

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

March 19, 2010

1:33 p.m.

MEMBERS PRESENT

Senator Hollis French, Chair
Senator Bill Wielechowski, Vice Chair

MEMBERS ABSENT

Senator Dennis Egan
Senator Lesil McGuire
Senator John Coghill

COMMITTEE CALENDAR

SENATE BILL NO. 277

"An Act exempting from regulation by the Regulatory Commission of Alaska and by municipalities generators of electricity from renewable energy resources that sell electricity to regulated utilities."

BILL HEARING POSTPONED

Presentation: Civil & Legal Needs of Victims of Domestic Violence & Sexual Assault

HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record.

WITNESS REGISTER

LAUREE MORTON, Program Coordinator
Council on Domestic Violence and Sexual Assault (CDVSA) and
STOP Coordinator for the state of Alaska.

POSITION STATEMENT: Presented information about STOP, a federal funding stream to support projects that respond to domestic violence and sexual assault in Alaska, and highlighted the need for state funding.

KARI ROBINSON, Director and Staff Attorney
Legal Advocacy Project (LAP)

POSITION STATEMENT: Presented information about the Legal Advocacy Project and the Alaska Immigration Justice Project and highlighted the lack of state funding.

ANNE BENNETT, Legal Advocate
AWARE Inc. (Aiding Women in Abuse Rape Emergencies)
Juneau, AK

POSITION STATEMENT: Testified about her role as a legal advocate for victims of stalking, sexual assault, and domestic violence.

JENN KING, Staff Attorney
ANDVSA, Legal Advocacy Project

POSITION STATEMENT: Testified that she provides statewide representation to victims of domestic violence and sexual assault.

DAN RODGERS, Pro Bono attorney
Alaska Immigration Justice Project

POSITION STATEMENT: Testified about his role as pro bono attorney for AIJP and highlighted the need for additional staff attorneys.

ACTION NARRATIVE

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CHAIR HOLLIS FRENCH called the Senate Judiciary Standing Committee meeting to order at 1:33 p.m. Senators Wielechowski and French were present at the call to order.

^CIVIL & LEGAL NEEDS OF VICTIMS OF DOMESTIC VIOLENCE & SEXUAL ASSAULT

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CHAIR FRENCH announced the business before the committee is to hear about the issues that the Women's Summit has been discussing this week.

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LAUREE MORTON, Program Coordinator, Council on Domestic Violence and Sexual Assault (CDVSA) said she is also the Violence against Women Act STOP administrator for Alaska. She provided the following testimony:

STOP (Services*Training*Officers*Prosecutors) is a federal funding stream through which the Council supports various projects to strengthen Alaska's response to domestic violence and sexual assault. Since STOP funds first became available to states in 1996, Alaska has focused on expanding legal advocacy and legal services to victims, so I appreciate this opportunity to advise you of our progress and let you know what still needs to be done.

Battered women seeking to safeguard themselves against recurring violence are often uninformed about legal resources available to facilitate an end to the violence being perpetrated against them. Many victims of sexual assault are also unfamiliar with the justice system and the way in which cases are handled. Unfortunately, when victims have evaluated their options and elected the legal remedies best suited to meet their needs, they often face legal proceedings without the benefit of counsel.

You will hear today from attorneys and a legal advocate on the front lines. Over the past fourteen years, Kari Robinson, the Legal Advocacy Project (LAP) Director, has developed a nationally recognized project. The LAP provides training and technical assistance to legal advocates based in community victim service agencies; runs an information and referral hotline staffed by volunteer attorneys; edits and publishes the Alaska Women's Legal Right Handbook; and coordinates the pro bono program. Anne Bennett works as a legal advocate at Juneau's victim service agency, AWARE (Aiding Women in Abuse and Rape Emergencies). Jennifer King is a staff attorney with the Pro Bono Program. The Pro Bono Program screens and accepts case referrals from community victim service programs across the state - matching pro bono attorneys with victims in need; mentors attorneys willing to take on pro bono cases; and trains attorneys through an annual continuing legal education conference to be better equipped to handle these often complex cases. As a board member of the Alaska Immigration Justice Project, Ms. Robinson will also briefly discuss the legal assistance available to immigrant victims of domestic violence and sexual assault.

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KARI ROBINSON, Director and Staff Attorney, Alaska Network on Domestic Violence & Sexual Assault (ANDVSA), Legal Advocacy Project (LAP), stated that the need for civil legal representation continues to be identified as a top priority to meet victims' needs. The LAP mission is to increase the ability of victims of domestic violence and sexual assault to effectively access and participate in the civil and criminal justice systems.

MS. ROBINSON highlighted the extremely high rates of sexual assault and domestic violence in Alaska, and said the Legal Advocacy Project is committed to ensuring that every child has a safe place to go. She noted that a landmark study found that increasing the provision for legal services was critical to reduce domestic violence rates. Because legal services help victims with matters such as protective orders, custody, and child support, this provides victims with long-term options to enhance their safety.

