

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

February 1, 2008  
1:09 p.m.

**MEMBERS PRESENT**

Representative Jay Ramras, Chair  
Representative Nancy Dahlstrom, Vice Chair  
Representative John Coghill  
Representative Ralph Samuels  
Representative Lindsey Holmes

**MEMBERS ABSENT**

Representative Bob Lynn  
Representative Max Gruenberg

**COMMITTEE CALENDAR**

HOUSE BILL NO. 286

"An Act relating to impersonating a public servant."

- MOVED HB 286 OUT OF COMMITTEE

HOUSE BILL NO. 281

"An Act extending the statute of limitations for the filing of complaints with the Alaska Public Offices Commission involving state election campaigns."

- HEARD AND HELD

HOUSE BILL NO. 237

"An Act authorizing the governor to remove or suspend a member of the Board of Regents of the University of Alaska for good cause; establishing a procedure for the removal or suspension of a regent; and providing for an effective date."

- BILL HEARING CANCELED

**PREVIOUS COMMITTEE ACTION**

BILL: HB 286

SHORT TITLE: IMPERSONATING A PUBLIC SERVANT

SPONSOR(S): REPRESENTATIVE(S) DAHLSTROM

01/04/08            (H)            PREFILE RELEASED 1/4/08

01/15/08 (H) READ THE FIRST TIME - REFERRALS  
01/15/08 (H) JUD  
02/01/08 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 281

SHORT TITLE: CAMPAIGN FINANCE COMPLAINTS  
SPONSOR(S): REPRESENTATIVE(S) LYNN, GATTO

01/04/08 (H) PREFILE RELEASED 1/4/08  
01/15/08 (H) READ THE FIRST TIME - REFERRALS  
01/15/08 (H) STA, JUD  
01/17/08 (H) STA AT 8:00 AM CAPITOL 106  
01/17/08 (H) Heard & Held  
01/17/08 (H) MINUTE(STA)  
01/19/08 (H) STA AT 11:00 AM CAPITOL 106  
01/19/08 (H) Moved CSHB 281(STA) Out of Committee  
01/19/08 (H) MINUTE(STA)  
01/22/08 (H) STA RPT CS(STA) NT 1DP 3NR 2AM  
01/22/08 (H) DP: LYNN  
01/22/08 (H) NR: ROSES, COGHILL, DOLL  
01/22/08 (H) AM: JOHNSON, JOHANSEN  
01/22/08 (H) FIN REFERRAL ADDED AFTER JUD  
01/25/08 (H) JUD AT 1:00 PM CAPITOL 120  
01/25/08 (H) -- MEETING CANCELED --  
02/01/08 (H) JUD AT 1:00 PM CAPITOL 120

**WITNESS REGISTER**

JENNIFER BAXTER, Staff  
to Representative Nancy Dahlstrom  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 286 on behalf of the sponsor,  
Representative Dahlstrom.

GARY "ROB" COX, President  
Public Safety Employees Association, Inc. (PSEA);  
State Trooper  
B Detachment  
Division of Alaska State Troopers  
Department of Public Safety (DPS)  
Palmer, Alaska

**POSITION STATEMENT:** Speaking on behalf of both the PSEA and the  
DPS, provided comments and responded to questions during  
discussion of HB 286, and urged its passage.

RICK SVOBODNY, Deputy Attorney General

Central Office  
Criminal Division  
Department of Law (DOL)  
Juneau, Alaska

**POSITION STATEMENT:** Responded to questions during discussion of HB 286.

JEFFREY LANDVATTER  
Public Safety Employees Association, Inc. (PSEA);  
State Trooper  
A Detachment  
Division of Alaska State Troopers  
Department of Public Safety (DPS)  
Juneau, Alaska

**POSITION STATEMENT:** Provided comments during discussion of HB 286.

MIKE SICA, Staff  
to Representative Bob Lynn  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 281 on behalf of Representative Lynn, one of the bill's joint prime sponsors.

REPRESENTATIVE CARL GATTO  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Spoke as a joint prime sponsor of HB 281.

BROOKE MILES, Director  
Alaska Public Offices Commission (APOC)  
Department of Administration (DOA)  
Anchorage, Alaska

**POSITION STATEMENT:** Provided comments and responded to questions during discussion of HB 281.

JOYCE ANDERSON, Ethics Committee Administrator  
Select Committee on Legislative Ethics  
Alaska State Legislature  
Anchorage, Alaska

**POSITION STATEMENT:** Provided comments and responded to questions during discussion of HB 281.

REPRESENTATIVE CRAIG JOHNSON  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Offered a comment during discussion of HB 281.

**ACTION NARRATIVE**

**CHAIR JAY RAMRAS** called the House Judiciary Standing Committee meeting to order at [1:09:53 PM](#). Representatives Holmes, Dahlstrom, Coghill, Samuels, and Ramras were present at the call to order. Representatives Gruenberg and Lynn were excused.

