

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 20, 2024

1:38 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 JOINT RESOLUTION NO. 13

Requesting the United States Congress to call a convention of the states to propose an amendment to the Constitution of the United States to set a limit on the number of terms that a person may be elected as a member of the United States House of Representatives and as a member of the United States Senate; and urging the legislatures of the other 49 states to request the United States Congress to call a convention of the states.

- MOVED CSHJR 13 (STA) OUT OF COMMITTEE

HOUSE BILL NO. 107

"An Act relating to criminal law definitions."

- HEARD & HELD

HOUSE BILL NO. 358

"An Act relating to use of artificial intelligence to create or alter a representation of the voice or likeness of an individual."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: HJR 13

SHORT TITLE: CALL FED. CONSTITUTIONAL CONV:TERM LIMITS
SPONSOR(s): REPRESENTATIVE(s) MCKAY

03/31/23 (H) READ THE FIRST TIME - REFERRALS
03/31/23 (H) STA, JUD
01/25/24 (H) STA AT 3:00 PM GRUENBERG 120
01/25/24 (H) -- MEETING CANCELED --
02/01/24 (H) STA AT 3:00 PM GRUENBERG 120
02/01/24 (H) Heard & Held
02/01/24 (H) MINUTE(STA)
03/07/24 (H) STA AT 3:00 PM GRUENBERG 120
03/07/24 (H) Moved CSHJR 13(STA) Out of Committee
03/07/24 (H) MINUTE(STA)
03/11/24 (H) STA RPT CS(STA) 4DP 1DNP 1NR 1AM
03/11/24 (H) DP: WRIGHT, CARPENTER, ALLARD, SHAW
03/11/24 (H) DNP: CARRICK
03/11/24 (H) NR: C.JOHNSON
03/11/24 (H) AM: STORY
03/18/24 (H) JUD AT 1:00 PM GRUENBERG 120
03/18/24 (H) Heard & Held
03/18/24 (H) MINUTE(JUD)
03/20/24 (H) JUD AT 1:00 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
02/23/24 (H) Heard & Held
02/23/24 (H) MINUTE(JUD)
02/26/24 (H) JUD AT 1:30 PM GRUENBERG 120
02/26/24 (H) Heard & Held
02/26/24 (H) MINUTE(JUD)
03/20/24 (H) JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

SUSAN ALLMEROOTH, representing self
Two Rivers, Alaska

POSITION STATEMENT: Testified in opposition to HJR 13.

JUDI CALER, representing self
Nevada City, California

POSITION STATEMENT: Testified in opposition to HJR 13.

AZABEL ORDAZ, Staff
Representative Tom McKay
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Gave closing remarks during the hearing on CSHJR 13(STA).

TREVOR JEPSEN, Staff
Representative Tom McKay
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on CSHJR 13(STA).

REPRESENTATIVE KEVIN MCCABE
Alaska State Legislature
Juneau, Alaska
Juneau, Alaska

POSITION STATEMENT: Presented the proposed CS for HB 107, Version U, as the prime sponsor.

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

POSITION STATEMENT: Presented the explanation of changes in the proposed CS for HB 107, Version U, on behalf of Representative McCabe, prime sponsor.

CLAIRE RADFORD, Attorney
Legislative Legal Services
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on the proposed CS for HB 107, Version U.

ACTION NARRATIVE

[1:38:03 PM](#)

CHAIR VANCE called the House Judiciary Standing Committee meeting to order at 1:38 p.m. Representatives Carpenter, C. Johnson, Sumner, Gray, Groh, Allard, and Vance were present at

the call to order. Representatives * arrived as the meeting was in progress.

HJR 13-CALL FED. CONSTITUTIONAL CONV:TERM LIMITS

[1:38:56 PM](#)

CHAIR VANCE announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 13, Requesting the United States Congress to call a convention of the states to propose an amendment to the Constitution of the United States to set a limit on the number of terms that a person may be elected as a member of the United States House of Representatives and as a member of the United States Senate; and urging the legislatures of the other 49 states to request the United States Congress to call a convention of the states. [Before the committee was CSHJR 13(STA).]

