the court system would handle the vacation of judgement in terms of public record.

[2:35:54 PM](#)

REPRESENTATIVE GRAY observed that the burden would fall on the victims of sex trafficking to have their convictions vacated.

He opined that it was unfair to make victims put forth the effort of hiring an attorney and filling out paperwork.

MR. SKIDMORE said that's typically how the legal system works.

REPRESENTATIVE GRAY asked how many cases of prostitution had been brought forward in recent years.

MR. SKIDMORE reported that there was a total of 1,000 convictions on record; however, since 2017, there had been zero convictions.

REPRESENTATIVE GRAY remarked, "It seems to me unfair that there are people walking around with prostitution on their record prior to 2017 when they could have been victims of sex trafficking when no one had that on their record after 2017."

MR. SKIDMORE emphasized that efforts of enforcement could not be equated on a year-to-year basis.

REPRESENTATIVE GRAY inquired about the harm of vacating all 1,000 prostitution convictions prior to 2017.

MR. SKIDMORE surmised that Representative Gray was suggesting that prostitution should be legalized.

REPRESENTATIVE GRAY interjected, clarifying that he did not say that. He inquired about the harm of vacating all 1,000 prostitution convictions prior to 2017.

MR. SKIDMORE reiterated that such an approach could be taken if prostitution were legalized. Otherwise, he indicated that vacating all 1,000 convictions would send a message that the legislature did not think prostitution should be criminalized.

[2:42:41 PM](#)

REPRESENTATIVE ALLARD opined that there were ramifications to the continuous sealing of records of vacation of judgements, likening it to "pandoras box." She asked whether this would be a continuous practice in the legislature.

MR. SKIDMORE said it would be a policy call.

[2:45:19 PM](#)

REPRESENTATIVE ALLARD asked whether any patrons of sex workers had been convicted in Alaska since 2017.

MR. SKIDMORE explained that the crime of prostitution was defined as both the selling and the purchasing of sex; therefore, no patrons had been convicted since 2017.

CHAIR VANCE pointed out that charges and convictions were distinguishable. She asked why the vacation of judgement for misconduct involving a controlled substance was included in the bill.

MR. SKIDMORE said the provision in question was added last year in the Senate Judiciary Standing Committee. In presenting the bill this year, the intent was to preserve the work done on previous version of the bill, as some contributing members were still in the legislature.

[2:48:38 PM](#)

REPRESENTATIVE C. JOHNSON asked whether the ability to vacate a conviction would incentivize victims to come forward.

MR. SKIDMORE conveyed that finding victims to come forward was the biggest challenge in the prosecution of sex trafficking cases. He said he was unsure whether the vacation of judgement was enough to motivate victims.

[2:50:58 PM](#)

REPRESENTATIVE EASTMAN asked whether identifying oneself as a victim of sex trafficking would be considered sufficient evidence by the court.

MR. SKIDMORE answered yes, the victim's statement would be evidence - or "factual assertion" - considered by the court.

[2:53:06 PM](#)

REPRESENTATIVE EASTMAN sought to confirm that unless DOL could furnish proof that the individual was not a victim of sex trafficking, the victim's statement would satisfy the preponderance of proof.

MS. MEADE said it would depend on the evidence offered by DOL.

REPRESENTATIVE EASTMAN asked whether it was more difficult to "prove a negative."

MS. MEADE agreed with that statement in general.

REPRESENTATIVE EASTMAN inquired about the timeframe for refiling a petition that was denied.

MS. MEADE shared her understanding that the second petition would be summarily denied unless it included new or additional facts.

REPRESENTATIVE EASTMAN sought to confirm that a follow-up petition could be filed at any time.

MS. MEADE answered yes. She supposed that a subset of individuals could file a second petition with additional facts; however, she was unsure how it would be handled.

[2:57:31 PM](#)

REPRESENTATIVE GRAY asked, "If someone comes in to have their drug offense removed ... is there any note in the court system that they have claimed themselves to be a victim of sex trafficking?"

MS. MEADE explained that the petition itself would become the official record. She anticipated that the petition would be added to the case file.

CHAIR VANCE announced that HB 68 was held over.

[2:59:29 PM](#)

The committee took an at-ease from 2:59 p.m. to 3:05 p.m.

