

**ALASKA STATE LEGISLATURE  
SENATE JUDICIARY STANDING COMMITTEE**

March 6, 2023

1:31 p.m.

**MEMBERS PRESENT**

Senator Matt Claman, Chair  
Senator Jesse Kiehl, Vice Chair  
Senator James Kaufman  
Senator Cathy Giessel

**MEMBERS ABSENT**

Senator Löki Tobin

**COMMITTEE CALENDAR**

SENATE BILL NO. 80

"An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

- MOVED SB 80 OUT OF COMMITTEE

SENATE BILL NO. 66

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

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 80

SHORT TITLE: 2023 REVISOR'S BILL

SPONSOR(S): RULES BY REQUEST OF LEGISLATIVE COUNCIL

02/24/23 (S) READ THE FIRST TIME - REFERRALS

02/24/23 (S) JUD  
03/01/23 (S) JUD AT 1:30 PM BUTROVICH 205  
03/01/23 (S) Heard & Held  
03/01/23 (S) MINUTE (JUD)  
03/06/23 (S) JUD AT 1:30 PM BUTROVICH 205

BILL: SB 66

SHORT TITLE: CRIME OF SEX/HUMAN TRAFFICKING  
SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/08/23 (S) READ THE FIRST TIME - REFERRALS  
02/08/23 (S) JUD, FIN  
03/06/23 (S) JUD AT 1:30 PM BUTROVICH 205

**WITNESS REGISTER**

SENATOR ELVI GRAY-JACKSON, District D  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of SB 80

ANGIE KEMP, Director  
Criminal Division  
Department of Law  
Juneau, Alaska

**POSITION STATEMENT:** Introduced SB 66 on behalf of the administration.

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

**POSITION STATEMENT:** Presented the sectional analysis for SB 66 on behalf of the administration.

AMBER NICKERSON, Representing self  
Juneau, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 66.

KATIE BOTZ, representing self  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of SB 66.

TERRA BURNS, representing self  
Community United for Safety and Protections  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 66.

MAXINE DOOGAN, representing self  
Community United for Safety and Protection  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 66.

BELLA ROBINSON, Member  
Coyote Rhode Island  
Rhode Island

**POSITION STATEMENT:** Testified in opposition to SB 66.

#### **ACTION NARRATIVE**

[1:31:09 PM](#)

**CHAIR MATT CLAMAN** called the Senate Judiciary Standing Committee meeting to order at 1:31 p.m. Present at the call to order were Senators Kiehl, Kaufman, Giessel, Tobin and Chair Claman.

#### **SB 80-2023 REVISOR'S BILL**

[1:31:52 PM](#)

CHAIR CLAMAN announced the consideration of SENATE BILL NO. 80 "An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

He asked for final comments from members of the committee.

SENATOR ELVI GRAY-JACKSON, District D, Alaska State Legislature, Juneau, Alaska, sponsor for SB 80, thanked the committee for hearing the bill.

[1:32:29 PM](#)

SENATOR KIEHL moved to report SB 80, version 33-LS0303/S from committee with individual recommendations and attached fiscal note.

CHAIR CLAMAN found no objection and SB 80 was reported from the Senate Judiciary Standing Committee.

#### **SB 66-CRIME OF SEX/HUMAN TRAFFICKING**

[1:32:55 PM](#) **50**

CHAIR CLAMAN announced the consideration of SENATE BILL NO. 66 "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."

He asked Angie Kemp to introduce the bill.

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ANGIE KEMP, Director, Criminal Division, Department of Law, Juneau, Alaska introduced SB 66 on behalf of the administration. She stated that human and sex trafficking are forms of modern day slavery. The term slavery is used universally to describe the crimes. Human and sex trafficking involve manipulation of another human for financial and personal gain, sometimes induced by force, fraud and coercion. The human and sex trafficking industry earns approximately \$32 billion annually, surpassed only by the illicit sale of controlled substances. The industry preys on vulnerable people including children. The average age a child is pulled into commercial sex is between 12 to 14 for girls and 11 to 13 for boys. The estimated number of people trafficked worldwide is 27 million.

