

ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE

February 23, 2024

1:34 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 265

"An Act changing the term 'child pornography' to 'child sexual abuse material.'"

- MOVED HB 265 OUT OF COMMITTEE

HOUSE BILL NO. 107

"An Act relating to criminal law definitions."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 265

SHORT TITLE: CHILD SEXUAL ABUSE MATERIAL

SPONSOR(S): REPRESENTATIVE(S) VANCE

01/16/24	(H)	PREFILE RELEASED 1/12/24
01/16/24	(H)	READ THE FIRST TIME - REFERRALS
01/16/24	(H)	STA, JUD
02/01/24	(H)	STA AT 3:00 PM GRUENBERG 120
02/01/24	(H)	Heard & Held
02/01/24	(H)	MINUTE(STA)
02/08/24	(H)	STA AT 3:00 PM GRUENBERG 120
02/08/24	(H)	Moved HB 265 Out of Committee
02/08/24	(H)	MINUTE(STA)

02/09/24 (H) STA RPT 7DP
02/09/24 (H) DP: C. JOHNSON, CARRICK, CARPENTER,
ALLARD, STORY, WRIGHT, SHAW
02/19/24 (H) JUD AT 1:30 PM GRUENBERG 120
02/19/24 (H) -- MEETING CANCELED --
02/21/24 (H) JUD AT 1:00 PM GRUENBERG 120
02/21/24 (H) -- MEETING CANCELED --
02/23/24 (H) JUD AT 1:30 PM GRUENBERG 120

BILL: HB 107

SHORT TITLE: CRIMINAL LAW DEFINITIONS PERSON/LIFE

SPONSOR(S): REPRESENTATIVE(S) MCCABE

03/13/23 (H) READ THE FIRST TIME - REFERRALS
03/13/23 (H) HSS, JUD
04/12/23 (H) HSS REFERRAL REMOVED
04/12/23 (H) BILL REPRINTED
02/21/24 (H) JUD AT 1:00 PM GRUENBERG 120
02/21/24 (H) -- MEETING CANCELED --
02/23/24 (H) JUD AT 1:30 PM GRUENBERG 120

WITNESS REGISTER

BOB BALLINGER, Staff
Representative Sarah Vance
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 265, on behalf of
Representative Vance, prime sponsor.

MATTHEW DUBOIS, representing self
Juneau, Alaska

POSITION STATEMENT: Gave invited testimony during the hearing
on HB 265.

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

POSITION STATEMENT: Answered questions during the hearing on HB
265.

REPRESENTATIVE KEVIN MCCABE
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, presented HB 107.

JULIE MORRIS, Staff
Representative Kevin McCabe
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the sponsor statement for HB 107, on behalf of Representative McCabe, prime sponsor.

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

POSITION STATEMENT: Answered questions during the hearing on HB 107.

ACTION NARRATIVE

[1:34:15 PM](#)

CHAIR VANCE called the House Judiciary Standing Committee meeting to order at 1:34 p.m. Representatives Allard, Carpenter, Johnson, Sumner, Gray, Groh, and Vance were present at the call to order. Representative C. Johnson arrived as the meeting was in progress.

HB 265-CHILD SEXUAL ABUSE MATERIAL

[1:35:14 PM](#)

CHAIR VANCE announced that the first order of business would be HOUSE BILL NO. 265, "An Act changing the term 'child pornography' to 'child sexual abuse material.'"

[1:35:32 PM](#)

BOB BALLINGER, Staff, Representative Sarah Vance, Alaska State Legislature, on behalf of Representative Vance, prime sponsor, presented HB 265. He said the bill would replace the term "child pornography" to "child sexual abuse material" throughout Alaska Statutes. He explained that while pornography is generally legal, children cannot consent to child sexual abuse material. In essence, a misleading term would be "retired," he said, and replaced with a more accurate term.

[1:38:23 PM](#)

REPRESENTATIVE GROH asked which states had adopted this new definition [of child pornography].

MR. BALLINGER listed Vermont, Arkansas, California, and Utah.

CHAIR VANCE opened invited testimony.

[1:39:18 PM](#)

MATTHEW DUBOIS, representing self, gave invited testimony during the hearing on HB 265. He informed the committee that he worked for the Juneau Police Department (JPD) but was testifying in a personal capacity. He expressed support for HB 265, and shared his belief that unclear language can lead to misunderstanding, confusion, harm, or acceptance of the language. The term "child pornography" implies some category of legal pornography, instead of a form of child abuse and a crime, he said. He argued that by changing the language, everyone would consider the impact on children and recognize the abuse. This is an opportunity for Alaska to be a leader, he said. He informed the committee that he attended counseling for his exposure to child sexual abuse material on the job.

CHAIR VANCE sought questions from committee members.

[1:42:39 PM](#)

REPRESENTATIVE GRAY noted that he supported the bill. He directed attention to page 2, Section 5, and sought to confirm that there is no immunity for clients at this time.

[1:43:30 PM](#)

KACI SCHROEDER, Assistant Attorney General, Criminal Division, Department of Law (DOL), confirmed that there is no codified immunity in statute.

