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Radford  
3/3/20

**CS FOR HOUSE BILL NO. 287(TRB)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - SECOND SESSION

**BY THE HOUSE SPECIAL COMMITTEE ON TRIBAL AFFAIRS**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES KOPP, Edgmon, Shaw, Zulkosky, Lincoln**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act requiring background investigations of village public safety officer applicants**  
2 **by the Department of Public Safety; relating to the village public safety officer program;**  
3 **and providing for an effective date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 **\* Section 1.** AS 12.62.400(a) is amended to read:

6 (a) To obtain a national criminal history record check for determining a  
7 person's qualifications for a license, permit, registration, employment, or position, a  
8 person shall submit the person's fingerprints to the department with the fee established  
9 by AS 12.62.160. The department may submit the fingerprints to the Federal Bureau  
10 of Investigation to obtain a national criminal history record check of the person for the  
11 purpose of evaluating a person's qualifications for

12 (1) a license or conditional contractor's permit to manufacture, sell,  
13 offer for sale, possess for sale or barter, traffic in, or barter an alcoholic beverage  
14 under AS 04.11;

- 1 (2) licensure as a mortgage lender, a mortgage broker, or a mortgage  
2 loan originator under AS 06.60;
- 3 (3) admission to the Alaska Bar Association under AS 08.08;
- 4 (4) licensure as a collection agency operator under AS 08.24;
- 5 (5) a certificate of fitness to handle explosives under AS 08.52;
- 6 (6) licensure as a massage therapist under AS 08.61;
- 7 (7) licensure to practice nursing or certification as a nurse aide under  
8 AS 08.68;
- 9 (8) certification as a real estate appraiser under as 08.87;
- 10 (9) a position involving supervisory or disciplinary power over a minor  
11 or dependent adult for which criminal justice information may be released under  
12 AS 12.62.160(b)(9);
- 13 (10) a teacher certificate under AS 14.20;
- 14 (11) a registration or license to operate a marijuana establishment  
15 under AS 17.38;
- 16 (12) admittance to a police training program under AS 18.65.230 or for  
17 certification as a police officer under AS 18.65.240 if that person's prospective  
18 employer does not have access to a criminal justice information system;
- 19 (13) licensure as a security guard under AS 18.65.400 - 18.65.490;
- 20 (14) a concealed handgun permit under AS 18.65.700 - 18.65.790;
- 21 (15) licensure as an insurance producer, managing general agent,  
22 reinsurance intermediary broker, reinsurance intermediary manager, surplus lines  
23 broker, or independent adjuster under AS 21.27;
- 24 (16) serving and executing process issued by a court by a person  
25 designated under AS 22.20.130;
- 26 (17) a school bus driver license under AS 28.15.046;
- 27 (18) licensure as an operator or an instructor for a commercial driver  
28 training school under AS 28.17;
- 29 (19) registration as a broker-dealer, agent, investment adviser  
30 representative, or investment adviser under AS 45.56.300 - 45.56.350;
- 31 (20) licensure, license renewal, certification, certification renewal, or

1 payment from the Department of Health and Social Services of an individual and an  
2 entity subject to the requirements for a criminal history check under AS 47.05.310,  
3 including

4 (A) a public home care provider described in AS 47.05.017;

5 (B) a provider of home and community-based waiver services  
6 financed under AS 47.07.030(c);

7 (C) a case manager to coordinate community mental health  
8 services under AS 47.30.530;

9 (D) an entity listed in AS 47.32.010(b), including an owner,  
10 officer, director, member, partner, employee, volunteer, or contractor of an  
11 entity; or

12 (E) an individual or entity not described in (A) - (D) of this  
13 paragraph that is required by statute or regulation to be licensed or certified by  
14 the Department of Health and Social Services or that is eligible to receive  
15 payments, in whole or in part, from the Department of Health and Social  
16 Services to provide for the health, safety, and welfare of persons who are  
17 served by the programs administered by the Department of Health and Social  
18 Services;

19 **(21) employment as a village public safety officer under**  
20 **AS 18.65.672 or certification as a village public safety officer under AS 18.65.682.**

21 \* **Sec. 2.** AS 18.65.080 is amended by adding a new subsection to read:

22 (b) The Department of Public Safety shall investigate an individual who  
23 applies to be employed as a village public safety officer under AS 18.65.672 or  
24 certified as a village public safety officer under AS 18.65.682, upon receipt of the  
25 materials listed in AS 18.65.674(a)(1) from a village public safety officer grant  
26 recipient, to determine whether the individual has been convicted of a disqualifying  
27 crime listed in AS 18.65.672(b).

