

ALASKA STATE LEGISLATURE

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REPRESENTATIVE TIFFANY ZULKOSKY DISTRICT 38

Sectional Analysis House Bill 313 version B

“An Act requiring background investigations of village public safety officer applicants by the Department of Public Safety; relating to the village public safety officers program; and providing for an effective date.”

Please note that this is a sectional summary and not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

This bill implements eight of the nine short term recommendations from the Joint Legislative VPSO Working Group’s report adopted January 24, 2020. The nine recommendations are:

- **Recommendation 1.** Update the VPSO statutes to provide a clear law enforcement and public safety vision and mission for the program and provide VPSO personnel clear law enforcement duties and powers.
- **Recommendation 2.** Create more financial flexibility for the VPSO grantee organizations in the updated VPSO statutes.
- **Recommendation 3.** Restore VPSO funding levels to FY18 levels.
- **Recommendation 4.** Fund unfunded mandates.
- **Recommendation 5.** Related to Recommendation 4, in an updated VPSO statute, mandate that grant awards pay grantee organization their full indirect costs.
- **Recommendation 6.** Move financial grant management to the Department of Commerce, Community, and Economic Development.
- **Recommendation 7.** Maintain operational advisory, training, and experience requirement oversight at the Department of Public Safety.
- **Recommendation 8.** In statute create a Tribal/Grantee organization consultation process before the Department can change training and experience requirements.
- **Recommendation 9.** Revised versions (consistent with the recommendations of this report) of current VPSO regulations need to be placed in statute in order to operationalize the VPSO program and to facilitate the grant management moving to the Department of Commerce.

Section 1 (pages 1-3)

Amends AS 12.62.400 regarding criminal history background checks and adds VPSO program personnel as a program the Department of Public Safety is authorized to secure background checks via the Federal Bureau of Investigation. The substantive change occurs on page 3, line 21.

Section 2 (page 3)

Related to Section 1, Amends AS 18.65.080, one of the Department of Public Safety's enabling statutes. The amendment requires that the Department secure the background checks for VPSO program personnel.

Sections 1 and 2 implement Recommendation 2 regarding creating more financial flexibility for the program. At one point the Department of Public Safety (DPS) was conducting background checks for the VPSO program then unilaterally stopped with no notice the grantee organizations. Sections 1 and 2 together make it clear that background checks are a DPS function for the VPSO program.

Section 3 (pages 4-7) In current statute the VPSO program has only one statute, AS 18.65.670. Section 3 proposes to repeal and reenact the statute and add multiple new subsections.

Subsection (a) has been rewritten to conform to the current Legislative Drafting Manual and because a new statute is proposed in Bill Section 4, AS 18.65.686, that updates VPSO duties and powers.

Subsection (b) is similar to existing (b).

Subsection (c) is new and is the statutory codification of current DPS regulation 13 AAC 96.020. This implements Recommendation 9.

Subsection (d) is new and is the statutory codification of current DPS regulation 13 AAC 96.030 with changes that remove the prohibition of existing 13 AAC 96.030(2) that prevents the payment of bonuses from other non-VPSO grant revenue sources. Also removed is the requirement that grantees indemnify the state. These changes implement Recommendations, 2, 4, and 9.

Subsection (e) is new and is the partial statutory codification of current DPS regulations 13 AAC 96.040, specifically, (a)(2). This subsection sets the overall policy that one VPSO is generally assigned to one village unless the grantee organization requests additional VPSO personnel per village. The changes reflect a more neutral and less harsh tone than the language from the regulation. 32-LS0362\I

Subsection (f) is new and allows for traveling or "roving" VPSO personnel who are permitted to itinerate between villages within a grantee's region as public safety needs arise. These changes implement Recommendations 1, 2, and 9.

Subsection (g) is new and is the partial statutory codification of current DPS regulations 13 AAC 96.040. New (g) contains grant award record keeping requirements and other grant management requirements. These changes implement Recommendations 1, 2, and 9.

Subsection (h) contains new regulation adopting authority for the DPS commissioner, subject to the new consultation requirements of new (l) of this bill section. These changes implement Recommendations 1, 2, and 8.

Subsection (i) allows for funding grantee organizations' indirect rates up to a statewide average of 35%. This language has been used as intent language in multiple prior operating budget bills. These changes partially implement Recommendations 2, 4-5.

Subsection (j) is new and provides explicit instruction to the commissioner on grant fund disbursement. Specifically, that grant funds can be used for items reasonably related to public safety and VPSO duties as codified in this bill. Further, grant fund disbursement is to be timely and funding request are not to be unreasonably withheld. These changes partially implement Recommendation 2.

Subsections (k) and (l) are related to new (i) and provides for a consultation and negotiated rule-making process for when any of the state agencies involved with the VPSO program exercise their regulation adopting authority. These changes implement Recommendation 8.

Section 4 (pages 8-14)

Creates new statutes:

AS 18.65.672 is the statutory codification of current DPS regulation 13 AAC 96.080 dealing with VPSO qualification requirements. These changes implement Recommendation 9.

AS 18.65.674 is the statutory codification of current DPS regulation 13 AAC 96.090 dealing with VPSO background checks. These changes implement Recommendation 9.

AS 18.65.676 outlines requirements for the topics that the VPSO basic training program must cover.

AS 18.65.678 delineates in statute the circumstances under which a VPSO may or may not carry a firearm.

AS 18.65.682 stipulates that the Department shall issue a VPSO certificate to someone who served full time as a VPSO for a year who fulfills the qualifications necessary to be a VPSO, has completed a basic training program, passed a background check, and meets the law enforcement code of ethics.

AS 18.65.684 outlines the circumstances under which DPS may deny an individual's application to the VPSO program or revoke their VPSO certificate.

AS 18.65.686 broadly defines the powers and duties of a VPSO officer.

AS 18.65.688 provides definitions for "Alaska Native organization," "commissioner," "crime involving domestic violence," "department," "marijuana," and "village."

Section 5 (page 14) Creates in the uncodified law a standard grandfather provision for existing VPSO personnel who may have been certified under different training requirements than what is provided for in this bill.

Section 6 (page 14) Creates in the uncodified law a requirement that DPS continue its current level of interaction between itself and the VPSO personnel. That requirement is codified in current VPSO statute AS 18.65.670(c) with the language relating to DPS regulation authority extending to "the interaction between the Department of Public Safety and village public safety officers." This requirement is maintained by bill section 3(i) which uses the exact wording regarding DPS regulation authority.

Section 7 (page 14) Is an effective date provision and provides that the subsections (b) – (g) of repealed and reenacted AS 18.65.670 become effective on July 1, 2020. These subsections are proposed codifications and modifications of current department regulations. This will allow the department time to take action to make the department regulations consistent with the new provisions of statute enacted by this bill.

Section 8 (page 14) Provides that all other sections of the bill have an immediate effective date