

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

March 29, 2006

8:42 a.m.

MEMBERS PRESENT

Senator Ralph Seekins, Chair
Senator Charlie Huggins, Vice Chair
Senator Gene Therriault
Senator Hollis French
Senator Gretchen Guess

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CS FOR HOUSE BILL NO. 343(JUD) am
"An Act creating the crimes of harassment in the first and second degree, amending the crime of stalking, and adding a definition of 'medical professional' to the assault and harassment statutes."

MOVED CSHB 343(JUD) am OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 272(FIN) am
"An Act relating to card rooms and card operations, and permitting issuance of a license to own a card room and conduct card games in a municipality of the state if the municipality has adopted an ordinance, ratified by a majority of the municipal voters voting on the question, authorizing card rooms and card games in that municipality."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 343

SHORT TITLE: HARASSMENT/ASSAULT/STALKING

SPONSOR(s): REPRESENTATIVE(s) LYNN

01/09/06	(H)	PREFILE RELEASED 1/6/06
01/09/06	(H)	READ THE FIRST TIME - REFERRALS
01/09/06	(H)	JUD, FIN
01/27/06	(H)	JUD AT 1:00 PM CAPITOL 120
01/27/06	(H)	Heard & Held
01/27/06	(H)	MINUTE(JUD)

02/10/06 (H) JUD AT 1:00 PM CAPITOL 120
 02/10/06 (H) Moved CSHB 343(JUD) Out of Committee
 02/10/06 (H) MINUTE(JUD)
 02/13/06 (H) JUD RPT CS(JUD) NT 3DP 4NR
 02/13/06 (H) DP: WILSON, GRUENBERG, ANDERSON;
 02/13/06 (H) NR: GARA, COGHILL, KOTT, MCGUIRE
 02/22/06 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 02/22/06 (H) -- Meeting Canceled --
 02/27/06 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 02/27/06 (H) Moved CSHB 343(JUD) Out of Committee
 02/27/06 (H) MINUTE(FIN)
 03/01/06 (H) FIN RPT CS(JUD) NT 8DP 2NR
 03/01/06 (H) DP: HAWKER, HOLM, STOLTZE, WEYHRAUCH,
 MOSES, FOSTER, MEYER, CHENAULT;
 03/01/06 (H) NR: KELLY, JOULE
 03/20/06 (H) TRANSMITTED TO (S)
 03/20/06 (H) VERSION: CSHB 343(JUD) AM
 03/22/06 (S) READ THE FIRST TIME - REFERRALS
 03/22/06 (S) JUD, FIN
 03/29/06 (S) JUD AT 8:30 AM BUTROVICH 205

BILL: HB 272

SHORT TITLE: CARD ROOMS & OPERATIONS

SPONSOR(S): REPRESENTATIVE(S) KOTT

04/18/05 (H) READ THE FIRST TIME - REFERRALS
 04/18/05 (H) L&C, JUD, FIN
 04/21/05 (H) L&C AT 3:15 PM CAPITOL 17
 04/21/05 (H) Moved Out of Committee
 04/21/05 (H) MINUTE(L&C)
 04/22/05 (H) L&C RPT 2DP 2DNP 2NR
 04/22/05 (H) DP: KOTT, ANDERSON;
 04/22/05 (H) DNP: CRAWFORD, GUTTENBERG;
 04/22/05 (H) NR: LEDOUX, ROKEBERG
 04/26/05 (H) JUD AT 1:00 PM CAPITOL 120
 04/26/05 (H) Moved CSHB 272(JUD) Out of Committee
 04/26/05 (H) MINUTE(JUD)
 04/27/05 (H) JUD RPT CS(JUD) NT 2DP 1DNP 3NR
 04/27/05 (H) DP: KOTT, ANDERSON;
 04/27/05 (H) DNP: DAHLSTROM;
 04/27/05 (H) NR: GRUENBERG, GARA, MCGUIRE
 04/29/05 (H) FIN AT 8:30 AM HOUSE FINANCE 519
 04/29/05 (H) Moved CSHB 272(FIN) Out of Committee
 04/29/05 (H) MINUTE(FIN)
 04/30/05 (H) FIN RPT CS(FIN) 2DP 1DNP 4NR
 04/30/05 (H) DP: FOSTER, MOSES;
 04/30/05 (H) DNP: KELLY;