28 \* **Sec. 3.** AS 18.65.670 is repealed and reenacted to read:

29 **Sec. 18.65.670. Village public safety officer program.** (a) The village public  
30 safety officer program is created in the Department of Public Safety, with funding  
31 appropriated to the Department of Commerce, Community, and Economic

1 Development and disbursed through grants made under this section. The purpose of  
2 the program is to appoint, train, supervise, and retain persons to serve as village public  
3 safety officers.

4 (b) With funds appropriated for that purpose, the commissioner of commerce,  
5 community, and economic development shall, in coordination with the commissioner  
6 of public safety, provide grants to nonprofit regional corporations, federally  
7 recognized tribes, and Alaska Native organizations for training and employment of  
8 village public safety officers. If a nonprofit regional corporation for a village, federally  
9 recognized tribe, or Alaska Native organization declines a grant under this subsection,  
10 the commissioner may provide the grant to a municipality with a population of less  
11 than 10,000 willing to administer the grant for the village. Before awarding a grant to  
12 a municipality, the commissioner of commerce, community, and economic  
13 development shall consult with the commissioner of public safety and the nonprofit  
14 regional corporation, federally recognized tribe, or Alaska Native organization that  
15 declined the grant.

16 (c) The Department of Commerce, Community, and Economic Development  
17 shall annually accept applications from entities described in (b) of this section for  
18 village public safety officer grants. Grant applicants may apply to employ village  
19 public safety officers in participating villages located in the applicant's region. An  
20 application must include

- 21 (1) a projected budget, including administrative costs;
- 22 (2) a list of villages in which the applicant plans to employ village  
23 public safety officers;
- 24 (3) other information required by the Department of Commerce,  
25 Community, and Economic Development.

26 (d) The Department of Commerce, Community, and Economic Development  
27 shall enter into a written agreement with a grant recipient before providing grant  
28 funding. The agreement must require the grant recipient to

- 29 (1) comply with state and federal law;
- 30 (2) provide a salary and benefit schedule for the village public safety  
31 officer; and

1 (3) be named as the employer of the village public safety officer.

2 (e) An award of grant funding must provide for one village public safety  
3 officer for each village included in a grant agreement entered into under (d) of this  
4 section. A grant recipient may assign more than one village public safety officer to a  
5 village and request additional funding for the additional village public safety officer.  
6 The Department of Commerce, Community, and Economic Development may  
7 approve the request for additional funding if the grant recipient provides justification  
8 reasonably related to the duties of a village public safety officer and other public  
9 safety needs.

10 (f) A grant recipient may assign a traveling village public safety officer to  
11 serve multiple villages within the grant recipient's region.

12 (g) A grant recipient shall

13 (1) keep original financial, personnel, and other records relating to a  
14 village public safety officer for at least three years after the officer's termination of  
15 employment and, upon request, provide that information to the Department of  
16 Commerce, Community, and Economic Development or the Department of Public  
17 Safety;

18 (2) provide annual financial audits to the Department of Commerce,  
19 Community, and Economic Development;

20 (3) facilitate site visits by the Department of Public Safety to monitor  
21 public safety officer performance and compliance with state and federal law;

22 (4) notify the Department of Commerce, Community, and Economic  
23 Development if the grant recipient fails to comply with state or federal law;

24 (5) timely notify the Department of Public Safety if a village public  
25 safety officer resigns or vacates a position; and

26 (6) timely notify and submit a written report to the Department of  
27 Public Safety if a village public safety officer points a firearm in the direction of  
28 another person or discharges a firearm while on duty.