For the past 12 years the ANDVSA Legal Advocacy Project and the Alaska Immigration Justice Project (AIJP) have partnered with the Alaska Legal Services to meet critical needs for victims. Unfortunately, the demand for legal services exceeds the available resources. In the past 6 months there has been a 70 percent increase in the referrals for victims needing help with family law issues such as custody and visitation. The LAP helps break the cycle of violence by making safe custody and visitation agreements.

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MS. ROBINSON relayed that Jaffe and Sudermann reported in 1995 that children who witness abuse are more likely to exhibit behavioral and health problems including anxiety, depression, and violence toward peers. Clearly, preventing violence and keeping families safe is a wise investment for Alaska's future.

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CHAIR FRENCH asked how many cases are turned away each week due to a lack of legal resources.

MS. ROBINSON replied the Legal Advocacy Project has 3 staff attorneys, but only half of those have active cases. The project has about 300 pro bono attorneys, which isn't enough to meet the need. Since the LAP started, it has received 2,000 referrals for legal assistance. Alaska Legal Services has had budgetary cuts

at the federal level and the state funding is insufficient to meet the need.

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ANNE BENNETT, Legal Advocate, AWARE Inc. (Aiding Women in Abuse Rape Emergencies) said she meets with between 30 and 40 program participants each month regarding their legal needs. Safety is the most important issue. Participants may need help with a protective order for stalking, sexual assault, or domestic violence. Unfortunately, divorce and custody issues are often associated with that as women leave the relationship. On occasion she also works with immigrants on passport/visa issues and a variety of other legal questions.

MS. BENNETT explained that AWARE is part of the statewide sexual assault response team so they respond and provide services when a sexual assault victim comes to the hospital. As a legal advocate she follows up and helps facilitate communication between the victim and investigating law enforcement, prosecuting attorneys, and the Victims of Violent Crimes Compensation Board. She also provides support through the criminal justice system attending hearings and accompanying the victim if they have to testify in a trial or before a grand jury. She noted that most of the women she works with are victims of domestic abuse. AWARE provides a safe place for these women to discuss the options to get their children and themselves to safety.

MS. BENNETT said she also works with women whose abusers have been arrested. She explains the criminal justice system to these victims, accompanies them to court, and helps them write a victim's statement or whatever needs to be done. Whether it's a civil or criminal case, her job is to explain the legal system and provides support as the victim works through difficult changes to get herself to safety. She also provides referrals for legal representation. She is grateful that pro bono attorneys are available through the Legal Advocacy Project and Alaska Legal Services because these cases can be very complicated. However, the need for legal services often far exceeds the supply.

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MS. BENNETT said that in cases of domestic violence women often don't have control over their finances so they don't have quick access to money to hire an attorney. She noted that representation in a long-term protective order hearing costs between \$2,500 and \$5,000. A contested divorce often costs

between \$15,000 and \$20,000. The problem with domestic violence cases is that the abusers often bring their power and control tactics into court. They litigate endlessly and cause delays causing the cases to drag on for years. Legal representation in these cases costs into the \$100,000 range.

MS. BENNETT said she works with women in many different economic and ethnic classes and almost none have the funding available in a short period of time to provide civil legal representation. Of 40 referrals she made between October and December 2009, one person had the funding available to hire a private attorney and one borrowed the money from a friend. Alaska Legal Services isn't taking any family law referrals currently because of funding cuts so the only referral available is the ANDVSA pro bono program. Other statewide advocates include the screening process.

MS. BENNETT said that what keeps her motivated is that she is able to find help for victims to stay safe in the community. She cited a recent example of a young woman with a child who went to AWARE and is doing everything she can to get herself and her child in a safe situation and prevent abuse from happening in the future. She does not have the thousands of dollars that is necessary for legal representation. Ms. Bennett said she was eager to speak today to amplify the critical need for civil legal representation.

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CHAIR FRENCH asked if she focuses on Juneau cases or cases from all of Southeast.

MS. BENNETT replied she focuses on northern Southeast, but she gets calls from all over. AWARE serves Juneau the nine surrounding communities of Haines, Skagway, Yakutat, Pelican, Elfin Cove, Gustavus, Hoonah, [and Tenakee Springs]. The shelters in Sitka and Ketchikan serve other communities.

CHAIR FRENCH asked if she finds that there's more pro bono help in Juneau than in other regions in the state.

MS. BENNETT deferred the question to Christine, Kari, or Jenn who are doing the attorney representation.

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JENN KING, Staff Attorney, ANDVSA, Legal Advocacy Project, said she provides statewide representation to victims of domestic violence and sexual assault. She relayed that anyone who is a

victim of domestic violence may apply to the pro bono program. Because there are so many applicants, there is a priority placement system.

CHAIR FRENCH asked if she makes the placement decisions.