04/30/05	(H)	NR: HOLM, WEYHRAUCH, MEYER, CHENAULT
05/03/05	(H)	MOVED TO BOTTOM OF CALENDAR
05/03/05	(H)	ADJOURNED TO 5/4
05/04/05	(H)	BEFORE THE HOUSE
05/07/05	(H)	TRANSMITTED TO (S)
05/07/05	(H)	VERSION: CSHB 272(FIN) AM
05/08/05	(S)	READ THE FIRST TIME - REFERRALS
05/08/05	(S)	JUD, FIN
03/23/06	(S)	JUD AT 8:30 AM BUTROVICH 205
03/23/06	(S)	-- Meeting Canceled --
03/29/06	(S)	JUD AT 8:30 AM BUTROVICH 205

WITNESS REGISTER

Representative Bob Lynn
 Alaska State Capitol
 Juneau, AK 99801-1182

POSITION STATEMENT: Introduced HB 343

Michael Sica, Legislative Aide
 Staff to Representative Bob Lynn
 Alaska State Capitol
 Juneau, AK 99801-1182

POSITION STATEMENT: Answered questions regarding HB 343

Anne Carpeneti, Assistant Attorney General
 Criminal Division
 Department of Law
 PO Box 110300
 Juneau, AK 99811-0300

POSITION STATEMENT: Answered questions regarding HB 343

Vernon Marshall, Lobbyist
 Capitol Consultants, LLC
 PO Box 35148
 Juneau, AK 99803

POSITION STATEMENT: Testified in support of HB 343

Portia Parker, Deputy Commissioner
 Department of Corrections
 431 N. Franklin, Suite 400
 Juneau, AK 99801

POSITION STATEMENT: Answered questions and testified in support of HB 343

Daniel Colang, Board President
 Alaska Correctional Officers Association

Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 343

May Barney, Correctional Officer

Fairbanks Correctional Center

POSITION STATEMENT: Testified in support of HB 343

Michael O'Hare, Legislative Aide

Staff to Representative Pete Kott

Alaska State Capitol

Juneau, AK 99801-1182

POSITION STATEMENT: Introduced HB 272

Ryan Makinster, Legislative Aide

Staff to Senator John Cowdery

Alaska State Capitol

Juneau, AK 99801-1182

POSITION STATEMENT: Answered questions regarding HB 272

Guy Warren

Presbytery of Alaska

No address provided

POSITION STATEMENT: Testified in opposition to HB 272

Ruth Blanchard

Houston, Alaska

POSITION STATEMENT: Testified in support of HB 272

Linda Coy

Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 272

Debbie Joslin

Eagle River, Alaska

POSITION STATEMENT: Testified in opposition to HB 272

Marie Toothman

Houston, Alaska

POSITION STATEMENT: Testified in support of HB 272

Link Fannon

Houston, Alaska

POSITION STATEMENT: Testified in support of HB 272

Pamela Samash

Nenana, Alaska

POSITION STATEMENT: Testified in opposition to HB 272

Perry Green

No address provided

POSITION STATEMENT: Testified in support of HB 272

Rosemary Burnett

Houston, Alaska

POSITION STATEMENT: Testified in support of HB 272

Bob Chaffone

Saginaw, Michigan

POSITION STATEMENT: Commented on HB 272

Robert Hall

Houston, Alaska

POSITION STATEMENT: Testified in support of HB 272

Susan Duck

No address provided

POSITION STATEMENT: Testified in support of HB 272

ACTION NARRATIVE

CHAIR RALPH SEEKINS called the Senate Judiciary Standing Committee meeting to order at [8:42:53 AM](#). Present were Senators Charlie Huggins, Gene Therriault, Gretchen Guess, and Chair Ralph Seekins.