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

[3:05:55 PM](#)

CHAIR VANCE announced that the final 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." [Before the committee was HB 66, as amended on 3/6/23.]

[3:06:24 PM](#)

REPRESENTATIVE ALLARD moved to adopt the proposed committee substitute (CS) for HB 66, Version 33-GH1482\B, Radford, 3/20/23, as the working document.

REPRESENTATIVE GRAY objected.

[3:06:50 PM](#)

JAKE ALMEIDA, Staff, Representative Sarah Vance, Alaska State Legislature, on behalf of Representative Vance, provided a summary of changes in the proposed CS for HB 66, "Version B," [included in the committee packet], which read as follows [original punctuation provided]:

- Section 2 of the bill was amended to make delivering a schedule IA, IIA, IIIA, or IVA controlled substance to a person who is mentally incapable, incapacitated, or unaware that a controlled substance is being delivered misconduct involving a controlled substance in the first degree (unclassified felony);
- Section 3 adds definitions associated with the changes in section 2; and
- Section 4 creates an enhanced sentencing range of 7-11 years for those who are convicted of delivering a schedule IA controlled substance.

MR. ALMEIDA noted that Version B simply incorporated the amendments adopted by the committee on 3/6/23.

[3:09:10 PM](#)

REPRESENTATIVE GRAY expressed his concern about the changes included in the proposed CS. He suggested that Version B inaccurately reflected the amendments that were adopted on 3/6/23 and asked how off-record conversations among members had resulted in the work draft before the committee.

[3:10:01 PM](#)

The committee took a brief at-ease.

[3:10:49 PM](#)

CHAIR VANCE explained that her intent by expressly listing the drug classification - schedule IVA controlled substances - in Section 4, as opposed to a specific drug, was to maintain continuity in statute.

REPRESENTATIVE GRAY opined that a person who offered another person an oxycodone pill should not be incarcerated for 7-11 years. He shared his belief that the scope of the bill should remain on Fentanyl specifically. He expressed his strong opposition to Section 4 in Version B.

[3:12:57 PM](#)

REPRESENTATIVE EASTMAN recalled that during a previous hearing on HB 66 the majority of the committee went into the chair's office. He asked whether that conversation was covered under the open meetings requirements.

CHAIR VANCE did not recall.

REPRESENTATIVE EASTMAN asked whether it was the House Majority's contention that a majority of the committee could have an offline discussion about the bill and that the conversation would not be covered under the open meeting requirements.

CHAIR VANCE clarified that the discussion in question was with the maker of an amendment. She said she was not an expert on the Open Meetings Act, as the legislature did not fall under its purview.

REPRESENTATIVE EASTMAN clarified that he was referring to the open meetings requirement, which involved the legislature.

[3:15:06 PM](#)

REPRESENTATIVE GRAY recalled that he had voted "yes" on both of Representative Johnson's amendments; however, he did not vote in favor of the changes included in Version B.

[3:16:09 PM](#)

REPRESENTATIVE EASTMAN expressed his opposition to Version B, as drafted. He shared his understanding that initially, Version B was to include solely the amendments that had passed in committee. He said the additional inclusions factored into his opposition.

[3:16:56 PM](#)

A roll call vote was taken. Representatives Carpenter, C. Johnson, Allard, and Vance voted in favor of the motion to adopt the proposed CS for HB 66, Version 33-GH1482\B, Radford, 3/20/23, as the working document. Representatives Eastman, Gray, and Groh voted against it. Therefore, Version B was before the committee by a vote of 4-3.

[3:17:45 PM](#)

REPRESENTATIVE GRAY moved to adopt [1] to HB 66, Version B, labeled 33-GH1482\B.1, Radford, 3/21/23, which read:

Page 1, line 3:

Delete **"relating to the computation of good time;"**

Page 4, line 24, through page 5, line 10:

Delete all material.

Renumber the followings bill sections accordingly.

Page 5, line 16, following the first occurrence of "Act,":

Insert "and"

Page 5, lines 16 - 17:

Delete "and AS 33.20.010(a), as amended by sec. 5 of this Act,"

REPRESENTATIVE C. JOHNSON objected.

