

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 27, 2023

1:00 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. 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

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."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

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
03/03/23	(H)	Heard & Held
03/03/23	(H)	MINUTE(JUD)
03/27/23	(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 67, on behalf of the House Rules Standing Committee, sponsor by request of the governor.

LISA PURINTON, Chief
Criminal Records and Identification Bureau
Department of Public Safety
Juneau, Alaska

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

ACTION NARRATIVE

[1:00:29 PM](#)

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

HB 67-HARASSMENT; SEX OFFENDERS & OFFENSES

[1:01:35 PM](#)

CHAIR VANCE announced that the only 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."

[1:02:48 PM](#)

CHAIR VANCE requested an overview of HB 67.

[1:03:00 PM](#)

JOHN SKIDMORE, Deputy Attorney General, Criminal Division, Department of Law (DOL), on behalf of the House Rules Committee, sponsor by request of the governor, provided a summary of the bill. He explained that HB 67 would allow for a summary of information at grand jury; require out-of-state sex offenders to register in Alaska; require additional elements for sex offender registry; address stalking in the first degree; provide authority for child advocacy centers; and address violations and conditions for release.

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CHAIR VANCE asked whether anything in Section 2, as drafted, applied to trafficking victims.

MR. SKIDMORE confirmed that if a trafficking victim had applied for a domestic violence protective order, stalking protective order, or sexual assault protective order, the bill would apply to that individual.

CHAIR VANCE asked whether a victim of sex trafficking would fall under the sexual assault provisions.

MR. SKIDMORE clarified that none of the protective orders were explicitly designed for victims of sex trafficking.

CHAIR VANCE sought questions from members of the committee.

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REPRESENTATIVE EASTMAN asked how a protective order would help a victim of sex trafficking whose life had been threatened.

MR. SKIDMORE acknowledged that filing a protective order could make the victim more of a target. However, he characterized protective orders as "generally beneficial" in that they give law enforcement additional tools to protect the victim from further violence.

REPRESENTATIVE EASTMAN asked Mr. Skidmore to contrast the penalty for violating a protective order with the penalty for sex trafficking. He asked how a protective order was supposed to deter recruitment for sex trafficking.

MR. SKIDMORE contrasted the penalties, explaining that the penalty for sex trafficking was certainly higher. He reiterated that this bill was not intended to apply to victims of sex trafficking.

REPRESENTATIVE EASTMAN inquired expanding the protective orders to victims of sex trafficking and asked whether the perpetrator would need to be convicted of sex trafficking before administering a protective order against him/her.

MR. SKIDMORE reiterated that victims of sex trafficking would be protected by a domestic violence, stalking, or sexual assault protective order if they were to apply for one. He emphasized that there was no requirement of a previous conviction.

CHAIR VANCE asked why age 16 was expressly listed on page 2, line 15, inquiring about the origin of the age determination.

MR. SKIDMORE indicated that the language in question was current state law. He indicated that the decision was a policy call made by prior legislatures.

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CHAIR VANCE directed attention to paragraph (3) in Section 3 of the bill and asked Mr. Skidmore to discuss conditions of release.

MR. SKIDMORE explained that the added language in paragraph (3) provided that "a consecutive term of imprisonment shall be imposed for some additional term of imprisonment for the underlying crime and each additional crime when there are two or more crimes for violating conditions of release."

CHAIR VANCE continued to Section 4 and inquired about subsection (b).

MR. SKIDMORE said the changes were predominantly found on lines 6-10, 24-35, and 29-30 of page 4, which outlined additional details required of sex offender registrants.

CHAIR VANCE asked whether a human trafficker could be considered similar to a child kidnapper. She questioned whether adding human traffickers to the sex offender registry would be a wise policy decision.

MR. SKIDMORE said the sex offender registry law applied to kidnappers and sex offenders. Expanding it to human traffickers would be a policy call, he said.

CHAIR VANCE sought to confirm that convicted sex traffickers would be considered sex offenders and therefore, required to register should HB 68 pass.

MR. SKIDMORE answered yes.

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REPRESENTATIVE EASTMAN asked whether palm printing, as opposed to fingerprinting, was a new requirement.

MR. SKIDMORE deferred to Ms. Purinton.

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LISA PURINTON, Chief, Criminal Records and Identification Bureau, Department of Public Safety (DPS), responded that currently, fingerprints were required of new registered sex offenders. She explained that palm prints were not being taken at this time.

REPRESENTATIVE EASTMAN requested the rationale for adding palm prints.

MS. PURINTON said the department was continuously working on various biometric identification methods. As technology improved, she said, various data collection methods, such as palm prints, were being considered as the technology becomes available. She added that the collection of palm prints at the time of arrest would be a policy call.

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REPRESENTATIVE EASTMAN asked whether the biometric data was collected before or after conviction.

