

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

March 29, 2010

2:21 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

CONFIRMATION

Violent Crimes Compensation Board
Nora G. Barlow

- CONFIRMATION ADVANCED

SENATE BILL NO. 297

"An Act providing for the release of property in the custody of a law enforcement agency to the owner under certain conditions."

- MOVED CSSB 297(JUD) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 319(FIN)

"An Act relating to firearms; and providing for an effective date."

- MOVED CSHB 319(FIN) OUT OF COMMITTEE

SENATE BILL NO. 63

"An Act relating to transfer restrictions on trust interests."

- MOVED CSSB 63(JUD) OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 28

Relating to the Ecumenical Patriarchate and religious rights.

- HEARD AND HELD

SENATE BILL NO. 292

"An Act relating to the registration and operation of pawnbrokers and to the exemption for pawnbrokers under the Alaska Small Loans Act; and providing for an effective date."

- HEARD AND HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 101(JUD)

"An Act exempting the full value of life insurance and annuity contracts from levy to satisfy a debt, and amending the description of earnings, income, cash, and other assets relating to garnishment of life insurance proceeds payable upon the death of an insured."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 297

SHORT TITLE: RETURN OF SEIZED PROPERTY

SPONSOR(s): SENATOR(s) DYSON

02/24/10 (S) READ THE FIRST TIME - REFERRALS
02/24/10 (S) JUD, FIN
03/17/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/17/10 (S) Heard & Held
03/17/10 (S) MINUTE(JUD)

BILL: HB 319

SHORT TITLE: FIREARMS

SPONSOR(s): REPRESENTATIVE(s) HAWKER

01/29/10 (H) READ THE FIRST TIME - REFERRALS
01/29/10 (H) JUD, FIN
02/10/10 (H) JUD AT 1:00 PM CAPITOL 120
02/10/10 (H) Moved CSHB 319(JUD) Out of Committee
02/10/10 (H) MINUTE(JUD)
02/12/10 (H) JUD RPT CS(JUD) 4DP 2NR
02/12/10 (H) DP: LYNN, DAHLSTROM, GATTO, RAMRAS
02/12/10 (H) NR: GRUENBERG, HERRON
02/16/10 (H) FIN AT 1:30 PM HOUSE FINANCE 519
02/16/10 (H) Moved CSHB 319(FIN) Out of Committee
02/16/10 (H) MINUTE(FIN)
02/19/10 (H) FIN RPT CS(FIN) NT 7DP
02/19/10 (H) DP: KELLY, THOMAS, DOOGAN, AUSTERMAN,
FAIRCLOUGH, STOLTZE, HAWKER
02/24/10 (H) TRANSMITTED TO (S)

02/24/10 (H) VERSION: CSHB 319(FIN)
 02/26/10 (S) READ THE FIRST TIME - REFERRALS
 02/26/10 (S) JUD, FIN
 03/22/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/22/10 (S) Heard & Held
 03/22/10 (S) MINUTE(JUD)
 03/24/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/24/10 (S) Heard & Held
 03/24/10 (S) MINUTE(JUD)

BILL: SB 63

SHORT TITLE: TRANSFER RESTRICTIONS ON TRUSTS

SPONSOR(s): SENATOR(s) MCGUIRE

01/21/09 (S) PREFILE RELEASED 1/16/09
 01/21/09 (S) READ THE FIRST TIME - REFERRALS
 01/21/09 (S) STA, JUD, FIN
 02/04/10 (S) STA AT 9:00 AM BELTZ 105 (TSBldg)
 02/04/10 (S) Heard & Held
 02/04/10 (S) MINUTE(STA)
 03/11/10 (S) STA AT 9:00 AM BELTZ 105 (TSBldg)
 03/11/10 (S) Moved CSSB 63(STA) Out of Committee
 03/11/10 (S) MINUTE(STA)
 03/12/10 (S) STA RPT CS 2DP 3NR SAME TITLE
 03/12/10 (S) DP: MENARD, MEYER
 03/12/10 (S) NR: FRENCH, PASKVAN, KOOKESH
 03/24/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/24/10 (S) Heard & Held
 03/24/10 (S) MINUTE(JUD)