CHAIR VANCE opened public testimony on HJR 13.

[1:39:29 PM](#)

SUSAN ALLMERTH, representing self, testified in opposition to HJR 13. She opined that there is no room for an Article 5 convention, and nothing that would limit the convention to a single subject. She expressed concern that holding a constitutional convention could result in the amendment of citizens' most cherished rights. In short, she opined that an Article 5 convention would be a disaster and could lead to long and costly battles, uncertainty about the function of democracy, and economic instability.

[1:40:48 PM](#)

JUDI CALER, representing self, testified in opposition to HJR 13. She recounted historical examples of constitutional amendments. She said she saw no evidence in history that filing applications for conventions has anything to do with getting congress to propose amendments. She viewed the argument that congress would never hold a constitutional convention as a clever way of allowing states to trigger an unlimited convention. She urged the committee not to play chicken with congress.

CHAIR VANCE closed public testimony on HJR 13.

[1:43:42 PM](#)

AZABEL ORDAZ, Staff, Representative Tom McKay, Alaska State Legislature, on behalf of Representative McKay, prime sponsor, stated that CSHJR 13(STA) would set federal term limits on members of congress under Article 5, which would call for a convention of the states. She reported that 84 percent of Alaskans are in favor of congressional term limits and hoped that Alaska would be the 7th state to join the call.

[1:44:03 PM](#)

TREVOR JEPSEN, Staff, Representative Tom McKay, Alaska State Legislature, on behalf of Representative McKay, prime sponsor, noted that Representative McKay was not present because he was chairing House Resources Standing Committee.

[1:44:14 PM](#)

REPRESENTATIVE ALLARD stated that the committee received a flurry of emails in regard to the resolution's impact. She asked Mr. Jepsen to provide further context.

MR. JEPSEN stated that the point of CSHJR 13(STA) is not to hold a constitutional convention. He said Article 5 was included in the U.S. Constitution "to force congress to do things they won't do with the ... possibility of having this constitutional convention for amendments."

[1:45:15 PM](#)

REPRESENTATIVE GRAY sought to confirm that it would not be possible to call an Article 5 convention about one single subject.

MS. ORDAZ explained that Article 5 would allow proposed amendments to the constitution. She further noted that states would be able to choose their delegates with oversight from the state legislature and superior court.

REPRESENTATIVE GRAY asked how Alaska would choose its delegates.

MS. ORDAZ said it would be up to the legislature to decide.

REPRESENTATIVE GRAY asked whether the [delegate selection] would require a bill.

MR. JEPSEN indicated that much of the process is gray area that would need to be figured out down the road if the high threshold of 34 states was reached.

REPRESENTATIVE GRAY sought to confirm that goal of CSHJR 13(STA) would be to pressure congress to act, not to hold a constitutional convention.

MR. JEPSEN answered, "That is correct."

[1:46:57 PM](#)

REPRESENTATIVE SUMNER asked how many states had passed [a similar resolution] to date.

MS. ORDAZ answered six states.

[1:47:25 PM](#)

REPRESENTATIVE ALLARD moved to report CSHJR 13(STA) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHJR 13(STA) was reported from the House Judiciary Standing Committee.

[1:47:41 PM](#)

The committee took an at-ease from 1:47 p.m. to 1:49 p.m.

HB 107-CRIMINAL LAW DEFINITIONS PERSON/LIFE

[1:49:49 PM](#)

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

[1:50:13 PM](#)

The committee took a brief at-ease.

[1:50:25 PM](#)

REPRESENTATIVE ALLARD moved to adopt the proposed committee substitute (CS) for HB 107, Version 33-LS0482\U, C. Radford, 3/19/24, as the working document.

REPRESENTATIVE GRAY objected.