29 (h) The commissioner of public safety may, in consultation with grant  
30 recipients, as provided in (k) of this section, adopt regulations related to village public  
31 safety officers, including establishing minimum standards and training, physical

1 fitness requirements, criteria for participation by a community, a municipality, an  
2 Alaska Native organization, a federally recognized tribe, or a corporation, and the  
3 interaction between the Department of Public Safety and village public safety officers.  
4 If the commissioner of public safety adopts regulations regarding training for village  
5 public safety officers, the training must be consistent with the standards in  
6 AS 18.65.676 and disability training under AS 18.65.220(3). The commissioner of  
7 corrections may, in consultation with grant recipients, adopt regulations related to the  
8 functions of village public safety officers providing probation and parole supervision.

9 (i) A grant recipient may charge its federally approved indirect costs to the  
10 village public safety officer program grant if the statewide average of indirect costs  
11 does not exceed 35 percent.

12 (j) The Department of Commerce, Community, and Economic Development  
13 may not withhold, without reason, approval of a funding request made under a grant  
14 award. The Department of Commerce, Community, and Economic Development shall  
15 timely disburse grant funds. A grant recipient may use funding for items reasonably  
16 related to public safety and village public safety officer duties under AS 18.65.670 -  
17 18.65.688.

18 (k) The commissioner of public safety, commissioner of commerce,  
19 community, and economic development, and commissioner of corrections shall

20 (1) ensure all relations with federally recognized tribal governments  
21 that are direct grant recipients or the incorporator of a nonprofit regional corporation  
22 are conducted on a government-to-government basis;

23 (2) ensure the Department of Public Safety and the Department of  
24 Commerce, Community, and Economic Development consult with a grant recipient

25 (A) before implementing a policy or regulation that affects the  
26 recipient and as early as possible in the development of a new or revised policy  
27 or regulation;

28 (B) on the state policies and regulations the grant recipient  
29 considers necessary, as well as the substance of the policies and regulations;

30 (3) to the extent possible, use consensual mechanisms to develop  
31 policies and regulations, including negotiated rulemaking processes;

- 1 (4) respect tribal sovereignty in consultations with grant recipients;  
2 (5) ensure consultations with grant recipients are open and candid to  
3 enable interested parties to accurately assess potential effects; and  
4 (6) ensure the removal of procedural impediments to working directly  
5 and effectively with grant recipients on programs that affect the governmental rights  
6 of a tribe.

7 (l) The commissioner of public safety and the commissioner of commerce,  
8 community, and economic development shall designate an official within each  
9 department who has the primary responsibility for compliance with this section. The  
10 official shall develop and annually review departmental procedures for compliance  
11 with this section. The Department of Commerce, Community, and Economic  
12 Development and the Department of Public Safety shall provide to all grant recipients  
13 the results of the annual review and post the results on the Internet websites of the  
14 Department of Public Safety and the Department of Commerce, Community, and  
15 Economic Development.

16 \* **Sec. 4.** AS 18.65 is amended by adding new sections to read:

17 **Sec. 18.65.672. Village public safety officer qualifications.** (a) A grant  
18 recipient may employ a person as a village public safety officer if the individual

- 19 (1) is at least 21 years of age;  
20 (2) is a citizen of the United States or a resident alien;  
21 (3) has obtained a high school diploma or a general education  
22 development diploma or its equivalent;  
23 (4) satisfies the physical requirements established in regulation by the  
24 Department of Public Safety;  
25 (5) has not been previously convicted  
26 (A) of a felony crime against a person under AS 11.41;  
27 (B) of a felony crime, other than a felony under (A) of this  
28 paragraph, unless at least 10 years have passed since the date of the conviction;  
29 (C) of a misdemeanor crime involving domestic violence  
30 unless at least 10 years have passed since the date of the conviction;  
31 (D) of a misdemeanor if less than five years has elapsed since

1 the individual's date of conviction for the offense;