BILL: SJR 28

SHORT TITLE: ECUMENICAL PATRIARCHATE OF TURKEY

SPONSOR(s): SENATOR(s) MEYER

02/18/10 (S) READ THE FIRST TIME - REFERRALS
 02/18/10 (S) JUD
 03/26/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/26/10 (S) -- MEETING CANCELED --

BILL: SB 292

SHORT TITLE: PAWNBROKERS

SPONSOR(s): SENATOR(s) HUGGINS

02/24/10 (S) READ THE FIRST TIME - REFERRALS
 02/24/10 (S) L&C, JUD
 03/18/10 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
 03/18/10 (S) Moved CSSB 292(L&C) Out of Committee

03/18/10 (S) MINUTE(L&C)
03/22/10 (S) L&C RPT CS 3DP NEW TITLE
03/22/10 (S) DP: PASKVAN, DAVIS, BUNDE
03/22/10 (S) FIN REFERRAL ADDED
03/29/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

NORA G. BARLOW, Appointee
Violent Crimes Compensation Board (VCCB),
POSITION STATEMENT: Testified as appointee to the Violent
Crimes Compensation Board.

SENATOR KEVIN MEYER
Alaska State Legislature
Juneau, AK
POSITION STATEMENT: Sponsor of SJR 28.

VERY REVEREND ARCHPRIEST MICHAEL JAMES OLEKSA, Pastor
St. Alexis Orthodox Church and
Chancellor of the Orthodox Diocese of Alaska
Anchorage, AK
POSITION STATEMENT: Testified in support of SJR 28.

FATHER LEO SCHEFFE, Pastor and Priest
Holy Transfiguration Greek Orthodox Church
Anchorage, AK
POSITION STATEMENT: Testified in support of SJR 28.

SOPHIA JANE ZABO, representing herself
POSITION STATEMENT: Testified in support of SJR 28.

JOSH TEMPEL, Staff
to Senator Huggins
POSITION STATEMENT: Introduced SB 292 on behalf of the sponsor.

FERNANDO PENNIA, Government Affairs Director
Cash America
Anchorage, AK
POSITION STATEMENT: Testified in support of SB 292.

ACTION NARRATIVE

[2:21:54 PM](#)

CHAIR HOLLIS FRENCH called the Senate Judiciary Standing
Committee meeting to order at 1: p.m. Senators McGuire, Egan and

French were present at the call to order. Senators Wielechowski and Coghill arrived soon thereafter.

CONFIRMATION

CHAIR FRENCH announced the first order of business would be a confirmation hearing for Nora Barlow to the Violent Crimes Compensation Board. He disclosed that Ms. Barlow is his neighbor and they are friendly.

[2:23:01 PM](#)

NORA G. BARLOW, Appointee, Violent Crimes Compensation Board (VCCB), relayed that her interest in serving on the VCCB stems from the rewarding work she did in California addressing CINA (child in need of aid) cases. Upon returning to Alaska she worked as an assistant attorney general in the Office of Special Prosecutions and Appeals, addressing cases involving victims of sexual assault. This seemed to dovetail nicely with the work she had done in California. She said that because she had a growing family she moved on work in civil litigation, but she has always felt that her earlier work was most rewarding as a lawyer. She opined that she would be an appropriate choice for the VCCB attorney position because she believes that you do your best job when you're doing something about which you feel strongly. This would be rewarding community service.

CHAIR FRENCH thanked her for stepping forward.

[2:24:55 PM](#)

Senator Wielechowski and Senator Coghill joined the committee.

CHAIR FRENCH found no questions and solicited a motion.

SENATOR WIELECHOWSKI moved to report the name Nora G. Barlow from committee to the full body for consideration and a vote.