[3:17:50 PM](#)

REPRESENTATIVE GRAY explained Amendment [1] would incentivize good behavior and facilitate participation in drug treatment programs by removing the "good time" ineligibility proposed in HB 66. Ultimately, he argued, it was a cost savings measure, as offenders would spend less time in prison.

REPRESENTATIVE ALLARD opined that "good time" was unjustifiable for these types of crime.

[3:20:34 PM](#)

REPRESENTATIVE EASTMAN noted his skepticism regarding the use of "good time" in Alaska Statutes. Nonetheless, he expressed strong opposition to removing "good time" eligibility for an offender who had no intention of harming another person.

REPRESENTATIVE CARPENTER remarked, "In my mind, good behavior is to not do the crime in the first place." He shared his belief that his constituents would not want him to support reduced sentences.

REPRESENTATIVE ALLARD expressed concern about showing leniency to criminals, adding "we need to be harder, ... stricter, and the punishment needs to fit the crime."

[3:23:17 PM](#)

REPRESENTATIVE C. JOHNSON expressed his hope that harsher penalties and removal of "good time" would discourage drug dealers from coming to Alaska. He opined that the bill should be stricter. He remarked, "The death penalty wasn't available, I didn't think this was the vehicle for it, but if it were, I would have used it." He maintained his vehement opposition to the proposed amendment.

REPRESENTATIVE GRAY opined that a death penalty sentence for sharing a pill was too severe. He acknowledged the drug problem in Alaska, reiterating that "good time" incentivized individuals to participate in drug rehabilitation programs. He pointed out that Amendment [1] was not lighter on crime; instead, it would leave existing law intact, such that convicted drug offenders would be eligible for "good time." He emphasized that addicts needed treatment, as opposed to sending them to prison with no hope of an early release date regardless of their behavior, which was a disincentive.

REPRESENTATIVE C. JOHNSON maintained his objection.

[3:26:39 PM](#)

A roll call vote was taken. Representatives Eastman, Gray, and Groh voted in favor of the motion to adopt Amendment [1]. Representatives Allard, Carpenter, C. Johnson, and Vance voted against it. Therefore, Amendment [1] failed by a vote of 3-4.

[3:27:09 PM](#)

REPRESENTATIVE GRAY moved to adopt Amendment [2] to Version B, labeled 33-GH1482\B.2, Radford, 3/21/23, which read:

Page 1, line 1, following "**substances;**":

Insert "**relating to manslaughter;**"

Page 2, line 24, following "**substances**":

Insert "**that contains or is combined with a schedule IA controlled substance set out in AS 11.71.140(c)(29)**"

Page 2, lines 26 - 27:

Delete "**; in this paragraph, "ingestion" means voluntarily or involuntarily taking a substance into the body in any manner**"

Page 2, following line 27:

Insert new bill sections to read:

*** Sec. 2.** AS 11.41.120(a) is amended to read:

(a) A person commits the crime of manslaughter if the person

(1) intentionally, knowingly, or recklessly causes the death of another person under circumstances not amounting to murder in the first or second degree;

(2) intentionally aids another person to commit suicide; or

(3) **under circumstances not amounting to murder in the second degree under AS 11.41.110(a)(6),** knowingly manufactures or delivers a controlled substance in violation of AS 11.71.010 - 11.71.030 or 11.71.040(a)(1) for schedule IVA controlled substances, and a person dies as a direct result of ingestion of the controlled substance; the death is a result that does not require a culpable mental state [**IN THIS PARAGRAPH, "INGESTION" MEANS VOLUNTARILY OR INVOLUNTARILY TAKING A SUBSTANCE INTO THE BODY IN ANY MANNER**].

*** Sec. 3.** AS 11.41.140 is amended to read:

Sec. 11.41.140. Definitions [DEFINITION]. In AS 11.41.100 - 11.41.140,

(1) **"ingestion" means voluntarily or involuntarily taking a substance into the body in any manner;**

(2) "person", when referring to the victim of a crime, means a human being who has been born and was alive at the time of the criminal act. A person is "alive" if there is spontaneous respiratory or cardiac

function or, when respiratory and cardiac functions are maintained by artificial means, there is spontaneous brain function."

Renumber the following bill sections accordingly.