HB 343-HARASSMENT/ASSAULT/STALKING

[8:43:50 AM](#)

CHAIR RALPH SEEKINS announced CSHB 343(JUD) AM to be up for consideration.

REPRESENTATIVE BOB LYNN introduced the bill, which was requested by correctional officers across the state as a measure of protection from inmates who assault them with bodily fluids. Currently, most assaults with bodily fluids or feces can only be charged as a class B misdemeanor. The bill creates the crime of harassment in the first degree for anyone who subjects another person to offensive physical contact with human or animal "blood, mucus, saliva, semen, urine, vomit, or feces" and classifies that crime as a class A misdemeanor.

Twenty-six states have enacted similar legislation and 19 of those classify the assaults as felonies. Alaska should at least

raise this crime up one level and provide for a minimum sentence of 60 days in jail when the offensive is directed at correctional officers, law enforcement, and first responders.

8:47:50 AM

REPRESENTATIVE LYNN urged the committee to move the bill out today.

8:48:27 AM

SENATOR GENE THERRIAULT referred to page 2, line 17, and asked the reason for including animal bodily fluids.

MICHAEL SICA, Staff to Representative Bob Lynn, responded the bill protects more than just correctional officers although it is important to note that the Point McKenzie Correctional Farm does have animals.

8:49:18 AM

Senator Hollis French joined the committee.

CHAIR SEEKINS advised that kids often have fights with cow and horse manure. He asked whether that was considered.

REPRESENTATIVE LYNN suggested that law enforcement officers and prosecutors have discretion as to who they seek to prosecute.

MR. SICA added the harassment statute specifies that one would have to commit the act with the intent to annoy or harass.

8:50:47 AM

SENATOR FRENCH noted the statute requires intent, which is the highest level of criminal liability. He asked whether the Department of Law (DOL) considered lowering that to a "knowing" standard in order to make it easier to prosecute.

MR. SICA deferred to the Department of Law.

8:52:22 AM

VERNON MARSHAL, Lobbyist, testified in support of the bill.

8:53:47 AM

ANNE CARPENETI, Assistant Attorney General, Department of Law (DOL) advised that the Department supports the bill.

SENATOR FRENCH restated his earlier question regarding lowering the intent standard to a "knowing" standard, at least in the case of harassment in the first degree.

MS. CARPENETI agreed that "knowing" would be an easier standard to prove. Several of the provisions under AS 11.61.120(a) preserve the First Amendment rights to expression. HB 343 was drafted to cross-reference the current statute. It would be easy to prove that a person who engaged in this type of behavior intended to annoy somebody because the acts are so specific and unpleasant.

SENATOR FRENCH suggested there could be a case of a first degree [misdemeanor] with a knowing standard and then a second degree [misdemeanor] with an intentional standard and they would be reversed in severity.

MS. CARPENETI said she was not concerned given the subject of the act.

[8:57:43 AM](#)

SENATOR THERRIAULT asked Ms. Carpeneti the reason for putting the act under harassment. The definition of "harass" is to annoy or torment repeatedly. He asked whether one instance could be defined as harassment.

MS. CARPENETI responded under AS 11.61.120(a)(5) it would be. In the harassment law, some of the provisions deal with speech such as offensive telephone calls at odd hours. For physical contact, one time would be enough for the DOL to be able to prosecute. She said she did not know the reason for drafting it under harassment but said it was a logical place for it.

[8:59:52 AM](#)

CHAIR SEEKINS posed the hypothetical situation of children throwing horse manure at each other and asked whether that would be a violation of the law.

MS. CARPENETI replied since they are juveniles the conduct of harassment would be very difficult to prove.

PORTIA PARKER, Deputy Commissioner, Department of Corrections (DOC) introduced herself and said the Department does support the bill.