MS. KING replied she is part of the five-member triage. They meet every week to ten days to review the applications and do telephonic or in-person interviews. Typically they ask whether the survivor has children, the current threat of harm to the children, how lethal the abuse was, and if there was a sudden increase in the intensity of domestic violence. The team also looks at whether the survivor has limitations that would make it more challenging to access the justice system, such as limited English capabilities or cognitive or developmental delays.

She said that because domestic violence touches all aspects of a survivor's life, many volunteer attorneys are willing to do cases outside the context of family law. Those cases are somewhat easier to place with pro bono attorneys because they are less time consuming than family law or a protective order case with associated domestic violence or sexual assault. The last question they ask is whether the person would work well with the volunteer attorneys.

The Legal Advocacy Project has had about 2,000 referrals to the program since inception in May 1999. Each year 60 percent of the cases are placed with volunteer attorneys.

CHAIR FRENCH asked what happens to the remaining 40 percent of cases.

MS. KING replied there are a variety of reasons that they aren't placed. Some women chose to remain in the relationship so they no longer need legal services; some women may be over the income guidelines; and sometimes they can't find a pro bono attorney because the case will likely be very lengthy.

MS. KING said that in cooperation with the Alaska Bar Association they have provided 12 continuing legal education trainings for the pool of 300 pro bono attorneys. Over the lifetime of the program they estimate that these attorneys have donated millions of dollars in time and legal help. She recognized that pro bono attorneys Ben Brown and Jim Shine were in the audience.

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MS. KING said the pro bono attorneys are encouraged to work closely with the legal advocates in each of the member programs statewide so that the program can provide comprehensive and holistic representation. To that end they train their legal advocates to screen, make referrals, provide safety training for clients, and to provide other supportive services that are outside the realm of the legal issue. The program also has funding to train the volunteer attorneys and they try to maintain relationships with other agencies. These are all critical to the success of the program, she said. Obviously, it takes funding to break the cycle of violence so that every child has a safe place to live, she said.

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MS. ROBINSON highlighted that the project hasn't received any state funding, which limits their ability to meet the need.

She explained that the Alaska Immigration Justice Project is the only agency in Alaska that is dedicated to protect low-income immigrants and refugees.

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DAN RODGERS, pro bono attorney, Alaska Immigration Justice Project, said he's been a member of the Alaska bar since 1978 and has been doing pro bono work since he retired two years ago. Last year the office represented 700 Alaska clients 200 of which were victims of domestic violence. Often these immigrants are married to U.S. citizens who have failed to do the necessary paperwork that would allow their spouse to live or work in this country, he said. What is worse the abuser often uses the immigration system as a tool of abuse and threatens to report their spouse to immigration services.

MR. RODGERS said it's fortunate that Congress amended the immigration law to include the Violence against Women Act, but the provisions are complex and they're written in English. When these victims end up in deportation proceedings they have a right to representation, but they have to find their own attorney because there is no public defender. His office helps these victims by explaining the law, providing qualified interpreters, preparing the necessary applications and representing them in immigration court during deportation proceedings. The office also does outreach and training to inform immigrants of their rights and to educate law enforcement and the court about how domestic violence intersects with the immigration law. The work is intense and time-consuming. He cited an example. Their office is located in Anchorage but they

have domestic violence clients statewide. The waiting list is long.

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CHAIR FRENCH asked how many staff attorneys work at the Alaska Immigration Justice Project.

MR. RODGERS replied they have two fulltime staff attorneys and he is a fulltime pro bono attorney.

CHAIR FRENCH asked how many attorneys it would take to fill the need at either the Legal Advocacy Project or the Alaska Immigration Justice Project.

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MS. ROBINSON thanked him for posing the question and said that at a minimum they need more experienced staff attorneys because many of the cases are too time consuming and complex for pro bono attorneys. She noted that for the first time there are proposals to provide state funding to their project and that's a good place to start.

MS. KING reiterated that these cases can be very long and difficult. She noted that she's had one case continually since she came to the agency five years ago. "It would be nice to have more attorneys like that who can take on those difficult cases," she said.

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MR. RODGERS said the Alaska Immigration Justice Project desperately needs another staff attorney.

CHAIR FRENCH asked who covers the areas of Fairbanks, Nome and Bethel.

MS. KING replied Alaska Legal Services has offices in those areas, but she actually provides a lot of representation in Fairbanks because the pro bono attorney pool is small. She's found it similarly difficult to find attorneys in the Homer area.

CHAIR FRENCH said, for a variety of reasons, it sounds like other areas of the state don't have the level of community participation that Juneau enjoys.

MS. KING agreed.

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MS. ROBINSON added that while they have very good pro bono attorneys statewide, the success of the project has been to provide ongoing training, mentoring, and support for these attorneys and it takes dedicated staff attorneys to do that. She reiterated that they have just three attorneys in their office to serve the entire state and that isn't meeting the demonstrated need.

CHAIR FRENCH stated that this been valuable to get a feel for where the state is in terms of providing legal services for a part of the community that he's had interest in for years.

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There being no further business to come before the committee, Chair French adjourned the meeting at 2:09 p.m.