Page 5, line 11:

Delete all material.

Renumber the following bill sections accordingly.

Page 5, line 14, following "Act,":

Insert "AS 11.41.120(a), as amended by sec. 2 of this Act, AS 11.41.140, as amended by sec. 3 of this Act,"

Page 5, line 15:

Delete "sec. 2"

Insert "sec. 4"

Delete "sec. 3"

Insert "sec. 5"

Page 3, line 16:

Delete "sec. 4"

Insert "sec. 6"

Page 3, line 17:

Delete "sec. 5"

Insert "sec. 7"

REPRESENTATIVE C. JOHNSON objected.

[3:27:21 PM](#)

REPRESENTATIVE GRAY explained Amendment [2] would narrow the charge of murder in the second degree to death caused by the delivery and ingestion of Fentanyl or Fentanyl-laced narcotics specifically. He indicating that the intent was to narrow the scope of the crime match the original intent of the bill.

[3:28:14 PM](#)

REPRESENTATIVE C. JOHNSON likened the proposed amendment to being killed with a shotgun or a pistol, indicating that either way, the result was death. He stated his opposition to Amendment [2].

[3:28:45 PM](#)

REPRESENTATIVE EASTMAN inquired about page 1, lines 5-6 of Amendment [2].

REPRESENTATIVE GRAY did not know the answer.

REPRESENTATIVE ALLARD asked Mr. Skidmore to explain Amendment [2].

[3:30:07 PM](#)

JOHN SKIDMORE, Deputy Attorney General, Criminal Division, DOL, on behalf of the House Rules Standing Committee, sponsor by request of the governor, provided a sectional analysis of Amendment [2].

[3:33:17 PM](#)

REPRESENTATIVE ALLARD expressed her opposition to Amendment [2]. She stated that she was tired of weakening Alaska's laws. She remarked, "We, as the state of Alaska, need to stop being used as drug mules," opining that the focus should be on making the state a better place.

[3:33:53 PM](#)

REPRESENTATIVE EASTMAN inquired about the impact of the language on page 1, lines 19-20 of Amendment [2].

MR. SKIDMORE said the language in question was similar to language used elsewhere in statute. The purpose, he said, was to clarify that if Fentanyl was not present in the controlled substance, it would revert to a manslaughter charge, as opposed to murder in the second degree.

REPRESENTATIVE GRAY emphasized the rarity of a manslaughter conviction in Alaska, reporting that DOL had achieved a total of three in the state's history. He reiterated that the purpose of Amendment [2] was to keep the bill focused on Alaska's Fentanyl problem and discourage drug dealers from selling Fentanyl-laced product.

REPRESENTATIVE C. JOHNSON maintained his objection.

[3:36:56 PM](#)

A roll call vote was taken. Representatives Groh, Eastman, and Gray voted in favor of the motion to adopt Amendment [2]. Representatives Allard, Carpenter, C. Johnson, and Vance voted against it. Therefore, Amendment [2] failed by a vote of 3-4.

[3:37:30 PM](#)

CHAIR VANCE invited Mr. Skidmore to provide closing comments on the underlying bill, Version B.

MR. SKIDMORE stated that the bill was designed to address the overdose problem in Alaska. He said he appreciated the committee's focus on Fentanyl; however, statewide overdose deaths were not caused by Fentanyl alone. He summarized findings on the drug overdose mortality rates from the report on Alaska drug facts and figures [included in the committee packet] conducted by the Division of Public Health, Alaska Department of Health (DOH). He indicated that the bill's drafting reflected the administration's concern about Fentanyl in addition to other substances. He encouraged the committee to pass Version B out of committee in its current form.

[3:40:11 PM](#)

REPRESENTATIVE GRAY moved to adopt Conceptual Amendment [3] to HB 66, Version B, such that "schedule 1A controlled substance" on page 4, line 20, would be replaced with "Fentanyl."

REPRESENTATIVE ALLARD objected for the purpose of discussion.

[3:40:39 PM](#)

REPRESENTATIVE GRAY explained that Conceptual Amendment [3] would restore the language in Version B to reflect Representative C. Johnson's original amendment to the original bill version [adopted by the committee on 3/6/23].