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

[1:51:14 PM](#)

JULIE MORRIS, Staff, Representative Kevin McCabe, Alaska State Legislature, on behalf of Representative McCabe, prime sponsor of HB 107, presented the written explanation of changes in the proposed CS for HB 107, Version U [included in the committee packet], which read as follows [original punctuation provided]:

Title change: Version U includes the definition of "person" in Alaska Statute and provides for an effective date.

Section 1: is a new section amending AS 01.10.060(a)(8) to include or a human entity that has the moral right of self-determination; "person" does not include an environmental element, artificial intelligence, animal, or inanimate object:

Section 2: page 1 line 11-12 amends AS 11.81.900(b)(47) or a human entity that has the moral right of self-determination.

Lines 13-14 includes new language "person" does not include an environmental element, artificial intelligence, animal, or inanimate object:

Section 3: Page 2 line 3 the word human is added.

Section 4: No changes

Section 5: Provides for an effective date as July 1, 2024

[1:52:50 PM](#)

REPRESENTATIVE SUMNER questioned the difference between a "natural person" and a "human entity."

REPRESENTATIVE MCCABE said they are virtually the same thing.

REPRESENTATIVE SUMNER expressed concern that down the road, there could be fully autonomous artificial intelligence (AI)

programs that may not be held to account. He asked whether it would be advisable to grant sufficiently advanced AI programs personhood to hold them criminally liable if they were to autonomously kill someone.

REPRESENTATIVE MCCABE conceded that AI is moving fast, hence the reason for the AI language in the bill, which would require further clarification in the future.

REPRESENTATIVE SUMNER asked whether an amendment [that would grant sufficiently advanced AI programs personhood] would be considered hostile by the bill sponsor.

REPRESENTATIVE MCCABE said he would be open to it.

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REPRESENTATIVE ALLARD shared her understanding that under current law, if a pregnant woman was murdered, the killer could be prosecuted for murdering both the mother and the unborn baby. She questioned the purpose of the proposed legislation if current protections were already in statute.

REPRESENTATIVE MCCABE described the absence of a statutory definition of "life" as an oversight, which the bill seeks to correct.

[1:58:45 PM](#)

CLAIRE RADFORD, Attorney, Legislative Legal Services, in response to Representative Allard, explained that AS 11.41.150 - AS 11.41.170 would cover the manslaughter or criminally negligent homicide of an unborn child. She clarified that HB 107 would not impact the current charging structure of homicide or murder of an unborn child.

REPRESENTATIVE ALLARD sought to confirm that the bill would be helpful in prosecutions.

MR. RADFORD directed the question to the Department of Law (DOL).

[2:00:22 PM](#)

REPRESENTATIVE GRAY asked whether the statutory definition of "alive" is considered a definition of "life."

MS. RADFORD shared her understanding that the definition of "alive" within the definition of "person" under AS 11.41.140 would not establish a definition of "life."

REPRESENTATIVE GRAY asked how someone could be alive without having life.

MS. RADFORD reiterated that there is a distinction between the definition of "alive" and the definition of "life."

[2:02:00 PM](#)

REPRESENTATIVE ALLARD asked how the bill would impact the murder of a pregnant woman if the baby were to survive.

MS. RADFORD responded that in that scenario, there would only be one prosecutorial offense for homicide.

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REPRESENTATIVE GRAY maintained his objection to the adoption of Version U.

[2:03:32 PM](#)

REPRESENTATIVE GROH asked whether it was the bill sponsor's contention that the legislation would have no effect on the litigation of abortion in Alaska.

REPRESENTATIVE MCCABE said that was not for him to say. He maintained that the bill would simply define "life."

REPRESENTATIVE GROH asked what the bill sponsor hoped for the bill to accomplish.

REPRESENTATIVE MCCABE responded that he hoped it would give the courts a path forward should they need it in defining abortion as illegal in the state of Alaska.

REPRESENTATIVE GROH asked whether the state had engaged in litigation over abortion before.

REPRESENTATIVE MCCABE remarked, "As far as I know, it was even pre-Roe v. Wade where the courts erroneously, in many people's opinion, leaned on the definition of privacy in our constitution as saying that abortion was illegal."