HB 286 - IMPERSONATING A PUBLIC SERVANT

[1:10:10 PM](#)

CHAIR RAMRAS announced that the first order of business would be HOUSE BILL NO. 286, "An Act relating to impersonating a public servant."

REPRESENTATIVE DAHLSTROM, speaking as the sponsor of HB 286, explained that the bill will increase the penalty for unlawfully impersonating a peace officer to a class C felony; currently, impersonating a public servant, including a peace officer, is a [class B] misdemeanor. In today's society, she observed, there are those who use such deception as part of a criminal act, luring unsuspecting victims into a false sense of security. Intentionally misleading people in this way should have a more severe penalty than is currently provided, she opined, and the bill adds teeth to existing law. She also indicated that her hope is that this increased penalty will also serve as a deterrent to those who would put the lives and safety of people in jeopardy by pretending to be a peace officer.

[1:12:18 PM](#)

JENNIFER BAXTER, Staff to Representative Nancy Dahlstrom, Alaska State Legislature, relayed on behalf of Representative Dahlstrom, sponsor, that HB 286 adds to existing law another crime, specifically that of impersonating a public servant in the first degree - pretending to be a peace officer. In response to questions, she said that the current penalty [for impersonating a public servant] is a class B misdemeanor; that misdemeanor crimes don't generally subject the perpetrator to [much if any] jail time unless he/she has a significant a criminal history; and that the reason for providing a penalty of a class C felony is that Legislative Legal and Research Services indicated that that would be the appropriate next level of penalty.

REPRESENTATIVE COGHILL, acknowledging that someone could falsely use a peace officer's position of authority to gain access to potential victims, noted that under the bill, impersonating a peace officer would be a felony even if nothing bad resulted from that behavior.

REPRESENTATIVE DAHLSTROM offered her belief that passage of the bill will allow law enforcement officials to immediately incarcerate a person who is impersonating a peace officer and seize the vehicle and/or other equipment he/she is using to further that impersonation.

REPRESENTATIVE COGHILL said he is questioning why they should make certain behavior a felony if that behavior doesn't result in something bad occurring.

REPRESENTATIVE HOLMES, noting that AS 11.56.830(a) says in part, "the person pretends to be a public servant and does any act in that capacity", questioned what "any act in that capacity" would entail. She surmised that the bill is not intended to apply to someone who dresses up as a police officer on Halloween.

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CHAIR RAMRAS posited that the existing statute could apply to someone who [falsely] claims to be working for the State of Alaska.

MS. BAXTER, with regard to the issue of people dressing up as police officers on Halloween, confirmed that the bill would not apply in those situations because those people are not acting in the capacity of peace officers. With regard to the issue of making it a class C felony to impersonate a peace officer, she said that the goal is to target those who intend to cause harm by impersonating law enforcement personnel specifically, and mentioned that "peace officer" is defined [in AS 11.81.900] as:

(44) "peace officer" means a public servant vested by law with a duty to maintain public order or to make arrests, whether the duty extends to all offenses or is limited to a specific class of offenses or offenders;

MS. BAXTER offered her understanding that some specific examples of persons impersonating peace officers will be provided, including examples in which no harm had yet been caused. She

too offered her hope that passage of HB 286 will act as a deterrent to those considering impersonating a peace officer.

1:20:24 PM

GARY "ROB" COX, President, Public Safety Employees Association, Inc. (PSEA); State Trooper, B Detachment, Division of Alaska State Troopers, Department of Public Safety (DPS), indicated that the PSEA appreciates the introduction of HB 286. He surmised that most people have heard of incidents wherein someone has impersonated a peace officer, and that those people have felt some form of shock and anguish upon hearing of those incidents regardless of their outcome. He said he knows of two such impersonators in the Matanuska-Susitna (MAT-SU) valley alone, and of others elsewhere. Currently, the crime of impersonating a peace officer is merely a class B misdemeanor, which, he remarked, is slightly more serious than a traffic violation and is seldom prosecuted. He noted that although none of the Alaska cases that he is aware of have yet resulted in the injury, death, or sexual assault of the impersonator's victims, those victims with whom he has spoken all relayed that they experienced extreme fear.

MR. COX offered his belief that the Alaska cases seem to have been motivated by "ego, experimentation, or some twisted sense of 'fun.'" Because real law enforcement officers have been swift to apprehend the impersonators in the Alaska cases, none of those cases had ugly outcomes. However, other states have not been so fortunate; the impersonation of a peace officer in those states has resulted in real law enforcement officers having to investigate the ensuing murder, assault, and rape crimes that those impersonators have perpetrated. The most recent perpetrator in the Mat-Su valley was apprehended a few weeks ago. Both state and local police had been searching for this individual for some time, and he had once previously been charged with impersonating a public servant but had never been prosecuted for or convicted of that crime.