2 (E) three or more times of

3 (i) misdemeanor operating a vehicle, aircraft, or  
4 watercraft while under the influence of an alcoholic beverage, inhalant,  
5 or controlled substance under AS 28.35.030;

6 (ii) misdemeanor refusal to submit to a chemical test  
7 under AS 28.35.032; or

8 (iii) a combination of the offenses in (i) and (ii) of this  
9 subparagraph;

10 (F) of manufacturing, transporting, or delivering an alcoholic  
11 beverage in violation of a local option under AS 04.11 or a municipal  
12 ordinance or a controlled substance, unless at least 10 years has elapsed; or

13 (G) of use of a controlled substance as defined in  
14 AS 11.71.900, other than marijuana, if less than 10 years has elapsed since the  
15 individual's use;

16 (6) has not been denied a village public safety officer certification or  
17 had a certification revoked; and

18 (7) has not been denied a police officer certification, had a certification  
19 revoked, or surrendered a certification in this state or another jurisdiction.

20 (b) A grant recipient may not use grant money to employ a village public  
21 safety officer for a period of more than 24 months unless the officer obtains a village  
22 public safety officer certificate from the Department of Public Safety under  
23 AS 18.65.682. Upon written application from a grant recipient, the Department of  
24 Public Safety may, in its discretion, extend this period up to six months to permit the  
25 officer to complete the training required under AS 18.65.676, if the officer is unable to  
26 do so in the first 24 months of employment because of an illness, injury, or  
27 emergency.

28 (c) In this section, "previously convicted" means having been convicted of a  
29 crime described in (a) of this section or a law or ordinance of another jurisdiction with  
30 elements similar to the crimes listed in (a) of this section. A conviction for which the  
31 person received a suspended entry of judgment, suspended imposition of sentence,



1 expungement, or pardon is a conviction for purposes of this section, unless the  
2 conviction was for a misdemeanor crime committed by the individual when the  
3 individual was under 21 years of age.

4 **Sec. 18.65.674. Background investigations.** (a) Before employing an  
5 individual as a village public safety officer, a grant recipient shall

6 (1) submit to the commissioner of commerce, community, and  
7 economic development the individual's

8 (A) completed application and personal and medical history, on  
9 forms prepared by the department;

10 (B) proof of age, citizenship status, and education; and

11 (C) fingerprints, the fees required by the Department of Public  
12 Safety under AS 12.62.160 for criminal justice information and a national  
13 criminal history record check, and other information sufficient to complete a  
14 background check consisting of a fingerprint check of national criminal  
15 records and criminal records of the state or states in which the individual has  
16 resided for the past 10 years; the commissioner shall submit the fingerprints  
17 and fees to the Department of Public Safety for a report of criminal justice  
18 information under AS 12.62 and a national criminal history record check under  
19 AS 12.62.400;

20 (2) review the criminal justice information and national criminal  
21 history record check completed by the Department of Public Safety; and

22 (3) review the results of the individual's physical examination and  
23 physician certification.

24 (b) Personnel and training information that the Department of Commerce,  
25 Community, and Economic Development, the Department of Public Safety, or a grant  
26 recipient receives about a village public safety officer is confidential and available  
27 only for review by a grant recipient, Department of Commerce, Community, and  
28 Economic Development, the Department of Public Safety, or that officer. A village  
29 public safety officer or an individual who applies for employment as a village public  
30 safety officer may not review information that another individual supplied with the  
31 understanding that the information or its source would remain confidential, unless the

1 information serves as the basis for a decision to deny or revoke a certificate under  
2 AS 18.65.684.

3 **Sec. 18.65.676. Training.** (a) A village public safety officer basic training  
4 program must provide

5 (1) a physical training program that includes instruction in physical  
6 methods of arrest, use of batons, use of chemical defensive weapons, and electronic  
7 control weapons;

8 (2) at least 826 hours of instruction as follows:

9 (A) 650 hours of instruction in

10 (i) Alaska criminal and procedural law;

11 (ii) the Alaska criminal justice system;

12 (iii) police procedures;

13 (iv) disabilities under AS 18.65.220(3);

14 (B) 40 hours of emergency trauma technician training;

15 (C) 40 hours of search and rescue training; and

16 (D) 96 hours of rural fire protection specialist training.