MS. KEMP continued that human and sex trafficking is insidious conduct that often occurs in private. She shared statistics from the United States Department of Justice (DOJ) stating the number of prosecutions in the United States increased by 84 percent from 2011 to 2020. The number of referrals for human trafficking offenses increased in the same time period by 61 percent.

CHAIR CLAMAN asked if the DOJ statistics broke down the state versus federal prosecutions.

MS. KEMP replied that the statistics were only related to offenses referred and prosecuted by DOJ.

CHAIR CLAMAN observed that she only described federal statistics and no state data was collected.

MS. KEMP said that's correct.

CHAIR CLAMAN asked the number of federal prosecutions of human and sex trafficking in Alaska for the study period she described.

MS. KEMP clarified that the federal prosecutions did not pull statistics from individual states.

CHAIR CLAMAN queried the number of federal prosecutions from 2011 to 2020 were brought in Alaska.

MS. KEMP replied that she believed that the models provided that level of detail and she would provide that information after the hearing.

CHAIR CLAMAN requested the number of federal sex trafficking prosecutions in Alaska. He asked for similar statistics from 10 more states for comparison. He specifically mentioned Hawaii, Wyoming, and rural states such as Nevada.

MS. KEMP agreed to provide the information.

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MS. KEMP continued that human and sex trafficking does not happen in a vacuum. The statistics remain consistent in the reporting. Risk factors for sex trafficking victims include substance use, runaways, homeless youth, unstable housing, mental health concerns and migration. Risks for human trafficking include migration, economic hardship, unstable housing, criminal records and substance abuse. She pointed out the overlap in risk factors. She cited the Polaris Project as an entity that conducts research about trafficking and maintains a hotline where individuals can call to report sex or human trafficking. Much of the data presented is derived from the Polaris Project. She reported that 42 percent of trafficking victims are recruited by a family member, while 39 percent are recruited by intimate partners. The legislation before the committee attempts to address events that lead a person into human and sex trafficking.

[1:40:46 PM](#)

SENATOR GIESSEL asked if the risk factor "migration" referred to immigrants.

MS. KEMP replied yes, immigration migration is a universal risk factor for both categories of trafficking. She continued that the industry is driven by demand. One legislative goal is to address the demand. She added that traffickers assess the landscape when targeting victims. During the Covid-19 pandemic, the use of social media as a means to identify trafficking victims increased by 22 percent. She pointed out separate

statistics from Facebook and Instagram that show increases of 125 percent and 95 percent respectively. Trafficking perpetrators are adapting with creative means to target victims.

MS. KEMP stated that the law attempts to ensure "no safe passage in Alaska" for sex trafficking. The proposed legislation ensures that the state protects the most vulnerable citizens while targeting the perpetrators creating the demand. The law reorganizes the crimes allowing more effective tools for prosecution and law enforcement. She provided an example of classification changes that lead to the appropriate prosecution of the most serious crimes.

CHAIR CLAMAN asked which section of criminal code sex trafficking falls in currently.

MS. KEMP replied it's under AS 11.66.

CHAIR CLAMAN asked about the differences between Chapter 41 and Chapter 66. He wondered if the change in chapters added to the seriousness of the crimes or if the classification of felonies was the reason for the change.

MS. KEMP replied that this changes the penalty for sex trafficking in the first degree and it reorganizes the statute and puts the crimes in AS 11.41. The change provides additional protection for victims. She provided an example from AS 12.45.042, which offers protection when a psychiatric evaluation can be ordered by the court. These changes are possible if the trafficking is categorized as an AS 11.41 offense. That's one reason for the chapter change. She added that AS 12.45.046 allows for a guardian ad litem to be appointed when a child is a victim of an 11.41 offense or is a witness to an AS 11.41 offense. She continued that under AS 12.30.055, there is no right to bail in a petition to revoke probation when the person committed an AS 11.41 offense. By recategorizing the crime as an AS 11.41 offense, victims have the benefit of all the additional statutes calling out AS 11.41. She highlighted a provision in AS 12.55.011 allowing a victim to propose a negotiated sentence to the court. That wouldn't be available under an AS 11.41 offense. Under AS 12.55.027(g), an offender cannot receive electronic monitoring credit toward their sentence if they are serving a sentence pursuant to an AS 11.41 offense.

