

HOUSE FINANCE COMMITTEE
February 28, 2008
1:46 P.M.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [1:46:37 PM](#).

MEMBERS PRESENT

Representative Mike Chenault, Co-Chair
Representative Kevin Meyer, Co-Chair
Representative Bill Stoltze, Vice-Chair
Representative Harry Crawford
Representative Les Gara
Representative Mike Hawker
Representative Reggie Joule
Representative Mike Kelly
Representative Mary Nelson
Representative Bill Thomas Jr.

MEMBERS ABSENT

Representative John Harris

ALSO PRESENT

Representative Bob Roses; Representative Lindsey Holmes; Karen Lidster, Staff, Representative John Coghill; Crystal Koeneman, Staff, Representative Bob Roses; Doug Wooliver, Administrative Attorney, Alaska Court System; Dwayne Peebles, Deputy Commissioner, Department of Corrections; Anne Carpeneti, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law

SUMMARY

HB 193 An Act relating to the composition of the Alaska Police Standards Council; and providing for an effective date.

CS HB 193 (STA) was reported out of Committee with "no recommendation" and with new zero notes by the Department of Corrections and Department of Public Safety.

HB 307 An Act relating to penalizing certain misdemeanor domestic violence offenses as felonies.

HB 307 was HEARD & HELD in Committee for further consideration.

HB 351 An Act relating to submission of fingerprints by applicants for a concealed handgun permit; and providing for an effective date.

CS HB 391 (JUD) was reported out of Committee with a "do pass" recommendation and with a new zero note by the Department of Corrections and zero note #1 by the Department of Public Safety.

[1:48:01 PM](#)

#HB351

HOUSE BILL NO. 351

An Act relating to submission of fingerprints by applicants for a concealed handgun permit; and providing for an effective date.

KAREN LIDSTER, STAFF, REPRESENTATIVE JOHN COGHILL, directed comments to the House Judiciary Committee version of the bill. She noted that because of changes to the way the Department of Public Safety processes fingerprint cards, it is now possible to notify the Alaska Automated Fingerprint Identification System and the Federal Bureau of Investigation (FBI) from one card.

The proposed bill would amend the requirements in AS 18.65.700(a)(4), submitting two sets of fingerprint cards to submitting one set for individuals applying for a concealed handgun permit. The bill changes the FBI approved fingerprint card to a format approved by the Department. The changes will provide a savings in cost and effort for fingerprinting the format of the cards, allowing the Department latitude to change the fingerprint cards and not requiring another future bill.

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Vice-Chair Stoltze remembered that during the 18th Alaska Legislature, another HB 351 was passed, sponsored by Senator Jeannette James, the original concealed weapons permit legislation.

Co-Chair Meyer pointed out the zero impact in the proposed note.

Vice-Chair Stoltze directed comments to finger-printing bullets. He hoped to see that incorporated if it does not deter to bullet imprinting. He assumed that was a "back-door" approach to controlling and banning ammunitions.

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Co-Chair Meyer believed that HB 351 would save State revenue by moving from two sets of fingerprints to one. Ms. Lidster said yes.

PUBLIC TESTIMONY CLOSED

[1:53:16 PM](#)

Co-Chair Chenault inquired if the Department of Public Safety supports the bill. Ms. Lidster acknowledged they do.

Representative Hawker discussed concerns in issuing concealed gun permits. He noted a classification for outstanding concealed handgun permits called "nix-exempt". That status allows the holder both the repercusivity in other states and a prequalification for purchasing a fire arm. In order to achieve that status on a concealed handgun permit, the person must be signed-off by a law enforcement agency as if purchasing a firearm. He pointed out that those checks no longer happen and as a result, the State of Alaska has been unable to issue nix-exempt checks.

Representative Hawker continued, many people in the fire arm community are upset that the service is no longer available. The FBI has created frustration in the State's ability to offer it. He hoped to see a legislative fix; he requested the sponsor work on the issue. Representative Hawker warned of serious consequences for Alaskan's individual rights to keep and bear arms.

