

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

February 25, 2010

1:06 p.m.

MEMBERS PRESENT

Representative Jay Ramras, Chair
Representative Nancy Dahlstrom, Vice Chair
Representative Bob Herron
Representative Bob Lynn
Representative Max Gruenberg
Representative Lindsey Holmes

MEMBERS ABSENT

Representative Carl Gatto

OTHER LEGISLATORS PRESENT

Representative Bill Stoltze

COMMITTEE CALENDAR

HOUSE BILL NO. 314

"An Act relating to fees and charges for medical treatment or services, the crime of unsworn falsification, investigations, and penalties as they relate to workers' compensation; and providing for an effective date."

- MOVED CSHB 314(JUD) OUT OF COMMITTEE

CONFIRMATION HEARING(S)

Attorney General

Daniel S. Sullivan - Bethesda, Maryland

- CONFIRMATION(S) ADVANCED

Violent Crimes Compensation Board

Gerad G. Godfrey - Eagle River

- CONFIRMATION(S) ADVANCED

HOUSE BILL NO. 331

"An Act relating to funding for youth courts; and relating to accounting for criminal fines."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 314

SHORT TITLE: WORKERS' COMPENSATION

SPONSOR(S): LABOR & COMMERCE

01/27/10	(H)	READ THE FIRST TIME - REFERRALS
01/27/10	(H)	L&C, JUD
02/03/10	(H)	L&C AT 3:15 PM BARNES 124
02/03/10	(H)	Moved Out of Committee
02/03/10	(H)	MINUTE(L&C)
02/05/10	(H)	L&C RPT 2DP 3NR
02/05/10	(H)	DP: BUCH, OLSON
02/05/10	(H)	NR: LYNN, HOLMES, T.WILSON
02/05/10	(H)	FIN REFERRAL ADDED AFTER JUD
02/18/10	(H)	JUD AT 1:00 PM CAPITOL 120
02/18/10	(H)	-- MEETING CANCELED --
02/24/10	(H)	JUD AT 1:00 PM CAPITOL 120
02/24/10	(H)	Heard & Held
02/24/10	(H)	MINUTE(JUD)
02/25/10	(H)	JUD AT 1:00 PM CAPITOL 120

BILL: HB 331

SHORT TITLE: YOUTH COURTS AND CRIMINAL FINES

SPONSOR(S): MUNOZ

02/08/10	(H)	READ THE FIRST TIME - REFERRALS
02/08/10	(H)	JUD, FIN
02/24/10	(H)	JUD AT 1:00 PM CAPITOL 120
02/24/10	(H)	Heard & Held
02/24/10	(H)	MINUTE(JUD)
02/25/10	(H)	JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

DANIEL S. SULLIVAN, Appointee

Attorney General

Bethesda, Maryland

POSITION STATEMENT: Testified as appointee to the position of Attorney General.

GERAD G. GODFREY, Appointee

Violent Crimes Compensation Board (VCCB)
Eagle River, Alaska

POSITION STATEMENT: Testified as appointee to the Violent Crimes Compensation Board (VCCB).

T. TERRY HARVEY, Staff
Representative Cathy Munoz
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 331 on behalf of the sponsor, Representative Munoz.

MEGHAN STANGELAND, Advocate
Juneau Youth Court
Juneau, Alaska

POSITION STATEMENT: Responded to questions during discussion of HB 331.

MADISON NOLAN, Advocate
United Youth Courts of Alaska (UYCA)
Juneau, Alaska

POSITION STATEMENT: Responded to questions during discussion of HB 331.

DOMENICK DAVIS, President
Executive Council
Bar Association
North Star Youth Court
Fairbanks, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 331.

GEOFFRY B. WILDRIDGE, Attorney at Law, Co-Chair
Adult Members
Board of Directors
North Star Youth Court
Fairbanks, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 331.

GINNY ESPENSHADE, Director
Kenai Peninsula Youth Court (KPYC)
Kenai, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 331.