MR. COX said that even though that individual had flashed his vehicle's red and blue lights at citizens, the trooper didn't arrest the individual for the crime of impersonating a public servant because he believed that it was not an arrestable offense. Fortunately, the individual had also been drinking, and so he was arrested for driving under the influence (DUI) and his vehicle and "peace officer equipment" was impounded "before he could do anything really ugly." Mr. Cox characterized HB 286 as being good for both Alaska and law enforcement agencies

because it increases the penalty for impersonating a peace officer to a felony; the bill will enable law enforcement officers to, with probable cause, stop and arrest such impersonators, and will strongly discourage such impersonations "by would-be pranksters or egomaniacs."

MR. COX, in conclusion, opined that HB 286 enhances mutual trust and demonstrates real commitment to the safety of Alaskans and the state's law enforcement officers. The PSEA and law enforcement officers, he relayed, strongly encourage passage of the bill.

[1:25:13 PM](#)

MR. COX, in response to questions, said that although an exact police/trooper uniform is difficult to come by, perpetrators of this crime don't find it necessary to dress up in such a uniform because everyone is familiar with the fact that both off-duty and plain-cloths officers make traffic stops and otherwise contact the public. The aforementioned individual, in fact, actually told a real police officer that he was merely an off-duty state trooper, and his car looked like an unmarked police car. Furthermore, anybody can purchase the emergency lights and radio equipment used by real law enforcement, and the aforementioned individual had done so, though he later put that equipment up for sale on "E-Bay." Mr. Cox surmised that with the car and the equipment, it would have been very difficult, if not impossible, for someone to differentiate the impersonator from an authentic peace officer.

REPRESENTATIVE SAMUELS asked whether the bill would also make impersonating a peace officer over the telephone a class C felony.

MR. COX said that even over the phone, when he tells someone he is a trooper, that person automatically trusts him and is much more open to providing personal information such as date of birth and social security number.

CHAIR RAMRAS surmised that under the bill, impersonating a public servant other than a peace officer would remain a class B misdemeanor, and impersonating a peace officer would become a class C felony.

MS. BAXTER concurred; specifically, impersonating a peace officer would be impersonating a public servant in the first

degree, [and impersonating any other type of public servant would be impersonating a public servant in the second degree].

CHAIR RAMRAS opined that impersonating a peace officer over the phone doesn't pose the same danger or instill the same sense of fear as doing so in person.

REPRESENTATIVE DAHLSTROM disagreed, and pointed out that if either she or her children were at home by themselves and they received a call from someone claiming to be a peace officer [but suspected that to be a false claim], that would be very disturbing, especially if that person then started threatening them.

MR. COX pointed out that with the proliferation of cellular telephones, the impersonator could actually be calling the victim right from his/her own driveway; just because the impersonator is on the phone doesn't diminish the danger or the threat that he/she poses.

CHAIR RAMRAS noted that a person could impersonate a peace officer over the Internet as well.

REPRESENTATIVE COGHILL asked whether the DOL would treat the crime of impersonating a public servant in the first degree the same way it treats other class C felonies. He noted that the term "public servant" refers to many people other than peace officers.

[1:35:08 PM](#)

RICK SVOBODNY, Deputy Attorney General, Central Office, Criminal Division, Department of Law (DOL), offered that although in general there are not provisions of law wherein a particular conduct jumps from a class B misdemeanor to a class C felony, that's not to say that making a crime a class C felony is inappropriate, because that's simply a public policy question regarding how serious the offense is. Mr. Svobodny said he takes some exception to the statement by Mr. Cox that class B misdemeanors don't get prosecuted; rather, perhaps it's simply that class B misdemeanors aren't being submitted for prosecution by law enforcement officers because those offenses aren't perceived as being serious. Furthermore, he relayed, he would like to hear about district attorney offices that aren't prosecuting cases simply based of the classification the legislature chose for a particular offense.

MR. SVOBODNY explained that the difference between a class C felony and a class B misdemeanor is that the maximum penalty for the latter is 90 days in jail, whereas the maximum penalty for the former is five years in jail. However, that's not to say that those are the sentences a person will receive. In response to a question, he explained that a person convicted of a felony loses the right to carry a concealable firearm for a period of time, and has some other restrictions placed on him/her with regard to voting rights and jury duty. Furthermore, outside of any legal impediments, society imposes other impediments to convicted felons such as difficulty in obtaining bonding or employment.

REPRESENTATIVE COGHILL observed that some felons can also be precluded from working with vulnerable people. He said he wants to ensure that the proposed increase in penalty is truly warranted and will only be applied to those who actually do pose a danger to society.

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MR. SVOBODNY, in response to a question, explained that current law makes no distinction between impersonating [a public servant] remotely - via any type of device - and doing it in person; impersonating a police officer, again, whether in person or over the telephone [or Internet], is currently only a class B misdemeanor. Furthermore, people's imaginations are fertile and there could be circumstances, he surmised, wherein a victim could be substantially more afraid if the impersonation is done over the phone as opposed to in person.

CHAIR RAMRAS questioned whether the bill would make a felon out of someone who calls up his/her friend and pretends to be a trooper or police officer simply as a joke.