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Vice-Chair Stoltze MOVED to REPORT CS HB 351 (JUD) out of Committee with individual recommendations and with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CS HB 391 (JUD) was reported out of Committee with a "do pass" recommendation and with a new zero note by the Department of Corrections and zero note #1 by the Department of Public Safety.

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#HB193

HOUSE BILL NO. 193

An Act relating to the composition of the Alaska Police Standards Council; and providing for an effective date.

REPRESENTATIVE BOB ROSES, SPONSOR, explained that the bill would add two certified police officers with at least five years experience to the Alaska Police Standards Council (APSC). By doing that, those who are charged with daily law

enforcement to the training and standards as State board participating members, certifying police officers. At present, APSC is the only board with no representation from the group most affected by its decisions. APSC has assigned seats for the police chiefs, the department commissioners and to members of the public, there are no line officers on board. He maintained that APSC has done a good job, but could benefit from the presence of line officers that bring experience and perspective to the board.

[1:58:53 PM](#)

Co-Chair Meyer MOVED to ADOPT Amendment 1 to Page 2, Line 8, deleting "and correctional". Vice-Chair Stoltze OBJECTED for discussion purposes.

Vice-Chair Stoltze stated that he wanted to guarantee the position of all correctional officers.

Co-Chair Meyer inquired if that language had been added during another committee process.

CRYSTAL KOENEMAN, STAFF, REPRESENTATIVE BOB ROSES, replied the language was added in the House State Affairs (STA) Committee. She said that adding the correctional officers makes the language more complicated, hence Legislative Legal Services suggested leaving it out. Vice-Chair Stoltze noted for the record that they (LAA) should not be in the "business" of providing policy direction.

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Representative Roses recalled the discussion, noting that LAA was not attempting to make policy, but rather, it was a part of an argument previously made. He agreed with the comments made by Vice-Chair Stoltze.

Representative Joule inquired the percentage of correctional officers that would be eligible to serve. Representative Roses did not know. Representative Joule hoped that the legislation would not remove a certain class of employee.

Vice-Chair Stoltze commented that within the law enforcement and public safety community, the correctional officers are underappreciated; he emphasized the importance of that group of employees. He maintained his opposition to the amendment on behalf of the correctional officers.

Representative Roses responded that he would support the Committee's decision.

Representative Kelly asked if the amendment would change the opposition voiced by the police chiefs & the commissioners. Representative Roses noted that he had discussed the

legislation extensively with six police chiefs, acknowledging he did not know their position on the amendment.

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Co-Chair Meyer pointed out that the police chiefs do not like the bill; he thought that amendment would not matter either way. Representative Roses agreed.

Representative Kelly asked Co-Chair Meyer's intent for offering the amendment. Co-Chair Meyer hoped the language would keep it strictly for the police officers, acknowledging the fine line between that group and the correctional officers. For the record, Vice-Chair Stoltze advised that correctional officers are accredited by the Alaska Police Standards Council and are all law enforcement professionals.

Representative Roses referenced language on Page 1, Line 9, which allows the Governor to appoint a correctional administrative officer. He did not want to see the correctional officers eliminated.

Co-Chair Meyer asked if the sponsor supports the amendment. Representative Roses explained, the language had been added during another committee process. He thought the intent was cleaner without the amendment, reiterating he would support the will of the Committee.

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Co-Chair Meyer WITHDREW Amendment 1. There being NO OBJECTION, it was withdrawn.

Representative Crawford agreed that passage of the bill is the "right thing to do", noting that all other professional standard councils have membership to represent the members doing that work. He reiterated his support for the bill.

Representative Hawker noted for the record, he agrees it is correct thing to do, however, recognize that the law enforcement community does not favor the bill. He added his support.

Representative Kelly realized it was clear that the leadership of that community is not in favor of the proposed change. He recommended that current law be maintained, urging the bill not be moved out of Committee.

Vice-Chair Stoltze agreed with the statements submitted by the police officers. Representative Roses referenced the language of the bill indicating that the Governor may pick from that group. He stated that it is important that those

names brought forward are recommended by the council & their criterion checked. He wanted to see "line guys" on the council.