MICHELLE HEUN

Palmer, Alaska

POSITION STATEMENT: During discussion of HB 331, provided comments and indicated support for the bill.

ACTION NARRATIVE

[1:06:46 PM](#)

CHAIR JAY RAMRAS called the House Judiciary Standing Committee meeting to order at 1:06 p.m. Representatives Ramras, Lynn, Holmes, and Herron were present at the call to order. Representatives Gruenberg and Dahlstrom arrived as the meeting was in progress. Representative Stoltze was also in attendance.

HB 314 - WORKERS' COMPENSATION

[1:07:00 PM](#)

CHAIR RAMRAS announced that the first order of business would be HOUSE BILL NO. 314, "An Act relating to fees and charges for medical treatment or services, the crime of unsworn falsification, investigations, and penalties as they relate to workers' compensation; and providing for an effective date." [Left pending from the hearing on 2/24/10 was the motion to adopt the conceptual amendment to Amendment 1, and the motion to adopt Amendment 1.]

CHAIR RAMRAS referred to Amendment 1, labeled 26-LS1354\A.3, Bailey, 2/17/10, which read:

Page 1, lines 1 - 2:
Delete "**the crime of unsworn falsification**"
Insert "**civil damages**"

Page 1, lines 5 - 9:
Delete all material.

Page 1, line 10:
Delete "**Sec. 2**"
Insert "**Section 1**"

Renumber the following bill sections accordingly.

Page 2, lines 15 - 16:
Delete "**usual, customary, and reasonable**"

Page 2, lines 17 - 21:

Delete "include the most recent Current Procedural Terminology codes for both category I and category II medical treatment or other services published by the American Medical Association; notwithstanding AS 44.62.010 - 44.62.290, the board shall update the schedule annually by order"

Insert "be based on statistically credible data, including charges for the most recent category I, II, and III medical services maintained by the American Medical Association and the Health Care Procedure Coding System for medical supplies, injections, emergency transportation, and other medically related services, and must result in a schedule that (i) reflects the cost in the geographical area where services are provided; and (ii) is at the 90th percentile"

Page 2, line 26, through page 3, line 2:

Delete all material and insert:

*** Sec. 2.** AS 23.30.250(a) is amended to read:

(a) A person who (1) knowingly makes a false or misleading statement, representation, or submission related to a benefit under this chapter; (2) knowingly assists, abets, solicits, or conspires in making a false or misleading submission affecting the payment, coverage, or other benefit under this chapter; (3) knowingly misclassifies employees or engages in deceptive leasing practices for the purpose of evading full payment of workers' compensation insurance premiums; or (4) employs or contracts with a person or firm to coerce or encourage an individual to file a fraudulent compensation claim is guilty of workers' compensation fraud, which may be punished under AS 11.46.120 - 11.46.150, and may also be guilty of perjury and related offenses under AS 11.56.200 - 11.56.230 [CIVILLY LIABLE TO A PERSON ADVERSELY AFFECTED BY THE CONDUCT, IS GUILTY OF THEFT BY DECEPTION AS DEFINED IN AS 11.46.180, AND MAY BE PUNISHED AS PROVIDED BY AS 11.46.120 - 11.46.150].

*** Sec. 3.** AS 23.30.250(c) is repealed and reenacted to read:

(c) In addition to criminal penalties under this section, a person who violates this chapter is liable in a civil action brought by or on behalf of a person who suffers economic damages as a result of the violation for an award of three times the amount of compensatory damages resulting from the violation,

subject to adjustment under AS 09.17, and an award of reasonable attorney fees."

Renumber the following bill sections accordingly.

Page 3, line 19:

Delete all material.

Renumber the following bill section accordingly.

CHAIR RAMRAS then withdrew his conceptual amendment to Amendment 1 such that in its proposed change to AS 23.30.097(a)(1)(D), the words, "is at the 90th percentile" would be replaced with the words, "the amount paid by the preferred provider network of insurers is not to exceed the 90th percentile".

