

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

February 10, 2010

1:38 p.m.

MEMBERS PRESENT

Senator Hollis French, Chair
Senator Bill Wielechowski, Vice Chair
Senator Dennis Egan
Senator Lesil McGuire
Senator John Coghill

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 246

"An Act increasing the number of superior court judges designated for the third judicial district; and providing for an effective date."

MOVED SB 246 OUT OF COMMITTEE

HOUSE BILL NO. 307

"An Act relating to sexual assault protective orders."

HEARD AND HELD

SENATE BILL NO. 194

"An Act relating to civil damages for certain alcohol violations."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 246

SHORT TITLE: INCREASING NUMBER OF SUPERIOR CT JUDGES

SPONSOR(s): RULES BY REQUEST

01/29/10	(S)	READ THE FIRST TIME - REFERRALS
01/29/10	(S)	JUD, FIN
02/08/10	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/08/10	(S)	Heard & Held
02/08/10	(S)	MINUTE(JUD)

BILL: HB 307

SHORT TITLE: SEXUAL ASSAULT PROTECTIVE ORDERS

SPONSOR(s): HOLMES

01/19/10 (H) READ THE FIRST TIME - REFERRALS
01/19/10 (H) JUD
01/27/10 (H) JUD AT 1:00 PM CAPITOL 120
01/27/10 (H) Moved Out of Committee
01/27/10 (H) MINUTE(JUD)
01/29/10 (H) JUD RPT 7DP
01/29/10 (H) DP: LYNN, GRUENBERG, HERRON, DAHLSTROM,
HOLMES, GATTO, RAMRAS
02/01/10 (H) TRANSMITTED TO (S)
02/01/10 (H) VERSION: HB 307
02/03/10 (S) READ THE FIRST TIME - REFERRALS
02/03/10 (S) JUD
02/10/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 194

SHORT TITLE: CIVIL DAMAGES FOR ALCOHOL VIOLATIONS

SPONSOR(s): MEYER

04/17/09 (S) READ THE FIRST TIME - REFERRALS
04/17/09 (S) STA, JUD
01/28/10 (S) STA AT 9:00 AM BELTZ 105 (TSBldg)
01/28/10 (S) Moved CSSB 194(STA) Out of Committee
01/28/10 (S) MINUTE(STA)
01/29/10 (S) STA RPT CS 5DP NEW TITLE
01/29/10 (S) DP: MENARD, FRENCH, MEYER, PASKVAN,
KOOKESH
02/10/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

REPRESENTATIVE LINDSEY HOLMES

Alaska State Legislature

Juneau, AK

POSITION STATEMENT: Sponsor of HB 307.

BILL EDWARDS, Staff

to Representative Holmes

Alaska State Legislature

Juneau, AK

POSITION STATEMENT: Introduced HB 307 on behalf of the sponsor.

SENATOR MEYER

Alaska State Legislature

Juneau, AK

POSITION STATEMENT: Sponsor of SB 194.

CHRISTINE MARASIGAN, Staff
to SENATOR MEYER
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Provided information related to SB 194.

ACTION NARRATIVE

[1:38:59 PM](#)

CHAIR HOLLIS FRENCH called the Senate Judiciary Standing Committee meeting to order at 1:38 p.m. Senators Egan, Wielechowski, and French were present at the call to order. Senators McGuire and Coghill arrived during the course of the meeting.

SB 246-INCREASING NUMBER OF SUPERIOR CT JUDGES

[1:39:14 PM](#)

CHAIR FRENCH announced the consideration of SB 246. It was heard previously. The bill increases the number of superior court judges by one to serve in the third judicial district. Finding no questions or comments, he asked for a motion.

[1:39:46 PM](#)

SENATOR WILECHOWSKI moved to report SB 246 from committee with individual recommendations and attached fiscal notes. There being no objection, SB 246 moved from the Senate Judiciary Standing Committee.

At ease from 1:40 p.m. to 1:41 p.m.