CHAIR SEEKINS asked Ms. Parker how often these types of incidences occur in the correctional system.

MS. PARKER advised the DOC surveyed the state facilities and reported that approximately 150 incidences of this type of

harassment occurs each year. Currently they deal with this situation in the system but the bill would heighten the penalty and reduce the instances.

9:02:13 AM

CHAIR SEEKINS noted that the fiscal notes showed zero. He asked whether there might be a fiscal impact from an increased sentence.

MS. PARKER responded that it would have a fiscal impact for the DOC in the form of a sixty-day sentence for those charged and convicted. She could not speculate as to the number of cases that would be prosecuted.

SENATOR HUGGINS complimented the Point McKenzie Correctional Farm system.

SENATOR GUESS asked Ms. Parker to address the issue regarding animals.

MS. PARKER said that would be more for incidences outside the correctional institutions. Police officers and first responders often deal with combative people who might use animal waste to ward them off. She did not believe it was anything that would come up in the correctional facilities.

9:05:33 AM

DANIEL COLANG, President, Alaska Correctional Officer's Association, advised the committee that there were approximately 700 correctional officers across the state. He said correctional officers "walk the toughest beat in law enforcement." Very few people know what goes on behind the walls of a correctional institution but suffice to say officers deal with people at their very worst. Correctional officers know the dangers and risks of their duties and the incidences of officers getting assaulted with bodily fluids are not uncommon.

OFFICER COLANG related a personal situation and stated the job is dangerous enough without having to worry about someone assaulting them with bodily fluids. He encouraged the committee to move the bill forward.

9:09:05 AM

MAY BARNEY, Correctional Officer at Fairbanks Correctional Center, testified in support of the bill. She related a personal story of a prisoner assaulting her.

[9:14:07 AM](#)

CHAIR SEEKINS closed public testimony and called a brief recess.

[9:15:40 AM](#)

SENATOR HUGGINS moved CSHB 343(JUD) am from committee with individual recommendations and attached fiscal notes. There being no objections, the motion carried.

HB 272-CARD ROOMS & OPERATIONS

[9:20:07 AM](#)

CHAIR SEEKINS announced CSHB 272(FIN) AM to be up for consideration.

MICHAEL O' HARE, Staff to Representative Pete Kott, introduced the bill. The game of poker is seeing a growing popularity. The bill would provide a safe environment in which to play games and would remove the need for illegal backroom games. The types of games would include non-banking card games, such as poker, pan, rummy, bridge, and cribbage. Licenses would be limited to one license for municipalities for less than 30,000 people and the limit for municipalities with over 30,000 may not exceed the population divided by that number.

[9:22:47 AM](#)

The licensee would be required to pay a non-refundable application fee of \$25,000 with the Department of Revenue (DOR) and would post \$500,000 cash bond at least sixty days in advance of commencement of card room operation as well as a \$10,000 fee per card table. Licensee would be required to undergo a personal background check and pay for investigative costs incurred over the application fee. Licensee would be required to host quarterly tournament with proceeds to be distributed to a non-profit educational institution. The bill would allow the DOR to impose regulations. The bill would give back to the community in the form of jobs and support of non-profit charities.

Included in the bill packet are the fiscal notes and a sectional analysis and legal opinion. The Supreme Courts of Montana and Oregon have identified that poker is a game of skill.

[9:26:11 AM](#)

SENATOR FRENCH asked Mr. O'Hare whether alcohol would be served at the card rooms.

MR. O'HARE inferred there was currently no intention to allow alcohol to be served in the cardrooms.

SENATOR FRENCH inquired whether the bill prohibited alcohol sales.

MR. O'HARE said no.

[9:28:08 AM](#)

SENATOR GUESS commented that a business could have multiple owners. She asked Mr. O'Hare to comment on whether all owners would have to submit to the background checks.

MR. O'HARE said he understood that everyone including the directors of the corporation would need to be fingerprinted and background checked.