The committee took an at-ease from 1:08 p.m. to 1:09 p.m.

REPRESENTATIVE HOLMES removed her objection to Amendment 1. There being no further objection, Amendment 1 was adopted.

[1:09:44 PM](#)

REPRESENTATIVE HERRON moved to report HB 314, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 314(JUD) was reported from the House Judiciary Standing Committee.

CHAIR RAMRAS offered his belief that the conceptual amendment to Amendment 1 would not have been detrimental to injured workers but would have enhanced the climate for employers subject to what he termed skyrocketing and escalating workers' compensation insurance premiums.

[CSHB 314(JUD) was reported from committee.]

The committee took an at-ease from 1:11 p.m. to 1:12 p.m.

CONFIRMATION HEARING(S)

Attorney General

[1:12:36 PM](#)

CHAIR RAMRAS announced that the committee would next consider the appointment of Daniel S. Sullivan to the position of Attorney General.

CHAIR RAMRAS characterized Mr. Sullivan as highly qualified for the position of Attorney General, and offered his understanding that [as Acting Attorney General awaiting legislative confirmation] Mr. Sullivan has already been working to address the issue of federal government overreach, and has focused the Department of Law (DOL) on many issues.

[1:16:53 PM](#)

DANIEL S. SULLIVAN, Appointee, Attorney General, after providing the committee with a brief, personal history, and recounting information included in members' packets, offered his belief that his knowledge and experience would enable him to carry out the duties of attorney general, and assured the committee that he would use that knowledge and experience to fight for the interests of Alaska and its citizens.

MR. SULLIVAN explained that as the attorney general, one area he would be focused on would be on protecting Alaskans from criminal behavior such as sexual assault and domestic violence (DV). A second area he would be focused on would be on promoting economic opportunities, such as by intervening in Endangered Species Act of 1973 cases and outer continental shelf development cases, for example. A third area he would be focused on would be on protecting the State's fiscal integrity, such as by collecting monies owed to the State and by defending the State against lawsuits. A fourth area he would be focused on would be on promoting good governance under the parameters of the constitutions. A fifth area he would be focused on would be on improving the quality of life in rural Alaska. With regard to the latter point, he mentioned that as acting attorney general, he is currently serving as chair of the governor's Alaska Rural Action Subcabinet, and as co-chair of the Alaska Rural Justice and Law Enforcement Commission.

MR. SULLIVAN offered his belief that an important aspect of the job of attorney general is the management of what amounts to the largest law firm in the state - the Department of Law (DOL). Referring to integrity as being the touchstone of all the DOL's decisions, he said would be holding the DOL to the highest of professional standards, and would be respectfully collaborating will all his employees on every issue the DOL would be focusing on, along with striving to increase morale within the DOL by

recruiting and retaining "top notch" personnel. He also said he would be working closely with the legislature, being responsive to its concerns. He offered his belief that as attorney general, he would be the governor's legal advisor, and would have important responsibilities to the legislature, but his highest responsibility and duty would be to the State's laws and the Alaska State Constitution. He then responded to personal questions.

REPRESENTATIVE HERRON - referring to the cases, State v. Kaltag and Kasayulie v. State - asked Mr. Sullivan whether, by petitioning the United States Supreme Court for a ruling in the Kaltag case, he is seeking to remove tribal jurisdiction.

MR. SULLIVAN - remarking that obtaining an Indian Child Welfare Act (ICWA) memorandum of understanding (MOU) would address some of the issues raised by Kaltag, and that jurisdictional issues between the State, the tribes, and the Federal government are very complex - explained that via Kaltag, he is asking the U.S. Supreme Court for clarification with regard to what, if any, jurisdictional authority tribal courts and tribes have over non-members of the tribe. He characterized this as a huge, important issue for both the State and its citizens.

[1:35:37 PM](#)

REPRESENTATIVE HERRON said he's heard concern that via Kaltag, the attorney general is seeking to have the U.S. Supreme Court rule that every case pertaining to village children - whether Native or non-Native - must be adjudicated by the State.