17 (b) An individual seeking village public safety officer certification under  
18 AS 18.65.682 shall attend all sessions of the basic training required under (a) of this  
19 section, unless the director of the training program approves an absence. An individual  
20 who is absent for more than 10 percent of the total hours of instruction has not  
21 successfully completed basic training.

22 (c) An individual who fails to comply with the attendance and performance  
23 requirements of the training program may be dismissed from the training. The  
24 Department of Public Safety may not consider a dismissed individual to have  
25 successfully completed basic training.

26 (d) If a village public safety officer receives training that the Department of  
27 Public Safety did not provide and the entity conducting the training provides a  
28 description of the training to the department, the department may take that training  
29 into account in determining the completion of basic training and accept other police  
30 officer or firefighter training and experience that equals or exceeds the hours and  
31 covers the subject matter required under (a) of this section.

1           **Sec. 18.65.678. Firearms training.** (a) A village public safety officer may not,  
2 except in an emergency, carry a firearm in the performance of the officer's duties until  
3 the officer has successfully completed

4                   (1) a basic firearms training program that is certified by the Alaska  
5 Police Standards Council or substantially similar training as determined by the  
6 Department of Public Safety;

7                   (2) a psychological examination conducted by a mental health  
8 professional; and

9                   (3) all annual firearm qualification requirements.

10           (b) In determining the successful completion of basic firearms training, the  
11 Department of Public Safety may consider previous training and experience that is  
12 substantially similar to the training required under (a) of this section.

13           **Sec. 18.65.682. Village public safety officer certification.** The Department of  
14 Public Safety shall issue a village public safety officer certificate to an individual who

15                   (1) has satisfactorily completed 12 months as a full-time paid village  
16 public safety officer without a break in service longer than 90 consecutive days or  
17 nonconsecutive breaks in service totaling 120 or more days;

18                   (2) meets the standards in AS 18.65.672;

19                   (3) has successfully completed

20                           (A) a basic training program that meets the requirements under  
21 AS 18.65.676; and

22                           (B) a background information check under AS 18.65.674(a);  
23 and

24                   (4) attests to the law enforcement code of ethics.

25           **Sec. 18.65.684. Denial, revocation, or lapse of certificate.** (a) The  
26 Department of Public Safety may deny an individual's application for a village public  
27 safety officer certificate or revoke a village public safety officer certificate in  
28 accordance with AS 44.62 (Administrative Procedure Act) if

29                   (1) the individual knowingly makes a false statement in an application  
30 or other document required for employment or certification; or

31                   (2) after the date of hire, has

1 (A) been convicted of a

2 (i) felony;

3 (ii) misdemeanor crime involving domestic violence; or

4 (iii) misdemeanor crime of dishonesty, a crime that  
5 resulted in serious physical injury to another person, or of operating a  
6 vehicle, aircraft, or watercraft while under the influence of an alcoholic  
7 beverage, inhalant, or controlled substance two or more times;

8 (B) illegally used, possessed, manufactured, transported, or  
9 delivered an alcoholic beverage in violation of a local option under AS 04.11  
10 or a municipal ordinance or a controlled substance; or

11 (C) used, sold, cultivated, transported, manufactured, or  
12 distributed marijuana.

13 (b) The commissioner of public safety is not required to deny an individual's  
14 application for certification or revoke a certification if the individual or holder of the  
15 certificate establishes by clear and convincing evidence that, in connection with a  
16 conviction for a misdemeanor crime involving domestic violence, the individual or  
17 holder of the certificate

18 (1) was not represented by counsel and did not, by guilty plea or  
19 otherwise, knowingly waive the right to counsel;

20 (2) was entitled to a jury trial, did not receive a jury trial, and did not,  
21 by guilty plea or otherwise, knowingly waive the right to a jury trial; or

22 (3) is not subject to a court order that expressly prohibits the officer  
23 from shipping, transporting, possessing, or receiving firearms, and the underlying  
24 conviction

25 (A) has been expunged or set aside;

26 (B) is for an offense for which the officer has been pardoned;

27 or

28 (C) is for an offense for which the officer has had civil rights  
29 restored that were lost upon the conviction.