MS. PURINTON said the information in the bill pertained to individuals who had been convicted of a registerable sex offense.

CHAIR VANCE inquired about the benefit or advantage of a palm print versus a fingerprint.

MS. PURINTON did not know the answer. She indicated that some people have poor quality fingerprints due to injury, for example.

CHAIR VANCE directed attention to subsection (b) in paragraph 4 and asked whether a Village Public Safety Officer (VPSO) office was considered an Alaska state trooper post.

MS. PURINTON explained that for those individuals residing in rural areas without a municipal police department or local trooper post, the registrant would mail in the registration forms, making the registry itself the registering office and the postmarked date the registration date.

CHAIR VANCE asked how proper notification of out-of-state travel would work.

MS. PURINTON said registrants were very aware of the requirements and cognizant of making sure correspondence was postmarked within the correct timeframe.

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CHAIR VANCE asked whether the registry included adult kidnapers.

MS. PURINTON shared her understanding that the registry only encompassed child kidnapers. She deferred to Mr. Skidmore for confirmation.

MR. SKIDMORE said the kidnapping statute applied to adults as well; however, the sex offender registry statute specified child kidnapers. He speculated that kidnapers of adult victims need not register.

CHAIR VANCE discussed the idea of adding human traffickers to the registry requirements, indicating that it was a deeper policy consideration.

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REPRESENTATIVE GRAY referenced child kidnapping in custody disputes and asked whether there were other types of child kidnapping.

MR. SKIDMORE clarified that "custodial interference" tended to be the charges filed in custody disputes, whereas kidnapping itself involved more onerous requirements. He directed attention to AS 11.41.300(b), noting that relatives of a child victim under the age of 18 could claim an affirmative defense. He emphasized that people involved in custody disputes would not end up on the registry.

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REPRESENTATIVE EASTMAN sought to delineate between [custodial interference and child kidnapping]. He asked whether the distinctions were clear in the bill.

MR. SKIDMORE answered yes, the elements to the various crimes were different and distinct.

REPRESENTATIVE EASTMAN asked how to account for a custodian who was trafficking a child in his/her care.

MR. SKIDMORE explained that both human trafficking and sex trafficking in the first degree, as drafted in HB 68, included provisions to cover parents or legal guardians engaging in that behavior.

REPRESENTATIVE EASTMAN inquired about the deadline for fulfilling the notification requirement outlined on page 6, line 6 of the bill.

MR. SKIDMORE deferred to Ms. Purinton.

MS. PURINTON said the registrant would be required to send notice prior to leaving his/her residency for more than seven days.

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REPRESENTATIVE EASTMAN asked whether the state had ever taken steps to notify another jurisdiction of a child kidnapper attempting to enter said jurisdiction.

MS. PURINTON answered yes, the sex registration office utilized several different means, such as the Sex Offender Registration Notification Act (SORNA) portal maintained by the U.S. Department of Justice, to send and receive notifications from other states.

REPRESENTATIVE EASTMAN inquired about the penalty for falling out of compliance.

MS. PURINTON said the penalty for failing to register could be pursued by the state or federal government. She deferred to Mr. Skidmore.

MR. SKIMODRE said the penalty for a first-time failure to register was a class A misdemeanor followed by a class C felony for subsequent violations.

REPRESENTATIVE EASTMAN asked whether there were exceptions in statute for the 21-day requirement to provide written notice of any intended travel outside the U.S.

MS. PURINTON said a question of compliance with the International Megan's Law would be referred to the U.S. Marshal's Office. She deferred to Mr. Skidmore.

MR. SKIDMORE confirmed that DOL could charge someone for failing to provide that information 21 days before traveling; however, enforcement would be evaluated on a case-by-case basis.

CHAIR VANCE inquired about the impetus for the bill.

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MR. SKIDMORE listed two primary incentives: firstly, the changes proposed in the bill were more consistent with other state and federal government requirements; therefore, it would bring Alaska's registry into closer compliance with those entities. Secondly, he emphasized the importance of listing the individual's full name and physical address to avoid misidentification and to assist law enforcement.

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REPRESENTATIVE C. JOHNSON asked whether sex offenders' passports were marked.

MR. SKIDMORE deferred to Ms. Purinton.

REPRESENTATIVE C. JOHNSON asked whether registered sex offenders were allowed to enter into Canada.

MS. PURINTON answered yes, registered sex offenders' passports were marked with an indicator. She explained that the sex offender registration records were entered into state and federal databases; however, she was unsure whether travel to or through Canada was allowed.

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REPRESENTATIVE ALLARD inquired about the length of probation for sex offenses.

MS. PURINTON said probation was dependent on the statutory authority within the sentencing range for each offense. She noted that often times, sex offenses were penalized with a longer sentencing period due to the severity of the crime.

