

HOUSE FINANCE COMMITTEE
May 04, 2001
9:00 AM

TAPE HFC 01 - 114, Side A
TAPE HFC 01 - 114, Side B

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 9:00 AM.

MEMBERS PRESENT

Representative Eldon Mulder, Co-Chair
Representative Bill Williams, Co-Chair
Representative Con Bunde, Vice-Chair
Representative Eric Croft
Representative John Davies
Representative Carl Moses
Representative Richard Foster
Representative John Harris
Representative Bill Hudson
Representative Ken Lancaster

MEMBERS ABSENT

Representative Jim Whitaker

ALSO PRESENT

Senator Kim Elton, Sponsor; Juli Lucky, Staff, Senator Halford; Dean Guaneli, Chief Assistant Attorney General, Criminal Division, Department of Law; Deb Davidson, Staff, Senator Donley; Chris Christensen, Deputy Administrative Director, Alaska Court System; Laura Hugonin, Executive Director, Alaska Network on Domestic Violence and Sexual Assault; Nanci Jones, Director, Permanent Fund Dividend Division, Department of Revenue; Del Smith, Deputy Director, Department of Public Safety; Chris Knauss, Staff, Senator Kelly.

PRESENT VIA TELECONFERENCE

George Taft, State Crime Laboratory, Department of Public Safety.

SUMMARY

SB 50 "An Act extending the termination date of the Board of Veterinary Examiners."

SB 50 was REPORTED out of Committee with a "do pass" recommendation and with a previously published fiscal impact note by the Department of Community and Economic Development (#1).

SB 99 "An Act relating to the DNA identification registration system."

SB 99 was REPORTED out of Committee with a "do pass" recommendation and with two previously published fiscal notes (#2 - DPS and #3 - ADM).

CSSB 105(FIN)

"An Act relating to victims' rights; relating to establishing an office of victims' rights; relating to the authority of litigants and the court to comment on the crime victim's choice to appear or testify in a criminal case; relating to compensation of victims of violent crimes; relating to eligibility for a permanent fund dividend for persons convicted of and incarcerated for certain offenses; relating to notice of appropriations concerning victims' rights; amending Rules 16 and 30, Alaska Rules of Criminal Procedure, Rule 9, Alaska Delinquency Rules, and Rule 501, Alaska Rules of Evidence; and providing for an effective date."

CSSB 105(FIN) was heard and HELD in Committee for further consideration.

CSSB 172(FIN)

"An Act relating to an annual report by the court system to the public and the legislature."

HCS CSSB 172 (JUD) was REPORTED out of Committee with a "do pass" recommendation and with a previously published fiscal note (#1 - CRT).

CSSB 193(FIN)

"An Act making a special appropriation to the Alaska Legislative Council for a study of the economic and social effects of the permanent fund dividend on the state; and providing for an effective date."

CSSB 193 (FIN) was heard and HELD in Committee for further consideration.

HCR 18 Suspending Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State Legislature, concerning Senate Bill No. 105, relating to crime victims.

HCR 18 was heard and HELD in Committee for further consideration.

#sb50

SENATE BILL NO. 50

"An Act extending the termination date of the Board of Veterinary Examiners."

SENATOR KIM ELTON, SPONSOR testified in support of the legislation. He observed that the legislation extends the Board of Veterinary Examiners. A recent audit by the Legislative Budget and Audit Committee concluded that the Board is operating in an efficient and effective manner and should continue to regulate veterinarians and that the Board is safeguarding a public interest.

Representative Foster MOVED to report SB 50 out of Committee with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

SB 50 was REPORTED out of Committee with a "do pass" recommendation and with a previously published fiscal impact note by the Department of Community and Economic Development (#1).

#sb99

SENATE BILL NO. 99

"An Act relating to the DNA identification registration system."

JULI LUCKY, STAFF, SENATOR HALFORD, testified in support. She explained that the legislation expands DNA registry to burglary. Since 1995 there has been a DNA database to collect samples from persons convicted of crimes against a person. Studies have shown that there is a strong correlation between burglary and subsequent violent crimes. She pointed out that in the state of Virginia greater than 60 percent of the violent offender cases matched DNA from convicted burglars, not violent offenders. There is no fiscal impact.

Vice-Chair Bunde spoke in support.

Representative Foster MOVED to report SB 99 out of Committee with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

SB 99 was REPORTED out of Committee with a "do pass" recommendation and with two previously published fiscal notes (#2 - DPS and #3 - ADM).

#sb105

CS FOR SENATE BILL NO. 105(FIN)

"An Act relating to victims' rights; relating to establishing an office of victims' rights; relating to the authority of litigants and the court to comment on the crime victim's choice to appear or testify in a criminal case; relating to compensation of victims of violent crimes; relating to eligibility for a permanent fund dividend for persons convicted of and incarcerated for certain offenses; relating to notice of appropriations concerning victims' rights; amending Rules 16 and 30, Alaska Rules of Criminal Procedure, Rule 9, Alaska Delinquency Rules, and Rule 501, Alaska Rules of Evidence; and providing for an effective date."