REPRESENTATIVE GROH reported that the state had spent an estimated \$4.2 million losing lawsuits related to abortion. He asked whether the passage of HB 107 would tip the scales and make it more likely for the state to win these lawsuits.

REPRESENTATIVE MCCABE answered, "Absolutely." He said he hoped it would save the state money in that respect and save the state money in the aborted children who could have been part of the workforce.

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REPRESENTATIVE GRAY shared his understanding that the purpose of the bill was to define "life" in statute, not to add additional crimes or civil penalties to state law.

REPRESENTATIVE MCCABE answered, "Absolutely."

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REPRESENTATIVE SUMNER asked whether "human" should be defined in the bill, as there are certain human-defined cell lines that are used extensively in medical research and may qualify under the proposed definition of life.

REPRESENTATIVE MCCABE said he would be happy to entertain an amendment.

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REPRESENTATIVE MCCABE, in wrap up, read from the following prepared remarks [original punctuation provided]:

Life is defined as the condition that distinguishes animals and plants from inorganic matter. We know that "life" includes the capacity for growth, reproduction, functional activity, and continual change.

Consider that there is no such thing as "dark" e.g., you cannot flip a switch and have dark. Instead, we flip a switch and have light; DARK is merely the absence of light.

Much like "Dark," death is defined, in many dictionaries as well as the Bible, not as it's own condition, but as the absence of life.

So, a fetus who dies in the womb, via a miscarriage or other means would have to have been recognized to be alive, a living person or human being, before it can actually "die" in the womb.

Doctor Horatio R. Storer said: "Allowing, then, as must be done, that the ovum does not originate in the uterus; that for a time, however slight, during its passage through the Fallopian tube, its connection with the mother is wholly broken; that its subsequent history after impregnation is one merely of development, its attachment merely for nutrition and shelter - it is not rational to suppose that its total independence, thus once established, becomes again merged into total identity, however temporary." (Horatio R. Storer M.D., LL.B., Criminal Abortion (1868))

The logic of Dr. Storer's conclusion is irrefutable the life of the unborn Human Being begins independent of the mother's body. If we follow the science (as we have been told to do incessantly in the last several years), it is illogical to conclude that the life of the pre-born Human Being, which was previously independent of the mother, ceases to exist during the time that he or she is in the womb. In other words, the egg, and the sperm, which are now combined, and subdividing are an independent life and do not terminate just because they have attached to the mother for nurturing and support.

Other scientists such as Keith Moore say: "[The Zygote] results from the union of an oocyte and a sperm. A zygote is the beginning of a new human being. Human development begins at fertilization, the process during which a male gamete or sperm ... unites with a female gamete or oocyte ... to form a single cell called a zygote. This highly specialized, totipotent cell marks the beginning of each of us as a unique individual." (The Developing Human: Clinically Oriented Embryology, 6th ed. Keith L. Moore, Ph.D. & T.V.N. Persaud, Md., (Philadelphia: W.B. Saunders Company, 1998), 2-18)

Again, when a male sperm meets a female egg, both cease to exist independently and are combined as a living human being in the earliest stage of

development - conception. Every major textbook on the subject used in medical schools teaches this. This new life has separate DNA and is completely and totally separate from the mother.

Furthermore, the independent life of the pre-born child is again proven by the fact that it is the pre-born child who initiates implantation into the womb. "The mother's body is entirely passive in the implantation process. It merely responds to the actions taken by the unborn Human Being." (Adam Schauf, M.D., "The Growth of the Placenta," American Gynecology (1903), 94)

Finally, our recent scientific and medical implantation of pre-born, and subsequent birth of children, who developed outside their biological mother's womb, legitimizes the claim that the pre-born are an independent life. If being pregnant was only a function of the woman's reproduction organs, then implanting, carrying to term, and successful birth would be impossible outside of the womb. The mere fact that we can do this, even in surrogates, demonstrates that the pre-born child is not just a product of the woman's reproductive system, but is an independent, living human being.