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MS. KEMP spoke further about the current legislation. She mentioned the introduction of concrete concepts to better

understand recruitment. The concepts are designed to address several risk factors that increase the likelihood that a person will become the victim of sex trafficking. She provided an example of a threat to destroy a person's passport. The example is based on reports from the Polaris house and the DOJ. She noted the concrete distinction in the legislation between sex trafficking and human trafficking. Under current law, within human trafficking there is a cross reference to sexual conduct. The proposed legislation breaks out sex acts from labor and adult entertainment. The bill increases penalties for several of the offenses and focuses on the demand side of trafficking.

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MS. KEMP noted that the bill does not increase penalties for the average sex worker. She explained that the prostitution statute remains a B misdemeanor for people who are offering themselves willingly. Penalties are increased for the purchaser (John), but not for the prostitute. The legislation increases the penalty for people convicted in the last five years. If an individual has been convicted twice in the last five years of prostitution, the potential penalty will be a C felony.

MS. KEMP continued that the legislation addresses the factors that cause the victim to be at greater risk. She spoke about a provision in the bill allowing a person to have an offence for prostitution and or a controlled substance removed from their record. The provision is an option when evidence is available proving that the person was a victim of sex trafficking at the time they created the offense. The person can appeal to have the prostitution and or controlled substance conviction removed from their record.

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CHAIR CLAMAN wondered about a hypothetical cocaine possession conviction from 10 years ago. He wondered if the person could sign an affidavit reporting the use of cocaine while the victim of sex trafficking.

MS. KEMP replied that the court would require the standard of proof by preponderance of the evidence. She clarified that preponderance of the evidence is the lowest burden of proof available under the law. She added that the law allows for the prosecutor to have an opportunity to be heard and contest the assertions of fact. She speculated that the process might require more than an affidavit. The criminal rules will address the burden.

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CHAIR CLAMAN hypothesized about older drug convictions lacking circumstantial evidence. He pointed to concerns raised in public testimony. His experience with the legislature showed minimal support for expungement. He found it interesting that the administration was proposing an open-ended expungement.

MS. KEMP responded that the committee might choose to place additional limitations on the expungement proposal. The effort is to help victims of human and sex trafficking.

SENATOR KIEHL asked how the expungement provision works. He wished to understand the problem the provision is meant to address.

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MS. KEMP referenced research identifying reasons a person is recruited into the industry. Examples include withholding or threatening to withhold the use of controlled substances. Persons who are dependent upon a controlled substance might be further manipulated and sold. The provision is an attempt to help people motivated by controlled substances to enter the business.

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SENATOR KIEHL appreciated the description. He agreed that some people end up in the sex and human trafficking arena because of drug addiction. He asked about other criminal endeavors that are closely linked to a person forced into trafficking.

MS. KEMP replied that prostitution and controlled substance use are the two predominant risk factors.

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CHAIR CLAMAN agreed that people with drug addictions can find themselves in compromised situations leading to human and sex trafficking. He stressed that human and sex trafficking create huge problems for society. He remarked about the notion of passing the bill with the expungement opportunity. He viewed the proposed legislation as an administrative policy decision to advocate for expungement, which heretofore received no support. He raised questions about the administration bringing the issue to the committee. He asked about the process in the governor's office during the drafting of the legislation.

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MS. KEMP replied that as a former district attorney she recognizes the procedural challenges ahead. She noted that the expungement is contingent on proof that the person was a victim of sex trafficking. She responded to the question about the origin of the provision. She explained that she was not involved in conversations catalyzing the provisions in the bill. She opined that there were good reasons to make the expungement opportunities available. She provided a real-life example during her time as a prosecutor on cases related to child pornography. She expounded that her job entailed verifying evidence and reviewing the materials. She revealed that the observations were alarming and difficult to forget. She found herself wondering if it was worse to see the child victim crying out in pain or to see the child victim engaging in the practice. Through reconciliation of her thoughts and feelings, she revisits similar provisions in the law that may someday benefit these people.

MS. KEMP acknowledged the challenges and reasons why the legislature might choose to add appropriate limitations to the bill. She stated that the balance was difficult to strike. She empathized with the legislators working through the process and seeking a balance.