MR. SULLIVAN indicated that that's not what the petition is seeking. In response to comments and questions, he offered his belief that with regard to rural Alaska, the State, and Native and tribal entities, the common interests and goals far outweigh the disagreements, and offered as examples of the former the issues of transportation and infrastructure development in Alaska.

REPRESENTATIVE HERRON, referring again to the Kasayulie case, asked Mr. Sullivan what he's doing to comply with the court order that resulted from that case, and whether he feels that the State shouldn't have to comply with any court orders it disagrees with.

MR. SULLIVAN said he has specifically asked his staff to review that court order, and indicated that he is committed to having

the State comply with it. In response to further questions, he provided further personal information.

REPRESENTATIVE GRUENBERG offered his belief that Mr. Sullivan would make a fine attorney general. With regard to the Kaltag case, he asked what could be done to provide the child in that case, which involved a tribal adoption, with the proper documentation.

MR. SULLIVAN indicated that that issue is being addressed. He mentioned, though, that the Kaltag case has engendered a lot of additional litigation, and surmised, therefore, that many of the problems that case has raised are not going to be easily resolved by a court ruling, even one by the U.S. Supreme Court should it choose to hear it. He offered his belief that developing the aforementioned ICWA MOU is instead going to be the most strategic way of addressing the issues raised by Kaltag.

REPRESENTATIVE GRUENBERG, referring to the Nick v. Bethel case, asked what could be done to address the voting needs of rural Alaskans for whom English is not primary language.

MR. SULLIVAN offered his understanding that that case was settled to everyone's satisfaction, and that the State has been making significant strides towards ensuring that all Alaskans have the ability to vote and understand what they are voting on.

[1:50:54 PM](#)

REPRESENTATIVE GRUENBERG asked Mr. Sullivan what he would do if the U.S. Marine Corp were to call him back to active duty. In other words, which would take precedence: his duty to the State of Alaska as attorney general, or his duty to the country as a Marine reservist?

MR. SULLIVAN offered his belief that he wouldn't have to choose - that he could do both jobs - and noted that the current attorney general for the State of Delaware was faced with just that situation and did do both jobs.

REPRESENTATIVE LYNN offered his belief that Mr. Sullivan wouldn't have any choice in the matter - if the military calls him back to active duty, then back to active duty he would go.

MR. SULLIVAN, in response to questions about the Alaska Gasline Inducement Act (AGIA), explained that the DOL works with many of

the agencies that are addressing the different aspects of the AGIA, and relayed that the DOL would be very involved in analyzing the degree to which a given set of circumstances might possibly trigger the AGIA's treble damages provisions, which, in any case, wouldn't apply after commercial operation of a natural gas pipeline begins.

REPRESENTATIVE HOLMES remarked on the high cost of hiring a lot of outside counsel, as the State has been doing for several years, to address certain specific areas of the law related to oil and gas, consumer protection, and endangered species, for example. She asked Mr. Sullivan whether it is his intention to hire attorneys knowledgeable in those areas of the law, or to simply continue relying on outside counsel at high cost.

MR. SULLIVAN acknowledged that building up and maintaining in-house expertise within the DOL would be more cost effective - and indicated a desire to do so - but pointed out that there are always going to be times when the State needs assistance from outside counsel.

REPRESENTATIVE DAHLSTROM relayed that since Mr. Sullivan began his job as Acting Attorney General, she's worked with him on several issues and has been extremely impressed with his work. She thanked Mr. Sullivan for his service to the State of Alaska and for his willingness to continue serving.

[2:11:17 PM](#)

CHAIR RAMRAS asked Mr. Sullivan how he envisions Alaska protecting its resources from overreach by the federal government.

MR. SULLIVAN said that with regard to issues related to Alaska's economic future, it is critical for the State of Alaska to meet with senior federal officials and brief them on the issues of importance to Alaska, and to intervene in the lawsuits that are being brought against the federal government but that affect Alaska so as to be present at any resulting settlement in order to approve it.