HB 307-SEXUAL ASSAULT PROTECTIVE ORDERS

CHAIR FRENCH announced the consideration of HB 307.

[1:41:25 PM](#)

REPRESENTATIVE LINDSEY HOLMES, Alaska State Legislature, sponsor of HB 307, asked her staff to introduce the bill.

BILL EDWARDS, Staff to Representative Holmes, said HB 307 repairs the statutes pertaining to protective orders in cases of sexual assault. Prior to 2001 protective orders existed only in cases of domestic violence. In 2001 they were extended to cases of stalking outside a domestic relationship and in 2006 they

were further extended to cases of sexual assault outside a domestic relationship. However, in an oversight in the 2006 law magistrates and district court judges were not given jurisdiction to issue the protective orders. As a result a number of magistrates and district court judges are declining to issue protective orders, specifically in cases of sexual assault. They point out that the current statute gives jurisdiction to do so only in cases of domestic violence and stalking.

HB 307 would amend AS 22.15.100 to give magistrates and district court judges jurisdiction to issue protective orders in cases of sexual assault in addition to stalking. This has been particularly problematic in rural communities. He noted that the sponsor of the 2006 legislation indicated that his intention had been to include magistrate jurisdiction for cases of sexual assault. The Alaska Network on Domestic Violence and Sexual Assault and the Alaska Peace Officers Association support the legislation.

[1:43:58 PM](#)

CHAIR FRENCH asked to which statute sexual assault was added in the 2006 legislation.

MR. EDWARDS replied the sexual assault statute, AS 18.65.850 through .870, was created in 2001 for stalking. The 2006 Act extended the stalking statute to cases of sexual assault.

CHAIR FRENCH summarized that in 2006 sexual assault was added to the list of domestic violence protective orders, but the legislation didn't give a judge the authority to issue the protective order.

MR. EDWARDS agreed. A literal reading of the statutes shows that to be correct; they don't have jurisdiction.

[1:44:54 PM](#)

SENATOR MCGUIRE joined the meeting.

CHAIR FRENCH observed that a victim of a sexual assault can now get a no-contact order from the judge handling the criminal case, but not every case goes to criminal court.

MR. EDWARDS said that's right. The remedy for victims in cases of sexual assault without an accompanying criminal case is to get a protective order for sexual assault. That was the reason for creating the 2006 statute.

CHAIR FRENCH said he wonders what the system response should be in cases where a victim asks for a sex assault protective order when there has been no criminal charge filed.

Finding no further questions and no testimony, Chair French closed public testimony.

[1:48:02 PM](#)

SENATOR MCGUIRE asked if the sponsor reviewed the statutes to be reasonable sure that sexual assault is the only category that should be added to protective orders.

REPRESENTATIVE HOLMES replied there are other areas that the court may want to give magistrates jurisdiction, but they are not related to protective orders.

SENATOR MCGUIRE said at the time she didn't understand why the stalking statute didn't include strangers. Now she wonders if magistrates should be allowed to issue protective orders in other cases.

MR. EDWARDS replied it may be the case that in other circumstances judges should be empowered to issue protective orders and not wait until there's been victimization.

SENATOR MCGUIRE said it would be interesting to talk with magistrates to find out if there are other circumstances where they would like to have that tool.

[1:51:29 PM](#)

CHAIR FRENCH pointed out that there is some legitimate pushback to protective orders. Most of the time they are used appropriately, but every now and again they're used otherwise.

CHAIR FRENCH held HB 307 in committee.

SB 194-CIVIL DAMAGES FOR ALCOHOL VIOLATIONS

[1:52:48 PM](#)

CHAIR FRENCH announced the consideration of SB 194. [CSSB 194(STA) was before the committee.]

SENATOR KEVIN MEYER, Alaska State Legislature, sponsor of SB 194, said the bill amends current statute pertaining to alcohol violations in three ways. First, the civil penalty for a minor who tries to buy alcohol using a fake ID is increased from

\$1,000 to \$1,500. Second, the civil penalty for an adult who tries to buy alcohol for a minor is similarly increased. Third, an educational component is added that may require a minor to pay for and enroll in a juvenile alcohol safety action program if available.