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CHAIR CLAMAN agreed that reviewing disturbing child pornography evidence is overwhelming. He asserted that the proposed legislation does provide a balance. He understood that a person trafficked in their childhood or early adulthood has diminished ability to speak up about the abuse. The trafficking environment encourages people to serve their time, only to be picked up by the traffickers when they are released from prison. He reflected on the notion that a person would come forward twenty years following a conviction to seek expungement of a drug or prostitution charge. He agreed that the system should support the person and expunge the charges from their record with proper evidence. He wished to avoid expungement of drug charges for anyone with a 20 year old drug conviction.

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SENATOR GIESSEL wondered about the burden of proof allowing the court to make the decision about expungement of prostitution or controlled substance charges. She provided a hypothetical example with a person who experienced sex trafficking at eight years old and sought expungement twenty years later.

CHAIR CLAMAN responded that an 8 year old with drug issues would be overseen in juvenile courts. He explained that the issue could get quite complicated.

SENATOR GIESSEL noted that addiction does not resolve leaving a person introduced to controlled substances at eight years old to struggle with addiction.

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CHAIR CLAMAN stated that he was raising questions because he thought they were likely to arise.

MS. KEMP stated that Ms. Schroeder was available to provide the sectional analysis.

SENATOR KIEHL discussed his time spent on a similar bill last year. He wondered about comparing the two pieces of legislation in committee.

CHAIR CLAMAN asked if the legislation Senator Kiehl referred to was also introduced by the governor.

SENATOR KIEHL replied yes, the bill had a Senate Judiciary Committee Substitute. He wondered how closely this proposal reflects the work of the legislature last year.

CHAIR CLAMAN was not able to speak in response to last year's proposed legislation, but he suggested asking the invited testifiers.

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SENATOR KIEHL asked Ms. Kemp if she was prepared to answer the query.

MS. KEMP deferred the question to her colleague, Ms. Schroeder.

[2:10:28 PM](#)

KACI SCHROEDER, Assistant Attorney General, Criminal Division, Department of Law, Juneau, Alaska, responded to the question from Senator Kiehl. She stated that the proposed legislation resembles the version that passed out of the Senate Judiciary Committee last year. She mentioned notable changes related to the sex trafficking statutes. She stated that the prior legislation delineated sexual contact and sexual penetration, which SB 66 does not. The sections were returned to their introduced language, which provides the major difference. She

agreed that the proposed legislation closely resembles that of last year.

CHAIR CLAMAN asked about the difference between sexual contact and penetration as related to the newly introduced legislation.

MS.SCHROEDER responded that the version that left the Senate Judiciary Standing Committee last year had higher levels of charges for people forced to engage in sexual penetration versus those forced to engage in sexual contact. She stated that SB 66 does not provide the delineation and instead considers all coercion to engage in commercial sexual acts, as an unclassified felony.

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MS.SCHROEDER paraphrased the sectional analysis for SB 66.

SB 66 CRIME OF SEX/HUMAN TRAFFICKING  
SECTIONAL ANALYSIS

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

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

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

**Section 4.** This section enacts a new offense series: sex trafficking in the first, second, and third degrees. In essence, a person is guilty of sex trafficking in the first degree (unclassified sex felony) if the person (1) uses force or the threat of force to coerce someone to engage in a commercial sexual acts; (2) traffics a person under the age of 20 or who is in the person's legal custody; or (3) manages, supervises, or controls a prostitution enterprise or a place of prostitution. A person is guilty of sex trafficking in the second degree (class A sex felony) if the person induces or causes another person to engage in commercial sexual acts. Sex trafficking in the first and second degrees would be sentenced under the enhanced penalties for sexual felonies and the person would be required to register as a sex offender. A person is guilty of sex

trafficking in the third degree if the person provides resources in furtherance of the commission of sex trafficking. Sex trafficking in the third degree is a class B felony if the value of the resources provided in furtherance of trafficking is \$200 or more or a class C felony if the value of the resources is less than \$200. Sex trafficking in the third degree is sentenced as a class B or C sex felony and is not a registerable sex offense. This section also enacts the new crime of "patron of a victim of sex trafficking." A person is guilty of being a patron of a victim of sex trafficking if they solicit commercial sexual acts with reckless disregard that the person, they are soliciting is a victim of sex trafficking, or if they solicit sexual acts from a person under the age of 18. If the person solicited is under 18 years of age, this offense will be a class B sex felony. If the person solicited is an adult, this offense will be a class C sex felony. This crime would be sentenced under the enhanced penalties for sexual felonies and the person would be required to register as a sex offender.