Vice-Chair Stoltze asked if a police union could select someone not represented by their organizational fraternity and if so, could it become an exclusive placement. He mentioned the political pressures that happen when appointments occur. He maintained his support of the correctional officers being included on the council. Representative Roses agreed, understanding the conflict.

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Representative Gara advised that the bill does not address the concerns of the Committee. The bill does not adopt pro or anti labor positions. The bill adopts positions only on police officers conduct and standards. He pointed out the division of the Committee of those who are pro-labor or not. He believed that either position would have little impact on how the council accomplishes their work. He stated there is nothing the council can do that would favor either pro or con labor issues. He agreed that there are legitimate arguments on labor concerns but thought they would not happen under the context of HB 351.

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Vice-Chair Stoltze interjected that no one on the Committee was speaking about pro or anti labor, pointing out there is no language addressing that. He discussed the concern of eligibility. The work of a professional organization is to protect jobs when someone is challenged. He reiterated his concern with the eligibility pool and who might be excluded.

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Representative Gara stood corrected on his observation.

[2:20:50 PM](#)

Vice-Chair Stoltze MOVED to REPORT CS HB 193 (STA) out of Committee with individual recommendations and with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CS HB 193 (STA) was reported out of Committee with "no recommendation" and with new zero notes by the Department of Corrections and Department of Public Safety.

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Co-Chair Chenault apologized for the record that he had made comments to Representative Nelson regarding charter school funding. He understood that there had been \$100 thousand dollars put in, and last year during Conference Committee, it was reduced to \$50 thousand dollars. He pointed out that zero dollars had been placed in by the House & \$200 thousand dollars was placed in by the Senate. The Conference Committee did settle at \$100 thousand dollars.

#HB307
[2:22:34 PM](#)

HOUSE BILL NO. 307

An Act relating to penalizing certain misdemeanor domestic violence offenses as felonies.

REPRESENTATIVE LINDSEY HOLMES, SPONSOR, offered to answer questions of the Committee.

AT EASE: [2:24:07 PM](#)
RECONVENE: [2:27:11 PM](#)

Co-Chair Meyer MOVED to ADOPT Amendment 1, Page 2, Line 8, deleting all material and inserting, "Applies to convictions on or after the effective date of this Act". Vice-Chair Stoltze OBJECTED for discussion purposes.

Co-Chair Meyer recalled previous discussion regarding the pro or retro-activity and if it could reduce the fiscal impact.

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DOUG WOOLIVER, ADMINISTRATIVE ATTORNEY, ALASKA COURT SYSTEM, directed his comments to the bill. He pointed out that the Court System is the agency that generated the fiscal notes. He apologized for the tardy note from the Courts and offered to answer questions of the Committee regarding the notes.

[2:30:06 PM](#)

Vice-Chair Stoltze asked the sponsor's intent regarding the pro & retro activity of the bill. Representative Holmes replied she realizes both sides of the matter; however, noted concerns voiced by the Network on Domestic Violence and Sexual Assault regarding offenders who already have a couple strikes. The Network worries about victims who are not perpetrators but have already plead guilty. Representative Holmes understood the merit of making the legislation prospective.

Vice-Chair Stoltze asked if Representative Holmes supports Amendment 1. Representative Holmes replied she does not oppose it, however, could not say that she actually supports it. She expects to see the bill move forward so that the law can be enforced. She said she will respect the Committee's decision given the high fiscal cost.

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Representative Hawker asked the consequences to the Department of Corrections if the amendment did not pass.

DWAYNE PEEPLES, DEPUTY COMMISSIONER, DEPARTMENT OF CORRECTIONS, explained that the Department of Corrections had a difficult time determining the fiscal impact, consequently chose the numbers determined by the Courts. He assumed it could take up to three to four years to build a point of heavy incarceration. He deferred to the Courts.

Representative Hawker stated that deferring the implementation date, would only be a deferral of the phased-in fiscal cost. Mr. Peeples assumed that was correct. Mr. Wooliver advised that would not be the only variable and with the passage of the bill, could also change the manner in which cases are plead and prosecuted.