SENATOR GUESS asked whether a minority owner with a felony conviction could be part owner of the card room.

MR. O'HARE offered to get back to the committee.

SENATOR GUESS referred to page 3, lines 29-30, and asked for explanation of the language.

MR. O'HARE responded that language was added in order to enhance any investigations that might occur.

[9:30:26 AM](#)

SENATOR HUGGINS asked the reason for the bill.

MR. O'HARE advised that currently backroom poker games happen all over the state, usually in the middle of the night, and without any level of control or consumer protection. HB 272 would establish a legal, monitored and friendly atmosphere in which to play poker.

SENATOR THERRIAULT noted that bars are currently allowed to hold "poker nights" without the wagering of cash.

CHAIR SEEKINS said it was his understanding that HB 272 would allow the house or owner of the establishment to take a cut of the winnings.

SENATOR FRENCH referred to an article in the packet regarding a poker tournament that uses prizes for the winner in lieu of cash.

9:35:04 AM

CHAIR SEEKINS asked for clarification whether the bill would bring professional poker playing into Alaska by allowing the card room owner to take a "rake." He asked whether there was anything in the bill that would control "shills."

RYAN MAKINSTER, Staff to Senator John Cowdery, offered to answer questions. He said it is currently illegal to play for money in a public environment in Alaska unless you are in somebody's home.

9:38:43 AM

MR. MAKINSTER advised the committee that, under the Indian Gaming Regulatory Act, Alaska would be required to work with any Alaska tribes within its class of gaming.

SENATOR HUGGINS asked Mr. O'Hare whether there was a committee on gambling and if so, were any recommendations suggested from that committee.

MR. O'HARE observed that a task force was identified on a gaming commission. The task force has not made any recommendations as of yet.

SENATOR FRENCH asked whether the bill provided for any type of table restrictions.

MR. O'HARE informed there were no stipulations to the limit of tables but each table would cost \$10,000.

CHAIR SEEKINS noted a discrepancy in the title of the bill.

MR. O'HARE replied he did have the memo from legal services alerting the sponsor to that issue.

9:42:41 AM

CHAIR SEEKINS questioned the reason for removing the municipal option.

MR. O'HARE said he did not know.

SENATOR GUESS asked how the number of 30,000 was chosen to determine the number of card rooms.

MR. O'HARE replied initially it was a random number used to separate Anchorage and Fairbanks out as the larger municipalities.

9:45:53 AM

SENATOR GUESS noted that Anchorage could have 10 card rooms with an unlimited number of tables.

MR. O'HARE said correct.

SENATOR GUESS referred to page 10 and asked how the DOR would determine who is awarded a license. She also noted that on line 18 the language seemed very subjective.

MR. O'HARE said it was in order to give the utmost discretion to the Department.

SENATOR GUESS referred to page 10, line 26 and asked whether that would be legal.

CHAIR SEEKINS said he didn't think so.

SENATOR FRENCH said it was a laudable idea but probably couldn't be codified in statute.

9:49:46 AM

CHAIR SEEKINS asked for clarification the actual amount of money that a person would have to put up in order to open a card room with four tables.

MR. O'HARE responded the initial application fee of \$25,000, a \$5,000 cash bond, and \$10,000 per table as well as any additional costs associated with the background investigation.

CHAIR SEEKINS speculated that card rooms must be a very profitable business.

MR. O'HARE said it could be.

CHAIR SEEKINS asked whether the license could be sold to another person.

MR. O'HARE did not believe so.

CHAIR SEEKINS asked whether the bill identified it as a non-transferable license.

MR. O'HARE offered to find the section related to that topic.

SENATOR FRENCH asked whether there were statutory restrictions on how the house earns the money, such as by the hand or by the half hour.

MR. O'HARE said there are no restrictions.

[9:52:25 AM](#)

SENATOR FRENCH asked what the financial integrity system would be for the purpose of transparency to the state overseer.

MR. O'HARE admitted the bill contained no stipulation for that.