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

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

**Section 7.** This section amends human trafficking in the second degree to include situations in which the person induces or causes another person to engage in adult entertainment or labor by (1) exposing or threatening to expose confidential information or a secret, whether true or false, tending to subject a person to hatred, contempt, or ridicule; (2) destroying, concealing, or threatening to destroy or conceal an actual or purported passport or immigration document or another actual or purported identification document of any person; (3) threatening to report a person to a government agency for the purpose of arrest or deportation; (4) threatening to collect a debt; (5) instilling in another person a fear that the actor will withhold from any person lodging, food,

clothing, or medication; (6) providing or withholding controlled substances from the person; or (7) deceiving the victim. Under this section, human trafficking in the second degree is a class A felony.

**Section 8.** This section enacts the new crime of human trafficking in the third degree. A person is guilty of human trafficking in the third degree if they provide resources in furtherance of human trafficking. Human trafficking in the third degree is a class B felony if the value of the resources is \$200 or more and a class C felony if the value of the resources is less than \$200. The section also clarifies that human trafficking does not include normal caretaker interactions with a minor (for example, asking a child to shovel the driveway in exchange for an item of clothing etc.). The section also clarifies current law that corroboration of a victim's testimony is not necessary. A jury has the ability to convict based on a victim's testimony alone. This language is simply relocated to AS 11.41 along with the rest of the sex trafficking statutes. The section also makes clear that any property used to commit sex or human trafficking may be forfeited.

**Section 9.** This section clarifies that the crime of coercion is only to be used if the sex trafficking or human trafficking elements are not present.

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

**Section 11.** This section increases the penalty for being a "John" from a class B misdemeanor to a class A misdemeanor. Upon a third conviction within five years for being a "John", the offense is again elevated to a class C felony.

**Section 12.** This section states that if a "John" is convicted under the class C felony provision in section 11, any property used in order to commit the offense may be forfeited.

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

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

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

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

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

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

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

**Section 23.** This section amends AS 12.55.125(i) (the sex offense sentencing statutes) incorporating the new sex trafficking statutes and patron of a victim of sex trafficking statute. This ensures that these offenses will be subject to the higher sentences associated with sex offenses. This section also corrects an error in the citation of unlawful exploitation of a minor under AS 11.41.455(c)(1) and indecent viewing of a picture under AS 11.61.123.

**Section 24.** This section establishes mandatory minimum terms of imprisonment for repeat "Johns." Upon the second conviction with five years, the person will be subject to a class A misdemeanor with a mandatory minimum of 72 hours to serve. If the person is convicted three times within five years, the person is subject to the class C felony sentencing provisions.

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

**Section 26.** This section adds sex trafficking and patron of a victim of sex trafficking to the definition of "sexual felony" and corrects the citation to indecent viewing of a picture under AS 11.61.123.

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

**Section 28.** This section adds sex trafficking in the first and second degrees and patron of a victim of sex trafficking to the list of registerable sex offenses. This section also corrects the citation to indecent viewing or production of a picture under AS 11.61.123.

**Section 29.** This section establishes a process whereby a person who has been convicted of prostitution can get that conviction or a conviction for possession of a controlled substance vacated if they are able to show that they were a victim of sex trafficking at the time that they committed the offense. If the conviction is vacated, the court system may not publish records relating to the conviction on CourtView nor may the Department of Public Safety release that information as part of an employment background check.

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

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

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

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

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

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

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

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

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

**Section 46.** This section is the repealer section.

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

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

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

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SENATOR KAUFMAN asked how "inducement" was defined.

MS. SCHROEDER explained that the bill specifies that a person must induce or cause an individual to engage in a commercial sexual act. The definition of inducing or causing as they relate to sex trafficking is found on Page 4 of the bill. She stated that Page 4 includes a list of examples of inducing or causing a person to engage in a commercial sex act. She added that the list was not exhaustive.