SENATOR MEYER said he first became involved in this issue in 1997 as an Anchorage assembly member. Licensees were frustrated when nothing resulted after they caught and turned in kids who were trying to buy alcohol using fake IDs. Because licensees could be fined or lose their liquor license for serving minors, they wanted something in place to deter kids from trying to get alcohol. The program was so successful in Anchorage that the Legislature passed it into state law in 2001. Now the licensees would like the civil penalty to be increased to \$1,500.

[1:56:32 PM](#)

SENATOR MEYER described SB 194 as a win-win situation. It helps legislators know that minors don't have access to alcohol and it assists responsible licensees to be proactive in helping to enforce these laws.

SENATOR MCGUIRE asked if the civil action is brought against the parent.

SENATOR MEYER offered his understanding that the suit is against the minor; in most instances the kids that are using fake IDs are over age 18.

SENATOR MCGUIRE asked how many cases are filed and if they are burdening the courts.

SENATOR MEYER related that Brown Jug reported it pursues 3-4 cases per week. Smaller establishments rely on CHARR, Alaska Cabaret, Hotel, Restaurant and Retailers Association, to take action on their behalf. He doesn't know the effect it has on the courts.

SENATOR MCGUIRE asked if he considered expanding the bill to include civil action against a person that is violating a court order prohibiting them from purchasing alcohol.

[1:59:18 PM](#)

SENATOR MEYER agreed that would work as a deterrent.

SENATOR MCGUIRE commented that the court is currently trying to deal with habitual re-offenders.

SENATOR WIELECHOWSKI stated support for the idea; it's a problem in his community. He asked if Section 1 and Section 2 each provide a separate \$1,500 penalty.

[2:00:34 PM](#)

CHRISTINE MARASIGAN, Staff to Senator Meyer, replied they are two separate penalties. One penalty deals with a minor on a licensed premises or trying to obtain access to a licensed premises. The second penalty deals with someone age 18 and over or an emancipated minor who is trying to purchase alcohol for somebody who is not allowed to have access to alcohol.

SENATOR WIELECHOWSKI reviewed Section 1 and posed a hypothetical situation. He asked if the liquor store would file for and receive the civil damages.

SENATOR MEYER explained that each establishment does it differently, but often the licensee gives the money to the employee as an incentive.

[2:02:14 PM](#)

SENATOR WIELECHOWSKI asked how many cases have been brought under both sections.

CHAIR FRENCH recalled good testimony in state affairs from O.C. Madden with Brown Jug about the number of cases they've brought. He noted that Mr. Madden had intended to testify.

He pointed out that Section 1, AS 04.16.049(e) is about access of persons under age 21 to licensed premises. AS 04.16.065 is about someone over age 21 who tries to buy for someone under age 21.

CHAIR FRENCH asked for information about the juvenile alcohol safety action program envisioned in Section 4.

[2:03:41 PM](#)

MS. MARASIGAN explained that in FY09 \$200,000 was available for the Division of Behavioral Health, Alaska Department of Health and Social Services (DHSS), to offer programs in MatSu, Homer, Kotzebue, Fairbanks, Juneau, Kenai, Kodiak, Ketchikan, Dillingham, Seward, and Anchorage. The committee substitute (CS), makes the program voluntary and is written so it could include other alcohol education or treatment programs.

[2:06:02 PM](#)

SENATOR COGHILL joined the committee.

CHAIR FRENCH noted the memo from legislative legal services regarding statutory references that require correction. He said he will re-calendar the bill when Mr. Madden is available to testify.

CHAIR FRENCH held SB 194 in committee.

CHAIR FRENCH advised the committee that his staff, Cindy Smith, has arranged for the committee to tour the Trooper Cybercrime Unit in Anchorage on February 26 at 4 p.m.

2:08:25 PM

There being no further business to come before the committee, Chair French adjourned the Senate Judiciary Standing Committee meeting at 2:08 p.m.