REPRESENTATIVE GRAY referenced a recent case in Anchorage involving the murder of several sex workers. There was a belief, he said, that if the clients had had immunity, they would have been willing to speak to the police. He asked whether Ms. Schroeder was familiar with that case.

MS. SCHROEDER said she would need more information to respond factually. She explained that there is prosecutorial discretion if a client reports a crime, indicating that the department may not be focused on prosecuting a "John." In response to a follow up question, she declined to comment on people's motives for reporting or not reporting crimes.

[1:45:32 PM](#)

REPRESENTATIVE GRAY informed the committee that he was considering drafting an amendment that would provide immunity to the "Johns."

REPRESENTATIVE ALLARD asked for the legal definition of a "John."

MS. SCHROEDER defined a "John" as a client or patron of a prostitute. In response to a follow up question, she confirmed that being a "John" is a crime.

REPRESENTATIVE ALLARD said she was not open to offering "Johns" immunity.

[1:47:03 PM](#)

CHAIR VANCE announced that HB 265 would be held over.

HB 107-CRIMINAL LAW DEFINITIONS PERSON/LIFE

[1:47:31 PM](#)

CHAIR VANCE announced that the next order of business would be HOUSE BILL NO. 107, "An Act relating to criminal law definitions."

[1:47:56 PM](#)

REPRESENTATIVE KEVIN MCCABE, Alaska State Legislature, prime sponsor of HB 107, introduced himself for the record.

[1:48:16 PM](#)

The committee took a brief at-ease.

[1:49:01 PM](#)

REPRESENTATIVE MCCABE presented HB 107, as the prime sponsor. He paraphrased the sponsor statement [included in the committee packet], which read as follows [original punctuation provided]:

HB107 establishes legal definitions of "person" and "life" in AS 11.81.900.

"Person" means a natural person or entity that has the moral right of self-determination.

"Life" is defined as the property or quality that distinguishes a living organism from a dead organism or inanimate matter and that is manifested in the function of a metabolism, growth, reproduction, a response to stimuli, or adaption to the environment, each of which originates within the organism.

The Alaska Constitution, in article I, section 1, says all persons have a natural right to life. Thus, every person's right to life must be protected by the State. Article 1, section 3, further states that no person is to be denied the enjoyment of any civil or political right because of race, color, creed, sex, or national origin. This is true regardless of age, level of dependency, citizenship, or viability. And this protection must not be denied to any human – even the pre-born. Further, a viability test to determine whether a person's life is worthy of protection would also be unlawful.

[1:50:49 PM](#)

JULIE MORRIS, Staff, Representative Kevin McCabe, Alaska State Legislature, on behalf of Representative McCabe, prime sponsor of HB 107, presented the sponsor statement [included in the committee packet], which read as follows [original punctuation provided]:

Section 1: Amends AS 11.81.900(b)(47) definition of "person" to include an entity that has the moral right of self-determination.

Section 2: Adds a definition of "life" to AS 11.81.900(b).

Section 3: Amends uncodified law of the State of Alaska to add a new section outlining that the changes made herein apply to offenses committed on or after the effective date.

REPRESENTATIVE MCCABE, in closing, read three clauses from the Alaska Constitution: Article 1, Section 1; Article 1, Section 3; and [Article 1], Section 22. He said HB 107 would affirm the principle established in Article 1, Section 3, by ensuring equal

protection for all individuals regardless of their stage of development or characteristics.

1:53:24 PM

REPRESENTATIVE ALLARD considered a scenario in which a pregnant woman was murdered. She asked whether the offender would be held liable for killing the child, in addition to the mother.

1:53:48 PM

JOHN SKIDMORE, Deputy Attorney General, Criminal Division, Alaska Department of Law (DOL), cited AS 11.41.150, which indicates that someone can be held responsible for the death of an unborn child, which is later defined in AS 11.81.900. In this circumstance, the person who caused the death of the mother would also be required to have the intent to kill the unborn child or another person. Effectually, so long as the individual was trying to kill either the unborn child or the mother, and the unborn child died as a result, that person could be prosecuted. In response to a follow up question, he defined "unborn child" as "a member of the species Homo Sapiens, at any stage of development, who is carried in the womb."

1:56:09 PM

REPRESENTATIVE SUMNER asked whether the bill sponsor was concerned that the bill language referring to "an entity that has a moral right of self-determination" could be extrapolated to apply to non-human animals.

REPRESENTATIVE MCCABE acknowledged that the word "human" was missing from the bill. He indicated that a forthcoming amendment would be proposed to address the problem.

1:57:26 PM

MS. MORRIS stated that "human" would be inserted on page 1, line 8 after the words "distinguishes a."

REPRESENTATIVE SUMNER pointed out that line 8 addressed the definition of "life," whereas he was referring to the definition of "person" on page 1, lines 4-5.

REPRESENTATIVE MCCABE opined that humans are better at defining "death" than "life." He said the bill was his attempt at defining "life" in statute.

[1:59:33 PM](#)

REPRESENTATIVE GROH asked whether a fetus would qualify as a person.