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CHAIR CLAMAN asked about moving both sex trafficking and human trafficking from Chapter 66 to Chapter 41. He wondered about changes to definitions or the basic structure of the bill.

MS. SCHROEDER replied that the human trafficking statutes were already located in AS 11.41. The sex trafficking statutes were indeed moved to AS 11.41. The department broadened the language and increased penalties. The bill adds factors that are currently not regularly considered by courts, so she believes it was helpful to have those considerations defined in statutes. She added that human and sex trafficking conduct were manipulative and insidious, which led the administration to outline the factors and raise the penalties.

CHAIR CLAMAN asked Ms. Schroeder she was referred to the list on Page 4 when she spoke about factors.

MS. SCHROEDER replied in the affirmative.

CHAIR CLAMAN understood the seven factors in the human trafficking provision. He asked about federal prosecutions in Alaska. He requested statistics related to the frequency of sex and human trafficking prosecutions in Alaska over the last ten years.

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MS. KEMP suggested that prosecutions for human and sex trafficking in Alaska are infrequent and typically handled by the Office of Special Prosecutions. She added that federal prosecution data is unknown to her, but she offered to research and provide further information to the chair and committee.

CHAIR CLAMAN asked why state-level prosecutions were infrequent.

MS. KEMP opined that the lack of reporting leads to infrequent prosecution. Research shows that victims do not report human or sex trafficking. She spoke about challenges in immigration scenarios where language access is barred. One intervention is to provide increased access to the court system for victims of trafficking.

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SENATOR KIEHL pointed to the definition of "adult entertainment" on Page 11. He noted that the bill that the Senate Judiciary Committee passed last year referenced Title 23. He wondered

about substantive differences between the two bills in relation to Title 23.

MS. SCHROEDER replied that the change was made last year, because the definition of adult entertainment in Title 23 discusses actual or stimulated. The administration chose another definition that does not include the word "actual."

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CHAIR CLAMAN opened public testimony on SB 66.

[2:32:33 PM](#)

AMBER NICKERSON, representing self, Juneau, Alaska testified in opposition to SB 66. She stated that the legislation criminalizes sex workers and clients. She suggested amending Section 4 of AS 11.41 by adding new sections to read "manages, supervises, controls or owns either alone or with others a prostitution enterprise or a place of prostitution." She added that a place of prostitution means a place where a person engages in commercial sex in return for a fee. She feared that working indoors would become an unclassified felony. Sex workers would be charged with unclassified felonies if they own a place of prostitution. She stated that working in isolation makes prostitutes vulnerable for robbery, assault, rape and murder. The bill also criminalizes customers as sex traffickers. She opined that clients should be granted the same immunity protection as sex workers including the ability to report when they are victims or witnesses to crimes such as sex trafficking. Under SB 66, Alaska uses resources and funding to create fictitious prostitution sting operations shaming Alaskan residents before they are found guilty.

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KATIE BOTZ, self, Juneau, Alaska testified in support SB 66. She thanked the administration for introducing the bill despite the challenging nature of the topic. She stressed that passage of SB 66 was vital to protecting vulnerable populations. She acknowledged that the effort was introduced in previous legislation. She stated that she was a concerned constituent who was sexually assaulted as a child. She found it vital to increase penalties for sex trafficking.

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TERRA BURNS, self, Community United for Safety and Protections, Fairbanks, Alaska, testified in opposition to SB 66. She stated that she was trafficked as a minor in Alaska and she worked in Alaska's sex industry for two decades. She completed her

graduate research at the University of Alaska Fairbanks on the lived experiences and policy recommendations of people in Alaska's sex trade. She noted that she attempted to participate in task force meetings when the bill was being created. She was denied entry to the public task force meetings, which she believes violates the Alaska Open Meetings Act.

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MAXINE DOOGAN, self, Community United for Safety and Protection, Fairbanks, Alaska, testified in opposition to SB 66. She informed the committee that she was a prostitute of 30 plus years and she hoped to work for 30 plus more. She opposed the legislation because it recriminalizes clients as sex traffickers, which she finds disrespectful and inappropriate. She stated that the fiscal note creates a slush fund to arrest sex workers and clients under the guise of rescuing sex trafficking victims. She opined that police crackdowns on sex work do not reduce the incidence of sex trafficking. She opposed referring to her clients as "Johns" as the term is pejorative.