MR. SVOBODNY explained that the culpable mental state which applies under the bill is that one must knowingly impersonate a peace officer and must knowingly engage in an act - in the aforementioned hypothetical example, the act is the verbal communication - so although the person has technically violated the law, under the American system of justice, prosecutors have the discretion to determine that a crime wasn't really committed in such a case since there was no intent to cause harm. However, because current statute doesn't specify that there be an intent to harm, the actions in the aforementioned example do constitute a crime. He remarked that in 1978, when the legislature passed the current statute, there was a very good

reason, particularly for a class B misdemeanor, for not requiring intent: the behavior of impersonating a public servant scares people. For example, he added, if his wife received a phone call from somebody who said he/she works for City & Borough of Juneau (CBJ) and needs to know whether the electrical meter was located inside the house - whether the person was playing around or not - that would scare her if she ultimately found out that that person was not who he/she was pretending to be.

CHAIR RAMRAS said he is simply questioning whether such behavior rises to the level of a class C felony.

REPRESENTATIVE DAHLSTROM, referring to Chair Ramras's hypothetical example, pointed out that such a person would never even come to the attention of police and prosecutors unless his/her friend filed a complaint about the behavior, whereas if she were to receive a call from someone claiming to be a peace officer and she [suspected that that claim wasn't true], she would call the police because she would assume that if the person has her phone number, he/she probably also knows her address, what she looks like, and perhaps even what her schedule is.

MR. SVOBODNY concurred, adding that even though it is a crime to punch another person, for example, no one reports that his/her four-year-old child hit an older sibling. Similarly, people who are simply joking around with each other over the phone are not going to be dealt with via criminal law.

CHAIR RAMRAS again questioned whether impersonating a peace officer over the phone rises to the level of a class C felony, or whether such behavior should remain a class B misdemeanor.

MR. SVOBODNY again said he could conceive of a situation where impersonating a peace officer over the phone could be more frightening for the victim than if it were done in person. Though, as a general rule, he acknowledged, distance between parties lessens the fear. With regard to Representative Dahlstrom's comment, he added, if the person calling her doesn't yet have her address, he/she can easily obtain it over the Internet - that's a very frightening thing to a lot of people in this country.

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REPRESENTATIVE HOLMES suggested that given that there is no mental state required for the class B misdemeanor provided for under current law, perhaps there needs to be a higher barrier when raising the behavior to class C felony.

MR. SVOBODNY suggested that there should be three levels of this offense: a class B misdemeanor for impersonating a public servant; a class A misdemeanor for impersonating a public servant with the intent to do harm; and a class C felony when impersonating a peace officer with the intent to do harm. He added:

I think it's got to be a very scary thing if somebody comes to your door, knocks on the door, and wants to get access to your house under the ruse of being a building inspector. And that may well be more frightening than somebody calling on the phone and saying they're from the Benevolent Order of Police and please contribute \$100. ... They're both really intending to do harm ... but it seems to me there ought to be maybe a gradation of what happens here.

REPRESENTATIVE HOLMES again asked what the phrase, "and does any act in that capacity" would entail.

MR. SVOBODNY said that since the word, "act" is not yet defined in statute, one would have to use the dictionary definition of what an "act" entails. So for the crime of terroristic threatening, for example, repeated acts are required, and the appellate courts have indicated that a communication is an act. Therefore, he surmised, to communicate a certain piece of information would constitute an act - a verbal act. With regard to a person dressing up as a police officer on Halloween, he posited that in order for the bill to apply to such a person, he/she would have to commit an act in the capacity of a peace officer, such as attempting to restrain or arrest someone.

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REPRESENTATIVE DAHLSTROM observed that sometimes an act doesn't have to be an overt act; someone dressed up as a peace officer, or driving a vehicle that looks like a peace officer's vehicle can elicit certain reactions from people even if no verbal exchange takes place.

REPRESENTATIVE COGHILL said he tends to agree with Mr. Svobodny's suggestion regarding having three levels of crime.

Many public servants have certain authority over others, such as employees of the Office of Children's Services (OCS) and building inspectors, and sometimes individuals have posed as such employees in order to obtain information. Furthermore, when being directed to pull over by a vehicle that has flashing lights, a person may not be aware that he/she is about to find himself/herself in a dangerous situation. With regard to playing pranks by impersonating someone, he acknowledged that as a teenager, he and his friends perhaps did some things they shouldn't have because they didn't realize the gravity of their actions, and so he would not want to saddle such a person with a class C felony. However, some people really are bad actors and they intend to do bad things to others by using the position of trust that society has generally [granted], and so he doesn't mind, he relayed, making those bad actors felons, because, for him, such behavior rises to that level.

REPRESENTATIVE DAHLSTROM, in response to a comment that the term "public servant" is broad, pointed out that the crime of impersonating a public servant is already addressed via existing statute and won't be changed by the bill.

REPRESENTATIVE COGHILL indicated that his concern is that the proposed increase in penalty could be applied inappropriately, though he acknowledged that there is a safeguard in that one must first be convicted. He said he is questioning whether impersonating some other public servants should also rise to the level of a felony, particularly given that in the past, for example, the legislature has discussed the issue of whether to let employees of the then-Child Support Enforcement Division (CSED) carry handguns while performing their duties.