The Alaska Constitution Article 1, Section 1 says "This constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State.

Every person's right to life must be protected by the state regardless of age, level of dependency, citizenship or even viability. This right is a natural right granted by the Creator, and unable to be alienated by the laws of the state.

If this right is to be protected for all persons within the state of Alaska then this protection cannot be denied to any person, or human being, for any reason, not even the pre-born.

It is further unlawful for a state to have a viability test, to determine whether a person's right to life is worthy of protection. According to the Alaska Constitution every human being's right to life is to be protected, without exception.

In United States v. Cruikshank, the justices wrote: "The rights of life and personal liberty are natural rights of man. 'To secure these rights,' says the Declaration of Independence, 'governments are instituted among men, deriving their just powers from the consent of the governed.' The very highest duty of the States, when they entered into the Union under the Constitution, was to protect all persons within their boundaries in the enjoyment of these 'unalienable rights with which they were endowed by their Creator.' Sovereignty, for this purpose, rests alone with the States."

In a 2007 Supreme Court case known as Gonzales v. Carhart, SCOTUS opined that the unborn child is a living individual separate and distinct from his mother. A preborn individual Human Being if you will. In this decision, the Court did not consider the preborn child to be merely a part of the mother's body.

In another case known as Bonbrest v. Kotz which was heard in United States District Court for the District of Columbia, Justice McGUIRE stated: "From the viewpoint of the civil law and the law of property, a child en ventre sa mere (means in the mother's womb) is not only regarded as human being, but as such from the moment of conception—which it is in fact."

In the Supreme court case known as Marbury v. Madison the Supremes wrote: "The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. . . . The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right." That decision cemented the individuality of the preborn child and guarantees him or her a civil right to claim the

protection of the law; this would include the right to privacy found in the Alaska Constitution.

In another SCOTUS case, known as *Reed v Reed*, the Justices wrote: "The Equal Protection Clause of that amendment [referring to the 14th amendment] does, however, deny to States the power to legislate that different treatment be accorded to persons placed by a statute into different classes on the basis of criteria wholly unrelated to the objective of that statute. A classification must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike."

What that means is that The State of Alaska, under our constitution, does not have the authority to deny the protection of the law to a single class of individuals such as our preborn children. However, the constitution and current statutes in Alaska, grant the full protection of the law to all children except those that are aborted. According to *Reed v. Reed*, this exception is a violation of the 14th amendment of the Constitution of the United States.

In *Roe v. Wade*, Justice Potter Stewart asked the pro-abortion attorney Sarah Weddington this question: "If it were established that an unborn fetus is a person within the protection of the Fourteenth Amendment, you would have an almost impossible case here would you not?" Mrs. Weddington replied, "I would have a very difficult case." Justice Blachmun then wrote, in the majority decision: "If this suggestion of personhood is established, the appellant's case, of course, collapses, for the fetus' right to life would then be guaranteed by the 14th

Justice Samuel Alito declared in the Supreme Court's majority opinion in *Dobbs v. Jackson Women's Health Organization* on Friday that *Roe* was "egregiously wrong from the start."

Our Declaration of Independence says "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with

certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.”

Throughout the years, various court cases have set precedence that the word “MEN,” in that document includes all people; people of color, people of other races and nationalities as well as both genders.

It is time we define “persons” for the purpose of our constitution. It is time to follow the science; to open our eyes and hearts and recognize the person-hood of the pre-born. It is time to fix our statutes and this bill does that.

[2:18:42 PM](#)

A roll call vote was taken. Representatives Carpenter, C. Johnson, Sumner, Allard, and Vance voted in favor of adopting Version U as the working document. Representatives Groh and Gray voted against it. Therefore, Version U was adopted by a vote of 5-2.

CHAIR VANCE announced that CSHB 107, Version U, would be held over.

[2:19:45 PM](#)

CHAIR VANCE issued closing remarks on future business.

[2:20:08 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:20 p.m.