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BELLA ROBINSON, Coyote RI, Rhode Island, testified in opposition to SB 66. She stated that many sex workers and sex trafficking victims are more afraid of the police than of violent perpetrators. She noted that clients of sex workers are the people most likely to encounter sex trafficking survivors but recording them might mean criminal charges. She remarked that trafficking victims are arrested, which subjects them to judgement and the traumatic arrest and media coverage subject them to discrimination.

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CHAIR CLAMAN closed public testimony on SB 66.

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SENATOR KIEHL noted that public testimony indicated that those who purchase commercial sex are criminalized if they report sex trafficking that they observed. He asked how that works in Section 10 of the bill, immunity for reporting.

MS. KEMP stated that clients purchasing sex do not have separate immunity, so they can be prosecuted if they attempt to file a report under the current language.

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SENATOR KIEHL stated that Section 10 appears to say that a person might not be prosecuted under (a)(1) of the prostitution statute. He recalled that's buying sex.

MS. KEMP replied that (a)(1) applies to the person selling sex.

SENATOR KIEHL asked about individuals who weren't trafficked, being guilty of trafficking if they collaborate. He asked for an explanation of how those provisions work.

MS. KEMP replied that the issue with subsection (3) of sex trafficking in the first degree is the requirement that the prosecution proves the prostitution enterprise. A prostitution enterprise means that they are organized to render sexual conduct in return for a fee. The definition of sexual conduct establishes that the fee cannot be shared via apportioned spaces. She provided an example where two individuals selling sex agree to rent a hotel room; they could not be prosecuted under the theory of a prostitution enterprise. In the case of prosecution, it cross references commercial sexual conduct, which carves it out as a theory.

SENATOR KIEHL wished to make sure that the carve-out was not too broad. He understood that if a person took a share of the revenue, then the charge would fall under the criminal act.

MS. KEMP replied yes, and the process would be different than the shared apportioned space carve-out.

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CHAIR CLAMAN asked about paragraph (3) under AS 11.41.340 on Page 3. He recalled the example stated in public testimony was one person owns a two bedroom apartment and rents a spare room to another prostitute. He asked if the apartment owner is subject to sex trafficking in the first degree as a result of owning the apartment and renting a room to another prostitute.

MS. KEMP replied no; the scenario depicted shared apportioned spaces. She clarified that one person renting from another person without facts to support any additional payment does not meet the definition of provider of a place of prostitution.

CHAIR CLAMAN asked about evidence that the price charged for renting the apartment reflects payment to the roommate. He hypothesized that if a room in a home routinely costs \$1000, it might be suspicious if the rent was \$2500 monthly.

MS. KEMP replied that the language for commercial sex acts does not include compensation for apportioned shared expenses. She pointed to Page 11 and the term "reasonable" under the circumstances. She offered hypothetically, if one individual was charged \$5000 for a one-bedroom apartment, a prosecutor might make the argument that the rent was unreasonable, which does meet the definition of commercial sexual act.

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CHAIR CLAMAN wondered if Ms. Nancy Meade might provide statistics related to frequency of federal prosecutions for sex trafficking in Alaska.

MS. KEMP responded to the concerns voiced in public testimony. She referred to the opposition letter listing two principal concerns related to changes in the criminal law. She stated that the concern related to the patronage of sex trafficking would unnecessarily expose individuals to heightened penalties. She clarified that the prostitution statute under AS 11.66 remains the same. For the patronage of victim sex trafficking, several aspects must be proved prior to a criminal charge. Evidence for sex trafficking involves proof that the individual knowingly solicits commercial sexual acts with reckless disregard for a person who is engaging in the sexual act. She supposed that the public testimony concerns missed elements that the state must show in order to meet that particular statute. She added that the court must prove a mental state related to paragraphs (1) and (2) under the patronage of victim sex trafficking.

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There being no further business to come before the committee, Chair Claman adjourned the Senate Judiciary Standing Committee meeting at 2:55 pm.