[2:03:01 PM](#)

CHAIR RAMRAS expressed interest in Mr. Svobodny's suggestion.

MR. SVOBODNY reiterated his suggestion, and noted that in a recent movie, someone with bad intentions impersonated a peace officer in order to kill another person. Although such behavior is not common, it is not unheard of for people to impersonate a peace officer in order to gain some type of advantage.

REPRESENTATIVE HOLMES indicated that she would be more comfortable if the bill included some sort of intent-to-do-harm language, because she wants to ensure that the bill only applies to actual bad actors.

REPRESENTATIVE SAMUELS pointed out, however, that if such language is included for the crime of impersonating a peace officer, then in situations like the one described by Mr. Cox - where the person acquired a vehicle [resembling an unmarked police car] and lights and a siren - the prosecution would then also have to prove that the person had the intent to do harm. Representative Samuels said that for such people, he is satisfied with the bill as it is currently written, because why else would one go through the trouble of obtaining such equipment and then attempting to pull people over if not to perpetrate a crime. He indicated, though, that he would be amenable to the change suggested by Mr. Svobodny regarding impersonating other types of public servants. Representative Samuels offered his belief that the bill would never be applied in situations where friends are playing jokes on each other.

MR. SVOBODNY, in response to a question, offered his belief that the definition of "public servant" is sufficiently broad, and would apply to those impersonating the types of public servants Representative Coghill mentioned, adding that it would not be a defense for someone to claim that the position he/she was impersonating doesn't exist.

REPRESENTATIVE COGHILL, in response to a question, reiterated his concern that perhaps impersonating a public servant other than a peace officer also ought to rise to the level of a felony.

[2:09:27 PM](#)

REPRESENTATIVE DAHLSTROM said she is not intending for the bill to address the impersonation of public servants other than peace officers.

MR. COX also concurred that the bill would not apply in situations where friends are playing pranks on each other since one of the parties would first have to file a complaint and the responding law enforcement officer would still have the discretion of whether to pursue the issue. With regard to adding language requiring that the impersonator have the intention of doing harm, he opined that that would take the threshold too high - a police officer would be unable to stop an impersonator before he/she actually injures or kills someone. He suggested that perhaps the bill could be changed to say something along the lines of, "exercises or attempts to exercise official authority"; with such a change, the impersonator's actions would demonstrate intent. He characterized an

impersonator's attempts to pull someone over as a serious violation of a person's rights.

MR. COX, with regard to impersonating a peace officer over the phone, offered his believe that such behavior does rise to the level of a felony, particularly given that the crime of assault in the third degree, which in part addresses the behavior of making repeated threats to cause death or injury, is a class C felony offense as long as it causes the fear in the victim that that really will happen. With regard to juvenile pranks, he opined that it would be pretty easy for a citizen to determine that a youth isn't really a peace officer.

[2:14:14 PM](#)

JEFFREY LANDVATTER, Public Safety Employees Association, Inc. (PSEA); State Trooper, A Detachment, Division of Alaska State Troopers, Department of Public Safety (DPS), opined that HB 286 is fundamental to the foundation of good policing. Police are given a high level of trust and training, and someone falsely presenting himself/herself as a peace officer breaks down the public trust, and makes it very difficult for law enforcement officers to do their job.

MR. SVOBODNY, in response to a question, opined that Mr. Cox's suggestion would have the same problem with proving intent. Currently one must commit an act, which includes a pretty broad range of conduct; he then acknowledged that including intent-to-do-harm language, as he'd suggested earlier, would also present a proof problem. He said he agrees with the officers: the oath that they are required to take in order to become peace officers is designed to set them up as examples of people that one can trust, and one does things for a police officer, because he/she appears to be a police officer, that one wouldn't do for someone else. This does create more dangerous situations, both for police officers in the normal course of their duty and for the public when responding to someone they think is a police officer but isn't.

MR. SVOBODNY suggested instead: keep the current crime of impersonating a public servant a class B misdemeanor; make the crime of impersonating a public servant with the intent to gain access to a dwelling or the intent to do harm a class A misdemeanor; and make impersonating a peace officer a class C felony as the bill currently proposes.

REPRESENTATIVE COGHILL said he likes that suggestion, but is not sure of the practical implications.

REPRESENTATIVE SAMUELS noted that Anchorage Municipal Code says:

8.30.070 Impersonation of public officer.

A. A person commits the crime of impersonation of a public officer if the person knowingly and falsely represents himself to be a public officer and in such assumed character:

1. Obtains money, property, or other thing of value, or

2. Arrests or detains, threatens to arrest or detain, or otherwise threatens any person; or

3. Searches a person or property; or

4. Obtain or requires the assistance of another in any matter pertaining to the duties of a public officer.

B. As used in this section, a public officer includes peace officers, firemen, paramedics, magistrates, judges, municipal attorneys and prosecutors, municipal inspectors, officials, or clerks, but is not limited to them.