REPRESENTATIVE ALLARD asked whether an alert was sent out when a sex offender travels out of state.

MS. PURINTON clarified that TSA was not alerted.

REPRESENTATIVE GRAY reported that per Google, Canada refuses entry for anyone with a felony conviction period.

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CHAIR VANCE asked whether DPS has considered transitioning to a tiered approach to the registry.

MS. PURINTON discussed SORNA, which included a tiering process in which sex offenders were classified into a range of tier one, two or three to determine the severity of the offense and a comparable registration time period. Currently, she said, Alaska did not have an official tiering process; nonetheless, two "tiers" within the state's current system could be considered the 15-year registration requirement and the lifetime requirement in Alaska.

CHAIR VANCE asked how the registry and the tier system interfaced with state agencies and the public.

MS. PURINTON discussed the sex offender registration website maintained by DPS, which listed the date of conviction and duration of registration. She explained that out-of-state registrants were fit into either the 15-year or lifetime requirement, as Alaska was not adopting the alternate tiering system at this time unless the conviction was after 2019.

CHAIR VANCE asked whether cost of implementation was the reason why Alaska hadn't implemented the multi-tier approach.

MS. PURINTON responded that DPS did not have the statutory authority to implement the multi-tier approach at present.

CHAIR VANCE requested a description of the three SORNA tiers.

MS. PURINTON offered a description of the SORNA tier classification from tier I, which encompassed the least impactful sex offenses, to the most serious sex offenses under Tier III.

[2:01:55 PM](#)

REPRESENTATIVE EASTMAN asked whether the category, titled "aliases used," on the DPS website was optional for each registrant to fill out.

MR. SKIDMORE deferred to Ms. Purinton.

REPRESENTATIVE EASTMAN sought to confirm that there was no legal enforcement for someone who failed to provide an alias.

REPRESENTATIVE EASTMAN shared his understanding that reporting the use of an alias was required in the proposed legislation; however, he deferred to Ms. Purinton to speak to DPS requirements for registered sex offenders.

REPRESENTATIVE EASTMAN asked whether DPS could prosecute an individual who failed to report an alias.

MR. SKIDMORE answered yes, failing to provide the necessary information to register as a sex offender could lead to prosecution.

REPRESENTATIVE EASTMAN asked whether there were instances in which failure to report an alias had been charged by the department.

MR. SKIDMORE said he could follow up with the number of charges for failure to register; however, he said it would be difficult to quantify how many of those charges were based on aliases.

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REPRESENTATIVE EASTMAN asked whether there was a minimum age [for registered sex offenders].

MR. SKIDMORE said Alaska did not require individuals to register when adjudicated as a juvenile.

REPRESENTATIVE EASTMAN inquired about the jurisdictional issue of "illegally trying to remove someone from the state."

MR. SKIDMORE detailed custodial interference in the first and second degree, indicating that in those scenarios, a governor's warrant would be pursued and provided to the state to which the individuals fled. He added that state compacts allowed for extradition so that the offender could be prosecuted in Alaska.

REPRESENTATIVE EASTMAN inquired about the applicability of subsection (b) on page 13 of the bill.

MR. SKIDMORE explained that for offenses committed even prior to the date of enactment, that offender would be required to give notice of leaving the state. He noted that it would not be considered additional or new punishment and therefore, would not violate the ex post facto law.

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REPRESENTATIVE EASTMAN asked why there were no ex post facto laws concerns.

MR. SKIDMORE explained that AS 12.63.010(g) and (h) applied to conduct that had not yet occurred. He expounded, explaining that ex post facto law applied "after the fact." He said as long as prior conduct was not being punished, ex post facto would not be in violation.

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REPRESENTATIVE CARPENTER asked whether the changes brought forward in HB 67 were tied to a change or requirement in federal law.

MS. PURINTON said the changes were proposed in response to SONA, adding that the state was penalized on an annual basis for failing to comply with SONA's requirements.

REPRESENTATIVE CARPENTER inquired about the penalty for noncompliance.

MS. PURINTON explained that federal grants were penalized by 10 percent.

REPRESENTATIVE C. JOHNSON asked, "10 percent of what?"

MS. PURINTON responded 10 percent of anywhere from \$700,000 to \$1 million each year.

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CHAIR VANCE directed attention to page 5, line 9, and asked whether "any peace officer" included VPSOs.

MS. PURINTON said, to the best of her knowledge, yes.

CHAIR VANCE asked whether it included VPOs.

MS PURINTON shared her understanding that the provision included any peace officer with the authority to make arrests.

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REPRESENTATIVE EASTMAN asked why the registry was limited to sex offenders and child kidnappers, as opposed to murderers, for example.

