

ALASKA STATE LEGISLATURE

**Rules Committee
Judiciary Committee**




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**REPRESENTATIVE CHUCK KOPP
DISTRICT 24**

MEMORANDUM

TO: Rep. Tiffany Zulkosky
Chair, House Special Committee on Tribal Affairs

FROM: Rep. Chuck Kopp 

RE: HB 287 Sponsor's response to March 4, 2020 letter from Commissioner Price on HB 287 version K

DATE: March 9, 2020

Commissioner Price sent comments myself and the other bill co-sponsors to version K. What follows are my brief statements on the recommendation contained in that letter. In brief, my statements fall into three categories:

1. Recommendations that I agreed with and have requested amendments for the committee's consideration.
2. Recommendations that I disagree with but would be pleased to address them further.
3. Recommendations that I did not understand because the comments would suggest that a particular bill provision was unclear, or vague or represented some other operational problem. What is confusing is the bill provisions in this category are either currently in statute or the bill language came from the department's VPSO current regulations.

Comments that led to amendments before the committee:

1. On the repealed and reenacted VPSO statute, AS 18.65.670(a)(1)(c) [The expanded powers and duties of VPSOs, specifically "search and rescue."]

2. On the repealed and reenacted VPSO statute, AS 18.65.670(a)(3) expanded duties to include “conducting investigations
3. On the repealed and reenacted VPSO statute, AS 18.65.670(a)(4)(A): On VPSOs enforcing “village” law.
4. On the repealed and reenacted VPSO statute, AS 18.65.670(a)(4)(B) regarding VPSOs having authority to enforce “violations”.
5. On the repealed and reenacted VPSO statute, AS 18.65.670(d)(3) on the responsibility of who will be required to purchase liability insurance.
6. On the repealed and reenacted VPSO statute, AS 18.65.670(i) suggested that this section additionally include statutorily required training on domestic violence (12 hours) and sexual assault (12 hours).
7. On the new VPSO statute, AS 18.65.672—the VPSO qualifications statute that we modified from their existing regulation 13 AAC 96.080:
 - a. .672(a)(5)(B):DPS suggests removing this section and make all felony convictions a reason for barring employment as a VPSO.
8. .672(a)(5)(C): On adding a waiver requirement for CJIS access for misdemeanor domestic violence convictions.
9. .672(a)(5)(E): On reducing three (3) DUI convictions back down to two (2) DUI convictions.
10. .672(a)(5)(G): technical change on the word “use” of a controlled substance to “possess.”
11. .672(b): On allowing an applicant to work for 24 months without a VPSO certificate.
12. On the new VPSO statute, AS 18.65.674(a)(1) on background checks:

This section states that the fingerprints go to the DPS while the remaining background information goes to the DCCED implying that the DCCED makes eligibility determinations on employment using DPS regulations and laws outside the department’s expertise
13. On the new VPSO statute, AS 18.65.674(b)--same as above amendment is removing DCCED.

14. On the new VPSO statute, AS 18.65.676 on training requirements adding domestic violence and sexual assault trainings. This is a duplicate request to number 6 above.

Suggestions not in amendments because the bill sponsor did not agree with the recommendation:

1. On the repealed and reenacted VPSO statute, AS 18.65.670(b): Inclusion of “federally recognized tribes” as eligible VPSO grant recipient.
2. On the repealed and reenacted VPSO statute, AS 18.65.670(k): On the provision that provides more timely grant fund distribution and financial flexibility:
3. On the new VPSO statute, AS 18.65.670(l)(1)-(6): The new “tribal consultation” provision vague and unclear.
4. On the new VPSO statute, AS 18.65.670(m): On creating policies for implementing the consultation provision and compliance measures for them.
5. .672(c): on what constitutes “previously convicted” for purpose of barrier crimes to VPSO employment.
6. On the new VPSO statute, AS 18.65.684, on department denying, revoking, or lapsed VPSO certificates using “shall” instead of “may.”

Suggestions that questioned the wisdom of bill provisions. The following bill provisions are either from the existing VPSO statute or the department’s current VPSO regulations, or functions that VPSOs have performed for many years and the bill is just putting these in statute:

1. On the repealed and reenacted VPSO statute, AS 18.65.670(a)(3) on conducting investigations and evidence storage for evidence that results with VPSOs now being allowed to investigate felonies.
 - a. Response: The comment from the Department mistakenly asserts that the bill increases the amount of time to 30 months a VPSO may be on the job without being certified. The bill keeps the current standard of 24 months which is in current DPS regulations. Also, VPSOs currently investigate felonies and deal with collected evidence and evidence storage and the bill does nothing but acknowledge the current practice.
2. On the repealed and reenacted VPSO statute, AS 18.65.670(a)(4)(A): On expanding VPSO’s to having authority to enforcing municipal ordinances and creating jurisdictional conflicts.

- a. Response: All certified municipal police and state troopers have statewide jurisdiction with potential “jurisdictional conflicts” but they manage them. Also, VPSOs currently work within municipalities specifically when travel to offer VPSO support to municipalities hosting AFN.
3. On the repealed and reenacted VPSO statute, AS 18.65.670(b): Comment that :“It further expands the eligible applicants to municipalities with less than 10,000 people.
 - a. Response: This particular subsection in the bill is an almost word-for-word reenactment of the existing subsection of the VPSO statute and makes no changes to municipal government eligibility to apply for a VPSO grant.
4. On the repealed and reenacted VPSO statute, AS 18.65.670(c): On this provision being unclear about VPSOs being assigned outside of grant a recipient’s region.
 - a. Response: This provision is almost identical to existing regulation and is unclear to the bill sponsor why the DPS regulation language is now unclear when it is in a statute.
5. On the repealed and reenacted VPSO statute, AS 18.65.670(h)(3): Comment that it is unclear what is meant by the DPS participating in “monitoring public safety performance.”
 - a. Response: This is the current statutory language, and only statutory language, that instructs the department how to interact with the VPSO grantees. It is unclear why this language is insufficient now when it has been in the statute.
6. On the repealed and reenacted VPSO statute, AS 18.65.670(h)(6) asserting the provision is insufficient to deal with potential VPSO use of force issues.
 - a. Response: This provision is word-for-word from existing VPSO regulations. Again, it is unclear why the language was sufficient as a regulation but is now somehow deficient.
7. On proposed new statute AS 18.65.672(a)(5)(D) dealing with VPSO qualifications, specifically dealing allowing a misdemeanor conviction if less than five years has elapsed since the conviction—comments suggests adding a waiver process:
 - a. Response: This provision is word-for-word from existing VPSO regulation 13 AAC 96.080(a)(6)(B) and there is no “waiver process.”. Again, it is unclear why the language was sufficient as a regulation but is now somehow deficient.

8. On the new VPSO statute, AS 18.65.678, on firearms training, comment being there is no responsibility assigned to this overall section.
 - a. Response: This provision is word-for-word from existing VPSO regulation 13 AAC 96.100.” Again, it is unclear why the language was sufficient as a regulation but is now somehow deficient.
9. On the new VPSO statute, AS 18.65.684(b)(1)-(3). The comment: “The intent of this section is unclear. Intent of the section that VPSOs who are convicted of domestic violence, while employed as VPSOs, not have their certification revoked? Why are the considerations in place for domestic violence but not other misdemeanors?”
 - a. Response: This provision is word-for-word from the department’s proposed changes to VPSO regulation 13 AAC 96.120. The bill sponsor pulled this language from what the department provided this office. It is unclear why the language was sufficient as the department drafted it, but now the intent is somehow unclear.

cc: Senate President Giessel
VPSO Working Group members