CHAIR FRENCH stated that in accordance with AS 35.05.080 the Judiciary Committee has reviewed the following and recommends the appointment be forwarded to a joint session for consideration, Nora Barlow - Violent Crimes Compensation Board. This does not reflect an intent by any of the members to vote for or against the confirmation of the individual during any further sessions. There being no objection, the motion passed.

SB 297-RETURN OF SEIZED PROPERTY

[2:26:04 PM](#)

CHAIR FRENCH announced the consideration of SB 297. He noted the proposed committee substitute (CS).

SENATOR WIELECHOWSKI moved to adopt the proposed CS for SB 297, labeled 26-LS1536\E, as the working document.

CHAIR FRENCH objected for discussion purposes.

SENATOR DYSON, sponsor of SB 297, said the CS clarifies three things at the request of the Department of Law:

- 1) Page 1, line 9, clarifies that "interested parties" identified in version R, includes the prosecution, defense and other interested parties.
- 2) Page 2, lines 1-2 adds the language "or another interested party", to address those situations where a third is claiming an ownership and possessory interest in the property.
- 3) Page 2, line 3, replaces the word "receiving" in version R, with "claiming". This clarifies that the person making the request for return of property may not receive the property from the court.

SENATOR DYSON referenced the letters of support in the packet and noted that the Office of Victims' Rights said DOL endorsed the bill. Although DOL doesn't oppose the bill, it's an overstatement to say they endorsed it.

[2:27:59 PM](#)

SENATOR WIELECHOWSKI questioned whether this meshes with other laws that require law enforcement to retain property - DNA evidence in particular.

SENATOR DYSON explained that the bill aims to return valuable or beneficial property to victims of property crimes. The goal is to make the victims whole as quickly as possible without compromising the prosecution.

CHAIR FRENCH noted that the gist of that is captured on page 2, lines 1-2. The law enforcement agency can always step up and say it has to retain the property, which would help the court make a decision.

SENATOR DYSON added that he anticipates that a judge might tell the property owner that he or she can't sell the property until the case is settled.

CHAIR FRENCH removed his objection and version E was before the committee.

[2:29:47 PM](#)

SENATOR MCGUIRE moved to report CS for SB 297 from committee with individual recommendations and attached fiscal note(s). There being no objection, CSSB 297(JUD) moved from the Senate Judiciary Standing Committee.

HB 319-FIREARMS

[2:30:09 PM](#)

CHAIR FRENCH announced the consideration of HB 319. It was heard previously. [CSHB 319(FIN) was before the committee.

REPRESENTATIVE HAWKER, sponsor of HB 319, was available to answer questions.

CHAIR FRENCH noted that there had been a question about the likelihood of an ethics complaint as a result of a failure to complete the requirements set forth in statute. The answer was "a firm and resounding no," which satisfies me, he said.

[2:30:53 PM](#)

SENATOR MCGUIRE moved to report HB 319 from committee with individual recommendations and attached fiscal note(s). There being no objection, CSHB 319(FIN) moved from the Senate Judiciary Standing Committee.

REPRESENTATIVE HAWKER stated that it's been a pleasure working with Cindy Smith, judiciary committee aide, on the bill. She "has been most incredibly responsive and of great assistance to us," he said.

SB 63-TRANSFER RESTRICTIONS ON TRUSTS

[2:31:55 PM](#)

CHAIR FRENCH announced the consideration of SB 63. It was heard previously and public testimony was taken. [Committee substitute 26-LS0317\P was adopted as the working document on 3/24/10.]

SENATOR MCGUIRE moved to report CS for SB 63 from committee with individual recommendations and attached zero fiscal note(s). There being no objection, CSSB 63(JUD) moved from the Senate Judiciary Standing Committee.

At ease from 2:32 p.m. to 2:33 p.m.

SJR 28-ECUMENICAL PATRIARCHATE OF TURKEY

2:34:03 PM

CHAIR FRENCH announced the consideration of SJR 28.