CHAIR RAMRAS questioned how Alaska could go about taking an aggressive posture against the federal government.

MR. SULLIVAN suggested that with regard to any perceived problems resulting from the federal government's actions [or inactions], Alaska should seek allies among all the other states

that could also be affected so that together the states could take steps [to bring their concerns to the attention of the federal government].

REPRESENTATIVE GRUENBERG referred to a lawsuit against the federal government regarding unclaimed World War II bonds, and offered his understanding that the laws [pertaining to such bonds] were written before "virtually all the states went to what's called custodial unclaimed property acts, where we no longer take title to the property." What this has meant, he surmised, is that none of the states can take the funds into their custody and try to find the bond owners or their heirs, and so additional federal legislation is really necessary in order to resolve the problem. Representative Gruenberg asked Mr. Sullivan to bring this point up with the other states' attorneys general when next he meets with them.

MR. SULLIVAN said that he would, and relayed that the DOL had been looking very closely at that case, which has since been dismissed.

CHAIR RAMRAS reminded members that signing the reports regarding appointments to boards and commissions in no way reflects individual members' approval or disapproval of the appointees, and that the nominations are merely forwarded to the full legislature for confirmation or rejection.

[2:32:08 PM](#)

REPRESENTATIVE DAHLSTROM made a motion to advance from committee the nomination of Daniel S. Sullivan to the position of Attorney General. There being no objection, the confirmation was advanced from the House Judiciary Standing Committee.

The committee took an at-ease from 2:32 p.m. to 2:40 p.m.

Violent Crimes Compensation Board

[2:40:18 PM](#)

CHAIR RAMRAS announced that the committee would next consider the reappointment of Gerad G. Godfrey to the Violent Crimes Compensation Board (VCCB).

[2:41:00 PM](#)

GERAD G. GODFREY, Appointee, Violent Crimes Compensation Board (VCCB), explained that he is seeking reappointment to the VCCB; was initially appointed in 2003; has served as chair of the VCCB; and has enjoyed his time on the VCCB, helping to make a difference in the lives of victims of violent crimes in Alaska. In conclusion, he mentioned that both he and the VCCB are very enthusiastic about the governor's legislative proposals to reduce sexual assault and domestic violence (DV) in Alaska, because the VCCB sees the effects of those types of crimes all throughout the year in its many board meetings.

CHAIR RAMRAS thanked Mr. Godfrey for his willingness to serve on the VCCB.

CHAIR RAMRAS then reminded members that signing the reports regarding appointments to boards and commissions in no way reflects individual members' approval or disapproval of the appointees, and that the nominations are merely forwarded to the full legislature for confirmation or rejection.

[2:43:47 PM](#)

REPRESENTATIVE GRUENBERG made a motion to advance from committee the nomination of Gerad G. Godfrey to the Violent Crimes Compensation Board. There being no objection, the confirmation was advanced from the House Judiciary Standing Committee.

HB 331 - YOUTH COURTS AND CRIMINAL FINES

[2:44:00 PM](#)

CHAIR RAMRAS announced that the final order of business would be HOUSE BILL NO. 331, "An Act relating to funding for youth courts; and relating to accounting for criminal fines."

[2:44:22 PM](#)

T. TERRY HARVEY, Staff, Representative Cathy Munoz, Alaska State Legislature, on behalf of the sponsor, Representative Munoz, explained that HB 331 proposes a funding mechanism intended to sustain youth courts into the future; youth courts have been an important alternative in Alaska for a little over 20 years. There are 12 youth courts operating in various Alaska communities, and they are the only diversion program available in Alaska District Court that enable youth to have their cases [adjudicated] without it resulting in a criminal record. For many youth, involvement with this form of the juvenile justice

system is often the turning point in their lives. The funding proposal embodied in HB 331 would allow the legislature to annually appropriate to youth courts 25 percent of the criminal fines collected by the Alaska Court System (ACS), thus allowing Alaska's youth court program to sustain itself and continue into the future. In response to a question, he mentioned that the DHSS has submitted a zero fiscal note for HB 331 because it simply proposes a diversion of court fines and no new funds would be coming into the system.