JULI LUCKY, STAFF, SENATOR HALFORD testified in support of the legislation. She explained that a similar bill was passed in the previous Legislature and was vetoed by the Governor. The bill establishes an Office of Victim's Rights. The main task of the Office of Victim's Rights would be to advocate on behalf of crime victims in the court system (if necessary) and investigate any violations of constitutional rights (similar to an ombudsman). The Office would be located in the legislative branch, which is where the Office of the Ombudsman is located. Studies by the National Institute for Justice have shown that, even if the victim's have guaranteed constitutional rights and strong statutory protection, more needs to be done to assure that victims are aware of their rights.

Ms. Lucky discussed changes from the legislation adopted [in the Twenty-First Legislature]. She observed that HB 133 was included, which is the Governor's legislation dealing with restitution for crime victims. There are studies that show that restitution is a fairly high priority of victims. The legislation would set up a mechanism in the court, which already makes collections for other things, to collect restitution on behalf of victims. The Senate Finance Committee raised the compensation cap because they felt that the compensation was not keeping up with inflation in relation to medical costs.

Representative John Davies questioned if the victim would give permission for the state to go after restitution. Ms. Lucky affirmed that the court would send a notification, stating that the victim has the right not to have the state collect on their behalf. The victim has three days to notify the state that they would prefer to collect the restitution on their own behalf.

Representative Davies observed that reasonable attorney costs would be charged against what is owed. Ms. Lucky thought that the reasonable attorney costs would be added to the restitution judgment.

Representative Hudson noted that there would be six members with travel and a new office in Anchorage. The office would be in the legislative branch of government.

Ms. Lucky explained that discussions with other states determined that an ombudsman type office would be most beneficial. She stressed that it would be beneficial for victims to contact a third, neutral party and argued in support of the provision.

Representative Hudson and Representative Davies questioned why the office would not be placed in the ombudsman's office.

Ms. Lucky pointed out that the ombudsman's office does not become involved until rights have been violated. The intent is to have a more collaborative effort and to be involved during the process.

Representative John Davies stressed that there would be no reason why the office couldn't operate in the same way under the ombudsman's office. Ms. Lucky responded that the intent is to have an office that has experience with the justice system.

DEAN GUANELI, CHIEF ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, DEPARTMENT OF LAW spoke in support of the legislation. The office would review the activities of the agency. He noted that a lack of cooperation by victims is one of the primary reason cases are lost. Treating victims well helps the department to do its job well. He observed that it is difficult for the prosecution to reach some victims and thought that a separate entity for legal advice would be an advantage for the department. The Department of Law represents the state of Alaska. He thought it was appropriate for victims to have their own legal representation. The Department of Law could provide better restitution collection on behalf of the victims if it had statutory authority. The Civil Division of the Department of Law has a collection unit that works efficiency and has a good working relationship with the state. The bill would provide the authority for state collections. He argued that the office is modeled after the ombudsman and the Office of the Ombudsman is in the legislative branch. The Office of the Ombudsman accepts complaints about state agencies. People who complain about a state agency need to know that the investigation is not guided by the agency being investigated and that they are neutral. He did not have a recommendation in regards to whether the office should be part included under the Office the Ombudsman or kept separate.

Representative John Davies expressed concern that the cost of restitution collection would be added to the fine.

Mr. Guaneli pointed out that if a defendant pays their fine on schedule there would be no action by the department. He maintained that it would not be inappropriate to add costs if the defender forces the department to go to collection. The Court can adjust the payment schedule if the offender is having difficulty with payments. Representative Davies reiterated concerns that the addition of collect costs could exceed the fine. If the victim were forced to collect the money on their own there would still be costs, which the offender would have to pay. The state would not collect anything more than what the state of Alaska would collect. The collection unit uses reasonable efforts. He did not think the state would spend \$10,000 dollars to go after \$100 dollars.

Representative Lancaster observed that the legislation includes juveniles and questioned if it costs more to include juveniles. Mr. Guaneli responded that juveniles do victimize people and maintained that it would be appropriate to include them.

Representative Hudson questioned if concerns with the placement of the office under the Legislative Council have been addressed.

Ms. Lucky provided members with Amendments 1 and 2 (copy on file).

Amendment 1

Delete page 4, lines 5 - 11, and insert:

Sec. 12.30.075. Forfeited cash and other securities.

(a) Cash or other security posted by a defendant under AS 12.30.020 that would otherwise be forfeited shall be held by the court in trust for the benefit of the victim if, within 30 days after an order of the court establishing a failure to appear or a violation of conditions of release, the prosecuting authority gives notice that restitution may be requested as part of the sentence if the defendant is convicted.

(b) If a restitution order is not entered, the court shall order the cash or other security being held in trust to be forfeited to the state.