C. Violation of this section shall, upon conviction, be punished by a fine of not more than \$2,000.00 or imprisonment for not more than six months, or both such fine and imprisonment.

REPRESENTATIVE SAMUELS acknowledged, though, that the problem with "spelling it out" is that then the language might not apply in every case that it should.

MR. SVOBODNY concurred.

REPRESENTATIVE SAMUELS indicated that he would be in favor of Mr. Svobodny's suggestion regarding making public-servant impersonators seeking access into someone's dwelling a class A misdemeanor.

REPRESENTATIVE HOLMES surmised that all members are in support of the intent of HB 286, and acknowledged that it addresses a serious problem. Referring to the issue of a perpetrator's mental state, she asked what other felonies might compare.

MR. SVOBODNY offered that the crimes of theft of \$500 or more; shoplifting of \$500 or more; DUI; bootlegging; causing somebody to fear serious physical injury by means of a dangerous

instrument - for example, pounding a bat against a wall right next to somebody; and check forgery are all class C felonies.

REPRESENTATIVE DAHLSTROM said her preference is to move forward with the bill as it is currently written, rather than altering it to address some of the other issues that have been raised.

CHAIR RAMRAS closed public testimony on HB 286.

REPRESENTATIVE COGHILL opined that anytime the legislature makes a particular crime a felony, the justification for doing so needs to be vetted. He indicated that he is satisfied that the crime of impersonating a peace officer does rise to the level of a felony.

[2:25:51 PM](#)

REPRESENTATIVE DAHLSTROM moved to report HB 286 out of committee with individual recommendations [and the accompanying fiscal notes]. There being no objection, HB 286 was reported from the House Judiciary Standing Committee.

HB 281 - CAMPAIGN FINANCE COMPLAINTS

[2:26:40 PM](#)

CHAIR RAMRAS announced that the final order of business would be HOUSE BILL NO. 281, "An Act extending the statute of limitations for the filing of complaints with the Alaska Public Offices Commission involving state election campaigns." [Before the committee was CSHB 281(STA).]

[2:27:48 PM](#)

MIKE SICA, Staff to Representative Bob Lynn, Alaska State Legislature, said on behalf of Representative Lynn, one of the bill's joint prime sponsors, that HB 281 basically does two things. It increases the statute of limitations, from one and two years to five years, for filing a complaint with the Alaska Public Offices Commission (APOC) and the Select Committee on Legislative Ethics, and establishes a period of six years for the retention of records related to such complaints. The bill also contains several conforming changes. The goal is to create a uniform standard for time limits and the retention of records under four of the provisions of statute that are overseen by the APOC and the Select Committee on Legislative Ethics: AS 15.13 pertaining to state election campaigns; AS 24.45 pertaining to

regulation of lobbying; AS 24.60 pertaining to standards of conduct for the legislative branch; and AS 39.50 pertaining to public official financial disclosure.

MR. SICA said that in 2003, the aforementioned statute of limitations [for filing a complaint with the APOC] was changed from four years to one year, but problems have since arisen because of that shorter statute of limitations in that certain alleged violations cannot now be investigated; the Select Committee on Legislative Ethics currently has a two-year statute of limitations but no statute of limitations in instances of intentional prevention of discovery. Again, the bill would increase the statute of limitations for filing a complaint, with either the APOC or the Select Committee on Legislative Ethics, to five years. Referring to the change requiring that records be retained for six years, he observed that this proposed change makes sense if the statute of limitations is changed to five years because then the records associated with any complaint filed within that timeframe will still be available to the investigating authority.

MR. SICA offered assurance that both agencies will still have the same speedy adjudication process in place; for example, once the APOC begins investigating a complaint, statute requires that that investigation be concluded in 60 days. The statute of limitations in some other states ranges from one year to five years, Georgia has a three-year statute of limitations for two-year terms and a five-year statute of limitations for four-year terms, some states have no statute of limitations, some states have an "intentional prevention of discovery" clause, and some states have a combination of the aforementioned.

MR. SICA noted that in the House State Affairs Standing Committee, an amendment was adopted that would change current law with regard to who can file a complaint. Currently, under almost all the aforementioned provisions, any person can file a complaint, and the term "person", as statutorily defined, covers everyone from a natural person to an organization or a political party. He relayed that Brooke Miles from the APOC has told him that in fact most of the complaints filed with the APOC come from political parties during election time; "they do a wonderful job of keeping each other in line," he added. Mr. Sica relayed that Representative Lynn feels that allowing political parties, rather than just individual candidates, to file complaints depersonalizes and depoliticizes the complaint process, thus alleviating what could otherwise turn out to be a nasty feud between candidates.

MR. SICA added that that's how the process has worked in the past, and that [Representative Lynn] would like this committee to revisit that issue because he feels that the process should be based on the merits of the complaint rather than on the qualifications of the person filing the complaint. House Bill 281 addresses a [potential] loophole, and increasing the statute of limitations will be a step forward, particularly if it doesn't limit legitimate complaints.