MR. SKIDMORE said the registry was originally designed to alert the public to the presence of individuals deemed dangerous. Additionally, the registry served to provide leads on missing children, sexual assault, and other sex crimes for law enforcement. He was unsure whether that rationale would apply with equal force to individuals convicted of homicide crimes.

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REPRESENTATIVE CARPENTER questioned the purpose of adding "any peace officer" on page 5, line 9.

MR. PURINTON explained that the purpose was to be inclusive of the university and airport police departments, for example.

REPRESENTATIVE CARPENTER questioned whether federal officers with arrest powers were in need of statutes such as this for the authority to collect palm prints.

MS. PURINTON offered to follow up with the requested information.

MR. SKIDMORE clarified that federal law enforcement officers did not need authorization under state statute to collect a palm print.

CHAIR VANCE asked whether all peace officers had the power of arrest.

MR. SKIDMORE answered yes.

CHAIR VANCE asked Mr. Skidmore to discuss the additional language in Section 10.

[2:23:50 PM](#)

MR. SKIDMORE explained that Section 10 authorized the creation of Child Advocacy Centers (CACs), which were being granted the authority to engage in interviews with child victims. He said lines 17-19 expressly authorized a multidisciplinary team to contact and evaluate offenders and victims - both under the age of 13 - who had engaged in sexual contact or sexual penetration.

REPRESENTATIVE CARPENTER asked whether the provision applied to children who had already been removed from their parent's custody.

MR. SKIDMORE clarified that the provision was authorizing those individuals to be involved regardless of their custody status.

REPRESENTATIVE CARPENTER inquired about the parents' role in an assessment of two 13-year-old children engaged in sexual behavior.

MR. SKIDMORE reiterated that the provision was allowing a multidisciplinary team to make an assessment and provide

recommendations. If the child was still in parental custody, the parents would have the right to choose which services to engage in, he said. He emphasized that the purpose of the provision was not to say that a child should or should not be taken away from his/her parents.

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MR. SKIDMORE, in response to a follow-up question from Representative Carpenter, reiterated that the child's custodian would ultimately determine whether the services recommended by the CAC would be obtained. He explained that when children under the age of 13 engage in that type of [sexual] behavior, experts have deemed it worthy of further assessment, as it could be an indication of issues in other areas of the child's life.

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CHAIR VANCE shared a specific instance in which one child was sexually assaulted by another child in reading circle. She asked whether the provision in question was seeking to address such a scenario. Further, she asked whether abuse from one child to another would qualify as child abuse.

MR. SKIDMORE confirmed that the multidisciplinary team was designed to intervene in that type of conduct and help provide guidance and make recommendations. He speculated that the described behavior may not be considered child abuse; however, the team could help determine the cause of the child's aggressive behavior.

CHAIR VANCE asked whether the team's recommendations would be required by the courts.

MR. SKIDMORE did not know the answer; however, he suspected that if the courts had jurisdiction in a particular case, the team's recommendations could be utilized.

CHAIR VANCE inquired about current practices under existing statutes.

MR. SKIDMORE said currently, the multidisciplinary team lacked statutory authorization to engage, which was why this particular provision was requested by organizations representing the CACs.

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REPRESENTATIVE GRAY asked whether police officers were conducting the conversations with these children at present.

MR. SKIDMORE said it depended upon the facts of the case.

REPRESENTATIVE GRAY asked how these cases were brought to the attention of law enforcement.

MR. SKIDMORE did not know the answer.

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REPRESENTATIVE CARPENTER asked whether an additional training component would be needed for police officers.

MR. SKIDMORE opined that the language, as drafted, would suffice. He emphasized that the organizations involved with the CACs were trained and best suited to facilitate the interactions.

REPRESENTATIVE CARPENTER asked Mr. Skidmore which organization he was referring to.

MR. SKIDMORE answered the Children's Justice Act Task Force.

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REPRESENTATIVE EASTMAN recalled an instance in which two teenager boys had captured and murdered a child. He asked how violent crimes involving children were handled.

MR. SKIDMORE said a CAC would be involved in interviewing the victims. He added that the age of the perpetrator would determine whether the Division of Juvenile Justice, [Alaska Department of Family and Community Services (DFCS)] would handle the case.

REPRESENTATIVE EASTMAN asked who would normally be responsible for interviewing a young suspect of a violent crime.

MR. SKIDMORE said he had never seen a child under the age of 12 or 13 charged as an adult. He reported that the cutoff age for an automatic waver into adult court was 16 to 18.

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REPRESENTATIVE EASTMAN asked how a 12-year-old perpetrator of a violent crime would be investigated.

MR. SKIDMORE said law enforcement could conduct interviews; however, the ultimate determination would be made by the Division of Juvenile Justice.

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CHAIR VANCE announced that HB 67 would be held over.

[2:49:39 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:49 p.m.