

LEGAL SERVICES

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MEMORANDUM

March 25, 2024

SUBJECT: Discussion in committee of matters awaiting adjudication
(Work Order No. 33-LS1525)

TO: Representative Kevin McCabe
Attn: Angela Steph

FROM: Megan A. Wallace
Chief Counsel 

You asked whether the legislature may hear a presentation in committee on the topic of an ongoing lawsuit.

Mason's Manual of Legislative Procedure (2020 ed.) (*Mason's*), sec. 111(3) states: "Any matter awaiting adjudication before a judicial tribunal should not be debated or discussed in a legislative body."

Because rules regarding debate are matters of procedure, it is ultimately up to the house to determine when and to what extent it is appropriate to limit debate under sec. 111(3). *Mason's* notes in sec. 15(1): "Violation of rules of procedure adopted by a house of the legislature for its own convenience and not required by the constitution will not impair the validity of a statute." Section 15(3) states, in part: "A rule is effectively repealed for the occasion when it is disregarded by those who have power to adopt or repeal it; and the act of disregarding it is at least a suspension of it."

The rules of procedure in a committee, while less formal with respect to limits on debate, are the same as the rules of the body "insofar as such rules are applicable to committee procedure. However, insofar as the conditions permit, the rules regarding debate should be relaxed in order to give free discussion and not to handicap the work of the committee." *Mason's*, Sec. 638(1). In this case, the rules of decorum in debate implicated by *Mason's* Sec. 111(3) seem as applicable to a committee hearing as they do to debate on the floor; however as with any procedural rule, interpretation of the rules is for the committee chair or the presiding officer to decide, and in the case of a decision by the chair, is subject to appeal to the membership of the committee.

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The matters that are the subject of the upcoming House Community and Regional Affairs (HCRA) meeting¹ appear to be the topic of the ongoing lawsuit *Michael Cox and Tamara Halliburton as Co-Personal Representatives of the Estate of James K. Rider v. State of Alaska, et al.*² The lawsuit points to the 2015 Department of Corrections report posted on BASIS as a supporting document and alleges "Despite Ample Notice, Alaska DOC Policies and Practices Fail to Monitor and Fail to Provide Mental Health and Medical Treatment, Resulting in Numerous Inmate Deaths."³ The report is an exhibit to the Complaint.⁴ In addition to compensatory damages, the lawsuit seeks:

An independent review of the Alaska Department of Corrections that includes an audit of Alaska DOC finances and a review of: available programming for Alaska DOC inmates, Alaska DOC's medical screenings, practices, and procedures, Alaska DOC's suicide watch protocols, Alaska DOC's staffing practices and any staffing shortages, Alaska DOC's use of solitary confinement and segregated confinement, and the availability and use of drug and alcohol rehabilitation for Alaska DOC inmates;

The HCRA Alaska Civil Liberties Union Presentation 3.26.24 document includes general background information and summary statistics on deaths of people in custody of the Alaska Department of Corrections. However, there may be grounds for objection to discussing the 2015 Department of Corrections report or recommendations for review of Department of Corrections practices on grounds that the matters are currently awaiting adjudication.

If I may be of further assistance, please advise.

MAW:mis
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¹ <https://www.akleg.gov/basis/Meeting/Detail?Meeting=HCRA%202024-03-26%2008:00:00#tab4> 4.

² 3AN-23-08067CI; see also <https://www.adn.com/alaska-news/2023/08/31/aclu-files-wrongful-death-lawsuits-over-alaska-prison-suicides/> (last accessed March 25, 2024).

³ https://www.acluak.org/sites/default/files/field_documents/cox_v_doc_complaint_stamped_full.pdf.

⁴ *Id.*