30 (c) The holder of a certificate shall immediately return the certificate to the  
31 Department of Public Safety upon notification of the revocation.

1 (d) An individual who is denied a certificate or a holder whose certificate is  
2 revoked may appeal to the commissioner of public safety for reversal of the denial or  
3 revocation. The appeal must be received in writing within 30 days after the date of the  
4 notice of denial or revocation and must set out the reasons for the appeal. The  
5 commissioner of public safety or the commissioner's designee shall issue a written  
6 decision within 45 days after receipt of the appeal.

7 (e) A certificate lapses if the holder is not employed as a full-time village  
8 public safety officer for a period of 12 consecutive months.

9 (f) An individual may request reinstatement of a lapsed certificate after  
10 undergoing additional training as determined by the Department of Public Safety and  
11 serving an additional probationary period of up to 12 months, at the discretion of the  
12 commissioner of public safety in consultation with the grant recipient. A certificate  
13 that lapses for more than 10 years may not be reinstated.

14 **Sec. 18.65.686. Powers and duties of village public safety officers.** A village  
15 public safety officer has the power of a peace officer of the state or a municipality and  
16 is charged with

17 (1) the protection of life and property in the state, including through

18 (A) fire prevention and suppression;

19 (B) provision of emergency medical services; and

20 (C) participation in and management of search and rescue  
21 efforts for missing or injured persons;

22 (2) providing probation and parole supervision to persons under  
23 supervision by communicating with and monitoring the activities and progress of these  
24 persons at the direction of probation and parole officers;

25 (3) conducting investigations;

26 (4) enforcing

27 (A) the criminal laws of the state or a municipality;

28 (B) statutes or ordinances of the state, a municipality, or a  
29 village punishable as a violation;

30 (5) providing local training programs on public safety; and

31 (6) the powers usually and customarily exercised by a peace officer.

1                   **Sec. 18.65.688. Definitions.** In AS 18.65.670 - 18.65.688,

2                   (1) "Alaska Native organization" means an organization listed in  
3 AS 47.27.070(a);

4                   (2) "crime involving domestic violence" has the meaning given in  
5 AS 18.66.990;

6                   (3) "for cause" means for inefficiency, incompetency, dishonesty, or  
7 some other reason that adversely affects the ability and fitness of the village public  
8 safety officer to perform job duties;

9                   (4) "marijuana" has the meaning given in AS 11.71.900;

10                  (5) "village" means a community with a population less than 2,000  
11 based on the most recent federal census.

12                  \* **Sec. 5.** AS 44.33.020(a) is amended by adding a new paragraph to read:

13                   (45) administer the village public safety officer grant program under  
14 AS 18.65.670 through grant application review, compliance monitoring, and  
15 consultation and mediation of disputes between grant recipients.

16                  \* **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to  
17 read:

18                  TRANSITION. Notwithstanding the requirements in AS 18.65.672 and 18.65.676,  
19 enacted by sec. 4 of this Act, a person employed as a village public safety officer on the day  
20 before the effective date of sec. 4 of this Act may continue to be employed as a village public  
21 safety officer without meeting the requirements.

22                  \* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to  
23 read:

24                  TRANSITION. In implementing AS 18.65.670(h), added by sec. 3 of this Act, the  
25 Department of Public Safety shall continue to comply with regulations adopted under  
26 AS 18.65.670(c) regarding interactions between the Department of Public Safety and the  
27 village public safety officers.

28                  \* **Sec. 8.** AS 18.65.670(b) - (g), as repealed and reenacted by sec. 3 of this Act, take effect  
29 July 1, 2020.

30                  \* **Sec. 9.** Except as provided in sec. 8 of this Act, this Act takes effect immediately under  
31 AS 01.10.070(c).