2:48:12 PM

MEGHAN STANGELAND, Advocate, Juneau Youth Court, in response to a question, explained that as members of a youth court, advocates take on the roles of attorneys, judges, and bailiffs.

2:48:28 PM

MADISON NOLAN, Advocate, United Youth Courts of Alaska (UYCA), in response to a question, relayed that both she and Ms. Stangeland are high school seniors.

REPRESENTATIVE LYNN remarked that Ms. Stangeland and Ms. Nolan are performing a valuable service.

MS. STANGELAND, in response to a question, relayed that she's served in every role in the youth court except that of defendant, that she'd heard about youth courts through school, and that a teacher had recommended to her that she get involved in youth courts so that she could put her skills to work out in the community in a real-life setting.

MS. NOLAN said she'd similarly become involved in youth courts during her freshman year as the result of a recommendation by the then-director of the UYCA, and has been active with the program ever since.

MS. STANGELAND, in response to a question, said the role a youth serves in is not dependent upon the youth's age, though as a youth gains more familiarity with the program, he/she could be given more difficult roles as he/she continues with the program. For example, a youth new to the program might start out as a bailiff or a secondary judge and thereby learn more about the process before going on to become a defense attorney, prosecution attorney, or lead judge.

MS. NOLAN, in response to a question regarding recidivism, surmised that the reason why youth courts have been so successful is that they provide each defendant with a sentence that will benefit him/her, and illustrate that there are positive ways for youth to live their lives. She mentioned that there have been multiple occasions wherein students [who've gone before the youth court] can be seen to have changed their views on life and their behavior [for the better].

CHAIR RAMRAS thanked Ms. Stangeland and Ms. Nolan for their work and contribution to Alaska.

[2:55:25 PM](#)

DOMENICK DAVIS, President, Executive Council, Bar Association, North Star Youth Court, relayed that the North Star Youth Court experiences recidivism rates of 8 percent for misdemeanors and 10 percent for minor consuming/possession crimes; these rates are incredibly low compared to the recidivism rate of 23 percent experienced by the regular court system.

[2:57:08 PM](#)

GEOFFRY B. WILDRIDGE, Attorney at Law, Co-Chair, Adult Members, Board of Directors, North Star Youth Court, said he's seen youth courts have a very positive influence on young people, both those who've served on the youth court and those who've come before the youth court as a defendant. Through youth courts, people are encouraged to contribute to the community and to help others, and youth courts constitute a net gain for the State by reducing costs to the court system, and by providing inspiration to Alaska's young people. In conclusion, he said he looks forward to the passage of HB 331.

[2:58:45 PM](#)

GINNY ESPENSHADE, Director, Kenai Peninsula Youth Court (KPYC), relayed that just last year, Alaska's youth courts impacted the lives of over 3,000 young Alaskans - both those who serve on the youth courts and those who have had their cases heard by youth courts. In conclusion, she thanked the committee for its support [of HB 331].

CHAIR RAMRAS mentioned that the language on page 1, lines 10-11, that says in part, "The legislature may appropriate 25 percent of the fines", warrants some clarification, and that that issue would be addressed during the bill's next hearing.

3:00:38 PM

MICHELLE HEUN, after indicating that she supports HB 331, relayed that she has had three family experiences with youth courts: her middle child was a defendant in 2005; her spouse had previously served with the Anchorage Youth Court (AYC) in a number of venues; and another one of children now serves on the Mat-Su Youth Court (MSYC). In conclusion, she said that not having to worry about a continuing funding source is necessary for Alaska's youth court program to continue to grow, and thanked members for their support of the bill.

CHAIR RAMRAS, after ascertaining that no one else wished to testify, closed public testimony on HB 331, and relayed that HB 331 would be held over.

3:02:39 PM

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:02 p.m.