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Representative Hawker acknowledged that there will be additional variables, difficult to quantify. He understood that the intent of the bill is:

- Punish the guilty, and
- Create and establish a disincentive for people to become guilty.

Representative Hawker questioned how much of a deterrent the bill is expected to create. Mr. Wooliver did not know; however, from other cases, increasing a penalty does not necessarily decrease the incidences of crime.

Representative Joule observed that over the years, indeterminate fiscal notes continue to grow the operating budget. In response, Mr. Wooliver explained that the Courts can not determine the long-term effect from indeterminate notes on the General Fund's operating budget. Mr. Peeples added that the Department of Corrections does not track such impact or information.

Representative Joule worried about the State being able to sustain funding for the legislation over the long-term.

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Co-Chair Chenault acknowledged that the legislation is good, however, any indeterminate fiscal notes concern him. For the Department of Corrections alone, the costs will amount to \$12 million dollars by 2014. He appreciated the department's effort to provide accurate dollar costs. He said that he supports the bill, however, Committee members should realize actual costs of such legislation.

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Co-Chair Meyer pointed out that the amendment temporarily impacts the fiscal notes.

Representative Nelson maintained that a perpetrator with two prior convictions, indicates a person that has a serious problem. She worried about patterns established during domestic violence altercations. Some domestic violence cases are never reported. She believed that there is a lot of psychology involved in the convictions. She stressed that this legislation is a "Lot more than a fiscal impact; it is a human impact, which affects children". Once children become involved, the impact can affect other department fiscally, down the road.

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Representative Gara echoed comments made by Representative Nelson and asked about the corrections included in the fiscal notes. Co-Chair Chenault responded that for the record, he had requested notes representing "real" numbers. Representative Gara agreed.

Representative Gara asked if the amendment does pass, would then only the third conviction qualify as a felony charge. Mr. Peeples pointed out that the Department of Corrections assumes that if the amendment does pass, only the third conviction would be determined a felony, accompanies a longer jail sentence. He said the Department of Corrections was relying on the Court System assessment.

Representative Gara concluded, if Amendment 1 should pass, the person charged with misdemeanor domestic violence, whether they plead or go to trial, would only go to jail for a misdemeanor charge and it would not affect their jail sentence. He understood that the jail sentence would not be affected until the third offense occurs.

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Mr. Wooliver advised that the Alaska Court System would make the same analysis. As long as the offense remains a misdemeanor, there will be little or no impact on the Courts. The impact is reached when the misdemeanor becomes

a felony. The Courts are attempting to determine how long it will take a domestic violence offender to get to their third domestic violence offense.

Representative Gara asked if the sponsor would include the amendment based on the current analysis. Representative Holmes responded that when the bill was written, she assumed it would be retrospective and thought that the offense would start at the bill's effective date. Following discussion with prosecutors, it was obvious it becomes more difficult to make it prospective. She preferred it be retrospective, however, would support implementation either way.

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Representative Crawford questioned if the legislation could act as a deterrent, helping to break the domestic violence cycle. He urged that funds be placed into prevention education. Representative Holmes agreed that the aspect of prevention must be addressed, pointing out that the Task Force report on domestic violence and sexual assault will be available soon. It provides many recommendations in how to addressing the need for prevention. If it passes, it will become the cornerstone of that work. Representative Crawford recommended intervention at the time of the second offense. Representative Holmes supported that idea.

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Representative Kelly noted that he would not object to passing the bill out of Committee; however, emphasized his concerns. He spoke in support of Amendment 1, because it adopts lower fiscal notes. He worried that the crime is being classified as a "hate crime" because of the domestic violence association tag. Mr. Wooliver advised that the crime itself would remain the same and that no one is ever charged with a domestic violence crime, but rather with an assault in the 4th degree. Representative Kelly assumed that the set of circumstances were identical, but that one would be moved to a felony if associated with domestic violence. Mr. Wooliver acknowledged under HB 307 that was correct.

Representative Kelly expressed frustration on the number of issues the Committee has addressed dealing with domestic violence. He commented on his philosophical reasons that domestic violence has become such an epidemic in our society.