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REPRESENTATIVE CARL GATTO, Alaska State Legislature, speaking as a joint prime sponsor of HB 281, relayed that he has had two complaints filed against him during election seasons, and both were dismissed after the elections were over. It's fairly easy to file a complaint on a person, he noted, adding that the newspapers received word of the second complaint before he did; therefore he takes a strong interest in who can file a complaint, how a complaint is heard, and how one recovers from a complaint being filed.

REPRESENTATIVE SAMUELS noted that Section 1 would change AS 15.13.040(f) to read:

All businesses, persons, or groups that furnish any of the following services, facilities, or supplies to a candidate or group shall maintain a record of each transaction for a period of six years from the date of the election: newspapers, radio, television, advertising, advertising agency services, accounting, billboards, printing, secretarial, public opinion polls, or research and professional campaign consultation or management, media production or preparation, or computer services. Records of provision of services, facilities, or supplies shall be available for inspection by the commission.

REPRESENTATIVE SAMUELS opined that any company he hires to do a print job for him, for example, isn't going to know that it will be required to keep records of that transaction for six years. Referring to Section 2, he indicated that once he leaves the state legislature, he won't be inclined to keep for six years any records related to his term of office, though he acknowledged that he could probably just put all his records in a box and hope he doesn't lose it during any subsequent moves.

He asked whether other states require that records be kept for six years.

MR. SICA mentioned that that provision falls under the purview of the APOC, and offered his understanding that current law is silent on the issue of how long records must be retained.

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BROOKE MILES, Director, Alaska Public Offices Commission (APOC), Department of Administration (DOA), said that although a provider of services may include a small print shop, the provision is meant to apply to "the bigger people" such as campaign managers, media providers and producers, and poll providers and producers. She clarified that currently such entities are required to keep such records for a year, and noted that the APOC has heard a lot of comments from the public regarding the APOC's current one-year statute of limitations.

REPRESENTATIVE HOLMES, referring to Section 1, relayed that she'd hired a campaign manager who worked for her for only eight weeks, and asked whether under the bill that individual would have to keep all records related to that work for six years.

MS. MILES said that in that type of situation, the APOC would expect the candidate to keep such records, since the employee would have merely had a contractual agreement to work for the candidate.

REPRESENTATIVE SAMUELS said he agrees with that intent, but pointed out that that's not what the bill says.

MS. MILES noted that the language regarding who is required to keep such records is already part of existing statute, and all that's being changed via Section 1 is the length of time records must be kept. She acknowledged that Section 1 could be crafted more carefully, and pointed out that she is only relaying how the APOC staff has used this provision as an enforcement tool.

REPRESENTATIVE GATTO referred to Section 2, and offered his understanding that unless an entity is required to report to the APOC, that entity won't be required to preserve records. Concurring with Ms. Miles's statement that it would be the [candidate] who is required to maintain the records, since it is the candidate who is required to report to the APOC, he asked whether the language of Section 2 would alleviate members' concerns regarding Section 1.

MS. MILES said that Section 2 - which is proposing to insert a new section of statute - addresses "the filer's" retention of records, and pertains to candidates, political parties, political action committees (PACs), and groups supporting or opposing ballot measures including individuals who must file reports as a result of having participated in independent expenditures. Section 1, in comparison, requires providers of services to retain records.

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JOYCE ANDERSON, Ethics Committee Administrator, Select Committee on Legislative Ethics, Alaska State Legislature, relayed that Section 8 deals with the Legislative Ethics Act, and proposes to change the statute of limitations regarding when a complaint must be filed from two years to five years, and therefore also removes language specific to complaints against former legislators. With regard to the provision in CSHB 281(STA) requiring that complaints be filed only by registered voters as opposed to any person, she noted that the Legislative Ethics Act has always said that complaints may be initiated by "any person", and that the Select Committee on Legislative Ethics has not had any issues arise regarding that language. To her knowledge, she relayed, only individuals, rather than groups, have filed complaints with the Select Committee on Legislative Ethics; furthermore, no one from out of state has filed any complaints.

MS. ANDERSON noted that under the Legislative Ethics Act, the Select Committee on Legislative Ethics reviews a complaint and determines whether [the alleged behavior] falls under its jurisdiction and whether the allegation if proven true would be a violation; if the complaint does meet those criteria, then the Select Committee on Legislative Ethics moves forward with it. If a complaint doesn't meet those criteria, though, it is dismissed and nothing is made public. Complaints filed with the APOC, on the other hand, are all made public regardless of whether any investigations ensue. She indicated that for the sake of consistency, [the Select Committee on Legislative Ethics] recommended that the statutes pertaining to complaints filed with the APOC be changed such that there would be no statute of limitations in instances of intentional prevention of discovery.

REPRESENTATIVE SAMUELS surmised that replacing the word "person" with the term "registered voter" would preclude a political

party from filing a complaint, and offered his understanding that Mr. Sica had said that allowing political parties to file complaints would makes the complaints less personal.