SENATOR FRENCH expressed concern and said it would be difficult to keep exact track of how much the players earn and how much the house earns.

MR. MAKINSTER informed the committee that other states do all of that in regulation rather than statute.

SENATOR FRENCH commented the State of Washington requires closed circuit television recording of the tables and the cages. He asked whether HB 272 did the same.

MR. O'HARE said no it does not but the sponsor would be willing to amend the bill to include that.

SENATOR FRENCH asked about the effective dates and how they envision the process and first licensing.

MR. O'HARE did not know. He deferred to the DOR.

[9:56:37 AM](#)

SENATOR GUESS asked Mr. O'Hare to discuss the rakes and the sideboards around them.

MR. O'HARE replied the bill does not discuss rakes or how much money the card room would be allowed to make.

SENATOR GUESS asked how the business hours would be set.

MR. O'HARE informed that would be addressed under the regulations.

SENATOR HUGGINS asked whether people could play poker online.

MR. O'HARE said yes and it was a popular method of playing.

MR. MAKINSTER interrupted to inform the committee that online poker playing is not the same as plugging into Las Vegas since much of the online business is routed internationally.

SENATOR GUESS referred to page 17, line 10 and noted that "cheats at a card game" is a broad and undefined charge.

10:01:19 AM

SENATOR FRENCH asked whether there would be a prohibition on a bingo operation attached to a card room.

MR. O'HARE said the bill would only allow an owner to have a card room operation.

10:06:52 AM

GUY WARREN, Clerk for the Presbytery of Alaska, testified against the bill. He said implementing the bill would create social disorder and would not serve to the betterment of the people of the State of Alaska.

10:10:37 AM

RUTH BLANCHARD, Houston, testified in support of the bill with some amendments, such as local control, super majority, and municipality change to cities.

LINDA COY, Anchorage, testified in opposition to the bill. She took issue with the claim that creating card rooms would bring money into the state. She said that all pathological gamblers started when they were young and she encouraged the committee to abandon the bill.

10:13:36 AM

DEBBIE JOSLIN, Eagle River, testified in opposition to the bill. She quoted Warren Buffet as saying that gambling begets crime, bankruptcy and suicide.

MARIE TOOTHMAN, Houston, testified in support of the bill. She said the money would stay in Alaska and that people need winter entertainment.

LINK FANNON, Houston, testified that the Houston city council supported the bill with a couple of amendments, such as local control and the super majority vote.

10:19:21 AM

PAMELA SAMASH, Nenana, testified in opposition to the bill. She shared a personal experience of how gambling addictions have destroyed her family.

[10:23:57 AM](#)

PERRY GREEN testified in support of HB 272. He claimed that the gaming commission was doomed to failure because all of the people on the commission were against gaming. He claimed that billions of dollars were leaving America due to online overseas games. He said the cost for licensing was excessive but agreed with the City of Houston's suggested amendments.

[10:27:26 AM](#)

ROSEMARY BURNETT, Deputy Mayor of Houston, testified in support of the bill. She said there are already after hours card rooms in the MatSu Valley and it is getting out of hand.

BOB CHAFFONE, Professional poker player in Michigan, testified that poker is an addiction but said it was not the function of the bill to micro-manage people and their addictions. He testified in support of the bill and said it would be a responsible form of government to regulate the gambling.

ROBERT HALL, Houston, testified in support of the bill. He suggested allowing for customers to pre-set limits as to how much they could lose in a sitting.

[10:35:29 AM](#)

SUSAN DUCK said she recently planned a poker tournament. Approximately 7,500 players participated and it was an enormous success. She did not hear one complaint regarding the tournament. She said the bottom line is that card playing is already happening and people are making money illegally. She encouraged the committee to organize and regulate the card rooms.

[10:37:55 AM](#)

CHAIR SEEKINS apologized that he had to interrupt testimony. He held the bill in committee.

There being no further business to come before the committee, Chair Seekins adjourned the meeting at [10:38:26 AM](#).