(c) If a restitution order is entered, the court shall apply the cash or other security to the satisfaction of the order. If the cash or other security held in trust is applied to an order of restitution, the court shall issue a separate judgment against the defendant in favor of the state in the amount that would have otherwise been forfeited, and any cash or other security remaining after payment of the restitution shall be applied against that judgment. Any cash or

other security remaining shall be forfeited to the state.

Amendment 2

Page 6, line 15

Delete "is

Insert "may be"

Delete Page 6, lines 20 - 21; and Insert:

A defendant who is convicted of (1) a felony shall submit the form to the probation office within 30 days after conviction, and the probation officer shall attach the form to the presentence report, or (2) a misdemeanor shall file the form with the defendant's response or opposition to the restitution amount. The defendant shall provide a copy of the completed form to the prosecuting authority.

Ms. Lucky explained that they are technical amendments from the Department of Law. Amendment 1 clarifies how bail works. Amendment 2 deals with how reports are filed and consolidates the reports.

Vice-Chair Bunde MOVED to ADOPT Amendment 1.

Mr. Guaneli explained that legislative attorneys suggested Amendment 1. If a defender has posted bail and forfeits bail, instead of the bail first going to the state, under the amendment, victims restitution would be paid first and the remaining funds would go to the state.

There being NO OBJECTION, Amendment 1 was adopted.

Co-Chair Williams MOVED to ADOPT Amendment 2. Co-Chair Mulder OBJECTED for the purpose of discussion. Mr. Guaneli explained that the Alaska Court System requested the amendment. The amendment clarifies where financial information about the offender would be sent. Forms would go directly to the probation officer who would write a report to the court.

There being NO OBJECTION, Amendment 2 was adopted.

CSSB 105 (FIN) was heard and HELD in Committee for further consideration.

#sb172

CS FOR SENATE BILL NO. 172(FIN)

"An Act relating to an annual report by the court system to the public and the legislature."

DEB DAVIDSON, STAFF, SENATOR DONLEY testified in support of the legislation. She explained that the legislation would require an annual report from the Alaska Court System to the legislature and the public. The report would require information regarding withheld pay warrants as a result of the timeliness of decisions, travel by the appellate and supreme courts, and information regarding the time taken in decisions. She acknowledged that much of the information is already provided in an annual report. She argued that placing the requirements in law would assure that the reporting would remain consistent. She maintained that the requirements do not add an additional burden to the court's resources.

CHRIS CHRISTENSEN, DEPUTY ADMINISTRATIVE DIRECTOR, ALASKA COURT SYSTEM testified that the Court is neutral on the legislation. The Supreme Court has provided an annual report since 1960. He pointed out that the report is the Supreme Court's annual message on judicial branch operations. Much of the information is currently provided in the annual report; some of the information is not currently included. He noted that the additional information already exists or would be easy to obtain. He stated that the information would either be added to the annual report or would be placed in a supplemental form.

In response to a question by Representative Croft, Mr. Christensen reviewed items that are required by the legislation. The current report contains items 1, 2 and part of 3. The report does not contain information in item 4 or 6.

Representative John Davies questioned how much of the information not contained in the annual report is available in other sources. Mr. Christensen noted that the information in number 4 is collected and provided on request. Under 3 the average, mean, or minimum, time periods for individual judges that cases are disposed is not collected. Time standards were adopted last year and court reports will contain the information.

Representative John Davies expressed concern with the attachment of standards to individual judges. He pointed out that cases take a variety of time. He questioned if other data is needed to consider the impacts of the total cases, in order not to be taken out of context.

Mr. Christenson agreed that cases and caseloads vary. He anticipated that additional data would be included to keep the data in perspective.

Representative Foster MOVED to report CSSB 172 (FIN) out of Committee with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

HCS CSSB 172 (JUD) was REPORTED out of Committee with a "do pass" recommendation and with a previously published fiscal note (#1 - CRT).

#sb193

CS FOR SENATE BILL NO. 193(FIN)

"An Act making a special appropriation to the Alaska Legislative Council for a study of the economic and social effects of the permanent fund dividend on the state; and providing for an effective date."

CHRIS KNAUSS, STAFF, SENATOR KELLY testified in support of CSSB 193 (FIN) on behalf of the sponsor. He explained that the legislation is a follow up on a court case: Lindly v. Marlone (1990). The court addressed the two-year residency requirement in regards to the permanent fund dividend. The legislation would contract a study through the Legislative Council in the sum of \$200 thousand dollars to study the social and economic affects of the dividend on the state. The study would look at what attracts people [to the state of Alaska]; is it the permanent fund dividend. The study would also look at the amount of state services used by people that come to the state. The findings would be reported to the Legislature by January 15, 2002.

Representative Davies questioned if it is reasonable to accomplish the ends of the report. Mr. Knauss responded that the McDowell Group indicated that it would be a reasonable time to complete the study. The sponsor felt that it would be easier to go to contract.

TAPE HFC 01 - 114, Side B

CSSB 193 (FIN) was heard and HELD in Committee for further consideration.

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ADJOURNMENT

The meeting was adjourned at 9:55 a.m.