REPRESENTATIVE MCCABE answered yes, "a developing person."

REPRESENTATIVE GROH asked whether there was any point in pregnancy when a fetus would not qualify as a person.

REPRESENTATIVE MCCABE answered no.

REPRESENTATIVE GROH asked whether the bill would allow abortion providers to be prosecuted for murder.

REPRESENTATIVE MCCABE shared his belief that for some medical procedures, doctors are protected. He added that it was not the intent of the bill to "send the storm troopers" into a doctor's office for performing an abortion.

[2:00:57 PM](#)

REPRESENTATIVE GROH asked whether the bill could allow abortion providers to be prosecuted for murder.

MR. SKIDMORE explained that the first section of the bill that redefined a person as an entity with the moral right of self-determination seemed broad. He shared his belief some case law in Alaska might make the use of statute to punish someone for engaging in an abortion unconstitutional. Ultimately, he said yes, the bill would allow the state to file charges [for providing an abortion]; however, he was unsure whether those charges would be allowed to move forward through the court system.

[2:02:53 PM](#)

REPRESENTATIVE GROH asked whether the criminal law is set up with broad definitions or more specific definitions.

MR. SKIDMORE said most definitions within criminal law are meant to provide guidance to practitioners, courts, and citizenry as a whole. If a concept or definition is too broad, it can be voided for "vagueness," because it does not provide adequate notice to the general public about what is wrong.

REPRESENTATIVE GROH referenced an Alabama court decision about the treatment of In vitro fertilization (IVF) under the law. He asked whether the bill would have ramifications for families trying to use assistive reproductive technologies.

REPRESENTATIVE MCCABE posited that the practice of IVF further supports the notion that the preborn child is an independent life, as evidenced by the initiation of implantation into the womb by an embryo. He remarked, "This underscores the passive role of the mother's body."

[2:05:18 PM](#)

REPRESENTATIVE GROH asked whether healthcare providers would be allowed to dispose of embryos following an IVF procedure if this bill were to become law.

REPRESENTATIVE MCCABE said he was not equipped to answer that question. He deferred to Mr. Skidmore.

REPRESENTATIVE GROH asked Mr. Skidmore how the bill would impact families undergoing IVF.

[2:06:18 PM](#)

MR. SKIDMORE said he had not had a chance to consider those concepts or think about how they might be applied.

[2:07:03 PM](#)

REPRESENTATIVE GROH asked whether a pregnant woman could seek an abortion to access chemotherapy should the bill become law.

REPRESENTATIVE MCCABE pointed out that [medical] procedures could be debated at length. In response to the question, he answered no, the decision to "triage" between a woman and her unborn child would be a medical decision between patient and doctor.

[2:09:07 PM](#)

REPRESENTATIVE GROH directed the question to Mr. Skidmore.

MR. SKIDMORE reiterated that the law would allow charges to be filed under the state, but the application of statute may or may not be found constitutional given case law in Alaska regarding

the right to privacy and its interaction with healthcare decisions.

[2:11:40 PM](#)

REPRESENTATIVE GROH asked whether surgery to address atopic pregnancies would be criminal should the bill pass.

MR. SKIDMORE reiterated that the statutes would allow someone to be charged; however, there are also defenses in statute allowing an individual to engage in causing the death of another person when its justified or in defense of someone's life.

[2:14:50 PM](#)

REPRESENTATIVE GRAY pointed out that Representative McCabe had described a women's body as "passive" during the process of embryo implantation. He asked whether embryo implantation is an example of the moral right of self-determination.

REPRESENTATIVE MCCABE responded that he was not equipped to answer that question. He cited 150-year-old research that determined that the embryo is separate from the mother's body and contains separate DNA from the mother.

REPRESENTATIVE GRAY pointed out that Representative McCabe was referencing research from 1903, 1870, and 1868. He asked whether cell division is an example of the moral right of self-determination.

REPRESENTATIVE MCCABE said he did not consider cell division the moral right of self-determination, but he did consider it life.

[2:18:03 PM](#)

REPRESENTATIVE GRAY shared his understanding that the bill would not change the practice of abortion in Alaska. He asked what would change if the bill were to become law.

REPRESENTATIVE MCCABE said his intent was to define "life" in statute.

[2:19:03 PM](#)

REPRESENTATIVE GRAY sought to verify that should the bill pass, there would be no changes to the legal system and no new crimes.

MR. SKIDMORE said DOL had provided an indeterminate fiscal note due to the broadness of the term in Section 2. He said he would need to see the forthcoming amendment to give a more definitive answer.

[2:20:45 PM](#)

CHAIR VANCE announced that HB 107 would be held over.

HB 265-CHILD SEXUAL ABUSE MATERIAL

[2:21:23 PM](#)

CHAIR VANCE announced that the final order of business would be HOUSE BILL NO. 265, "An Act changing the term 'child pornography' to 'child sexual abuse material.'"

[2:21:31 PM](#)

REPRESENTATIVE ALLARD moved to report HB 265 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 265 was reported from the House Judiciary Standing Committee.

[2:22:09 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:22 p.m.