[3:40:55 PM](#)

REPRESENTATIVE C. JOHNSON expressed opposition to Conceptual Amendment [3], stating "murder is murder."

CHAIR VANCE explained that she had made the decision to include the entire schedule of drugs, as opposed to just Fentanyl, on page 4, line 20 over Version B, because schedule IA drugs were treated similarly in other areas of law. She characterized Fentanyl as the "drug du jour," adding that it was the

committee's responsibility to consider the impacts of legislation far into the future.

REPRESENTATIVE EASTMAN opined that attempting to anticipate the "drug du jour" of the future went against the very nature of the legislature. He urged the committee to consider these provisions in a thoughtful and deliberate manner rather than delegating that authority elsewhere.

[3:44:02 PM](#)

REPRESENTATIVE GRAY reiterated that the provision in question was addressing the delivery of a schedule IA controlled substances. He explained that without Conceptual Amendment [3], a person could be sentenced to 11 years for sharing an Oxycodone pill with a family member, for example.

REPRESENTATIVE C. JOHNSON maintained his objection.

[3:44:48 PM](#)

A roll call vote was taken. Representatives Groh, Gray, and Eastman voted in favor of the motion to adopt Conceptual Amendment [3]. Representatives Allard, Carpenter, C Johnson, and Vance voted against it. Therefore, Conceptual Amendment [3] failed by a vote of 3-4.

[3:45:27 PM](#)

CHAIR VANCE sought closing remarks from members of the committee.

REPRESENTATIVE C. JOHNSON declared a conflict of interest, explaining that his nephew overdosed on a combination of drugs, including fentanyl.

REPRESENTATIVE ALLARD shared how her immediate family had been impacted by drug use, an overdose death, and prison time. She expressed adamant support for the passage of the bill.

REPRESENTATIVE CARPENTER relayed that his brother in-laws had died from an overdose, opining that there was not a harsh enough penalty for people who bring drugs into Alaska to profit from other people's demise. He said there was compassion to be had for addicts; however, he believed that the penalties for bringing drugs into Alaska should be "as severe as humanly possible."

[3:49:14 PM](#)

REPRESENTATIVE GRAY described the bill as being "dumb on crime" instead of hard on crime. He recalled that the bill had been presented to him as a "Fentanyl bill;" Instead, he said, the bill would elevate the charge of manslaughter to murder in the second degree, which would have affected three people in the past 16 years. The second half of the bill would remove "good time" eligibility for drug offenses, which was an excellent tool for incentivizing people to become better people, he said. He characterized the bill as a bad faith effort by DOL to lock up addicts and deny them the treatment they need. He characterized the changes in Version B as broad, dangerous, and expensive, adding that it would give too much power to DOL.

REPRESENTATIVE EASTMAN opined that the bill sought to do away with people's personal freedoms and liberties under the guise of being tough on drug crimes. He shared his belief that the bill was effectually "bastardizing the dictionary" in its expansion of [second degree] murder. He discussed the politization of law enforcement, opining that the bill would open the door for similar conduct.

[3:55:39 PM](#)

CHAIR VANCE emphasized the dangerous nature of drugs, pointing out that hundreds of Alaskans had died. She expressed her hope that the bill would motivate people to reconsider their actions by providing stiffer penalties. She remarked, "If someone dies because of your actions that you knowingly participated in - there is potential for you to be charged with second degree murder."

[3:57:50 PM](#)

REPRESENTATIVE ALLARD moved to report CSHB 66, Version 33-GH1482\B, Radford, 3/20/23, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE EASTMAN objected.

[3:58:13 PM](#)

A roll call vote was taken. Representatives Allard, Carpenter, C. Johnson, and Vance voted in favor of the motion to report CSHB 66, Version 33-GH1482\B, Radford, 3/20/23, out of committee

with individual recommendations and the accompanying fiscal notes. Representatives Eastman, Gray, and Groh voted against it. Therefore, CSHB 66(JUD) was reported out of the House Judiciary Standing Committee by a vote of 4-3.

[3:58:45 PM](#)

The committee took a brief at-ease.

[4:01:16 PM](#)

CHAIR VANCE offered closing remarks on the committee's upcoming agenda.

[4:01:37 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 4:01 p.m.