MR. SICA concurred, noted that both current law and the bill as originally drafted allowed political parties to file complaints, and reiterated that the change from "person" to "registered voter" occurred in the House State Affairs Standing Committee.

REPRESENTATIVE COGHILL offered his recollection that part of the discussion that occurred in the House State Affairs Standing Committee pertained to limiting who could file complaints, and some members in that committee felt complaints should only be filed by voters.

REPRESENTATIVE GATTO noted that the language currently in HB 281 doesn't specify which state the voter must be registered in.

MR. SICA relayed that members' packets include a proposed amendment defining the term, "registered voter" as meaning a person who is registered to vote under AS 15.07.

REPRESENTATIVE COGHILL acknowledged that that point should be clarified if the bill retains the term "registered voter". Although political groups can currently hold each other accountable, he added, the complaint process can also be used by them as a delaying tactic.

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MS. ANDERSON said she agrees with Mr. Sica's comments. A compliant filed by the Alaska Public Interest Research Group (AkPIRG) or the League of Women Voters of Alaska, for example, is different than a complaint filed by an individual, because clearly it is a group and not just one person that feels there is an issue. She opined that they should leave open the option for organizations to file complaints, as opposed to just allowing registered voters to file complaints.

REPRESENTATIVE COGHILL also noted that complaints filed with the APOC become public, and indicated that an issue to consider is whether complaints filed by groups are legitimate.

CHAIR RAMRAS asked what HB 281 will achieve for the public good.

MS. ANDERSON said that the main intent is to increase the statute of limitations regarding when a complaint can be filed.

The question is whether the current statute of limitations is long enough, particularly given that sometimes the facts of a situation don't become evident until after the current statute of limitations has run out. Increasing the statute of limitations to five years will allow the public, if they obtain knowledge within five years that a possible wrongdoing has occurred, to still be able to file a complaint; for example, if the subject of a complaint had been trying to influence others in order to get legislation passed. She mentioned that some such incidents came to light during the recent indictments of certain legislators.

CHAIR RAMRAS offered his understanding that the bill focuses on the conduct of elected officials while in office and increases the statute of limitations regarding when a complaint can be filed, and that these proposed changes were engendered by recent events.

MS. ANDERSON concurred with that summation.

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MS. MILES explained that it was the APOC which requested that the statute of limitations be increased. The current one-year statute of limitations has proven to be far too short, and, as a result, the APOC has been raked over the coals and blamed for that; furthermore, she relayed, she, personally, has been attacked for complying with the existing statute of limitations. Therefore, the APOC went on record as saying that the statute of limitations needed to be expanded, and the APOC strongly supports that expansion. In working through the statutes that the APOC administers, it was determined that there is a mishmash of statute of limitations and sometimes none at all is specified. With regard to possible violations that the APOC could not pursue because of the current one-year statute of limitations, one issue pertained to major corporations having all their executives make campaign contributions that were actually paid for directly by the corporations; this is a clear violation of the law, but the APOC was unable to do anything about it. With regard to records retention, it only makes sense for the period of time in which records must be kept to at least match - or supersede by one year - the statute of limitations so that the investigating authority can access substantiating documents, because, without those documents, it will be more difficult to investigate complaints of wrongdoing.

MS. MILES indicated that the APOC is in favor of removing from the bill the proposed term of "registered voter." Under the laws administered by the APOC, one provision pertaining to lobbying requires that the person filing the complaint be a qualified voter; without this requirement, a complaint could be filed by anyone, including APOC staff. The argument raised in the House State Affairs Standing Committee was that if complaints weren't limited to a qualified voter, then even a foreign national could file a complaint against a candidate. That has never happened, she pointed out, though complaints have been brought forth by groups and political parties, none of which are a registered voter, and sometimes, in the heat of a campaign, having the complaint brought forth be a nonperson helps depoliticize the complaint. It is true, she acknowledged, that with regard to complaints filed with the APOC, the complaint [form] itself becomes a public document, and staff makes every effort to get a copy of it to the subject of the complaint as soon as possible. Unfortunately, sometimes when someone files a complaint with the APOC, his/her very next stop is with the press. When a complaint doesn't meet all the criteria outlined in law, the staff themselves can reject it.

REPRESENTATIVE SAMUELS said that although he can see the advantages of allowing organizations to file a complaint, the downside is that individuals get to hide behind the name of an organization.

REPRESENTATIVE GATTO questioned how one would know that all members of an organization have agreed to file a complaint. He also opined that the term "registered voter" should be replaced with the term "registered Alaska voter".

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REPRESENTATIVE CRAIG JOHNSON, Alaska State Legislature, opined that if candidates are going to be held accountable, then complaints shouldn't be used as political tools; "if someone has the fortitude and the knowledge and right on their side to put their name on it -- but a 'person' by definition under [Alaska] statute is anything."

CHAIR RAMRAS relayed that HB 281 would be held over.

#### **ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:03 p.m.