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Representative Thomas questioned if the fiscal note took into consideration, costs to protective children services. Mr. Peeples testified that the note only addresses the incarceration costs.

Representative Thomas noted the amount of press regarding domestic violence issues resulting from servicemen returning from Iraq. He pointed out that if a military person receives three convictions, they stand to lose their military career. He asked who assumes the military base jurisdiction. Mr. Wooliver was not sure about crimes committed on military bases.

Representative Thomas urged that the convicted receive counseling. He related personal experience during the Viet Nam war era.

[3:10:19 PM](#)

Representative Joule said he would vote against the amendment.

Representative Gara summarized issue regarding how to punish people engaged in the domestic violent conduct. It is difficult to prevent the behavior through a sentencing bill. The legislative concern is not what happens at the third sentencing but what happens the next time the behavior occurs and how will that victim be protected. He suspected that the Courts will order some type of treatment before the sentence is over. He asked about a provision providing a condition of probation, before contact is allowed between the defendant and the victim and also that counseling be completed.

[3:15:04 PM](#)

Mr. Wooliver stated that would not impact the Court's note, pointing out that currently, there is a requirement for batterer's counseling. He was not sure at which offense it become law. There exists practical implementation concerns regarding the availability of treatment.

Representative Gara recommended that for the defendant to be considered for probation, counseling should be mandatory after each conviction and making the third felony prospective.

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Representative Holmes recalled the discussions within the Task Force. She noted concerns that the probation periods are often shorter than the counseling programs, creating timing issues. She thought that the idea was a good one; however, she would need adequate time to address the programs availability, who pays and what hopefully, could be expected to be accomplished.

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Representative Crawford inquired what was expected for the defendant to move a charge from a misdemeanor to a felony. He asked the duration of a no-contact order.

ANNE CARPENETI, ASSISTANT ATTORNEY GENERAL, LEGAL SERVICES SECTION-JUNEAU, CRIMINAL DIVISION, DEPARTMENT OF LAW, stated that the longest domestic violence protective order is six months; violating a protective order is classified as a Class A misdemeanor.

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Representative Crawford understood that a protective order would be applied for by the victim. Ms. Carpeneti said yes. Representative Crawford asked if there could be a court mandated separation time. Ms. Carpeneti explained that generally, when a person applies for a domestic violence protective order, the law states that the judge is not supposed to let the perpetrator back in the home, which was litigated and found defective. It was challenged on appeal and found to have constitutional problems.

Representative Crawford asked how people are able to live together again after there has been a domestic violent act committed. Ms. Carpeneti explained that at a certain point, there is a resolution of the case with no conditions of bail. Sometimes the orders are disregarded.

Mr. Wooliver added that those are domestic violence restraining orders and are different than a condition of probation. The case referenced by Ms. Carpeneti was ruled unconstitutional because it was open-ended. Now, a long-term domestic violence restraining order lasts for one year, which are civil matters, not criminal cases.

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Co-Chair Chenault asked about the perpetrator being allowed back into the home. Ms. Carpeneti advised that feature of the law has been determined defective.

Co-Chair Meyer referenced previous discussion regarding the retroactivity potential. Ms. Carpeneti concluded at present time, when prior convictions are taken into consideration, there is no formal fact finding available for domestic violence. She did not think those findings would be adequate in defining a new offense.

Co-Chair Meyer pointed out that during previous discussion, Representative Holmes agreed to the original prospective intent. Co-Chair Meyer acknowledged the encompassing Committee discussion and recommendations of Representative Gara. He suggested that the bill be held for further

discussions between Representative Holmes, Representative Gara and his office.

[3:27:00 PM](#)

Co-Chair Meyer WITHDREW Amendment 1. There being NO OBJECTION, it was withdrawn.

Representative Hawker addressed the larger issues relative to the fiscal notes. He requested that representatives for the notes be present at the next discussion.

HB 307 was HELD in Committee for further consideration.

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[3:28:23 PM](#)

ADJOURNMENT

The meeting was adjourned at 3:27 P.M.