SENATOR KEVIN MEYER, Sponsor of SJR 28, related that a friend who is active in the Greek Orthodox Church in Anchorage brought the issue of religious freedom for the Ecumenical Patriarchate in Turkey to his attention. To date, 25 state legislatures have adopted resolutions similar to SJR 28, which is half way to the goal.

SENATOR MEYER explained that the Ecumenical Patriarchate of Turkey is the spiritual leader of Orthodox Christians in the world just as the Pope in Rome is the spiritual leader of Roman Catholics worldwide. Unfortunately, the government of Turkey has been intolerant of the Ecumenical Patriarchate. It has seized church property, closed their school, and prevented the Orthodox Christian Church from selecting eligible bishops by requiring them to have Turkish citizenship. SJR 28 urges the U.S., the European Union, and the United Nations to encourage the government of Turkey to end its discrimination and pledge to uphold and safeguard religious rights without compromise.

SENATOR MEYER related that the Ecumenical Patriarchate is the spiritual home to about six million Orthodox Christians in the U.S. and about 300 million worldwide. Alaskan Orthodox Christians have a strong relationship with the Ecumenical Patriarchate through their Russian Orthodox bishops who arrived here in 1794. There are about 95 Russian Orthodox churches in Alaska and about 20,000 members. The Anchorage Greek Orthodox Church was established in 1958 and now has 200 members.

2:37:00 PM

VERY REVEREND ARCHPRIEST MICHAEL JAMES OLEKSA, Pastor, St. Alexis Orthodox Church in Anchorage and Chancellor of the Orthodox Diocese of Alaska - a diocese of the Territorial Church of North America, which is comprised of churches in the U.S., Canada, and Mexico, explained that the Orthodox faith is the oldest Christian tradition in the world and the oldest in Alaska having arrived here from Russia after 1741. The oldest parish in Alaska dates from 1784 and the first clergy arrived from Finland in 1794. The Orthodox Church has eight Alaskan saints and it recognizes Alaska as the most Orthodox-affiliated state in the nation with nearly 100 parishes and 50 clergy. 43 of its clergy

are Native Alaskans so it is also the largest Native Alaskan religious organization in the state.

REVERAND OLEKSA related that the Ecumenical Patriarchate was in Istanbul over 1,100 years before the Ottoman Empire was founded. His function worldwide is to preside and convene at international gatherings of Orthodox bishops. This wasn't possible during the Cold War when most Orthodox Christians were behind the Iron Curtain and being persecuted. In fact, the Orthodox faith was persecuted with perhaps more violence than any religion in world history. The national constitution of the Soviet Union didn't require religious tolerance and the U.S. government didn't speak up. Different today is the fact that the Turkish government is applying for EU membership and is a NATO ally. As a NATO ally, the U.S. is obliged to call upon the Turkish government to honor its international treaty obligations and the religious liberties guaranteed by the Turkish Constitution.

[2:41:26 PM](#)

CHAIR FRENCH said he was impressed to read that following the 9/11 terrorist attacks, the Ecumenical Patriarch Bartholomew gathered international leaders and released the first statement signed by Muslim leaders condemning the attacks as anti-religious.

REVERAND OLEKSA responded he has been instrumental in bringing people with diverse religious and world views together to discuss world problems.

[2:43:13 PM](#)

FATHER LEO SCHEFE, Pastor and Priest, Holy Transfiguration Greek Orthodox Church, related that he was the on-duty priest in the area where the Turkish government closed the school. He spoke with many Turkish citizens who are Orthodox Christians about the persecution they face on a day-to-day basis. People lose their jobs because of their religion and their property is confiscated. An educator who is also a tour guide showed him where uprisings against Orthodox Christians have taken place. It was disheartening to see, he said.

FATHER SCHEFE said that because of the Turkish requirement of citizenship and military service, the Ecumenical Patriarchate could cease to be. This is disturbing and virtually unthinkable to all who are Orthodox worldwide. Alaska, as the most Orthodox state in the Union, should do all it can to encourage the

government of Turkey to respect religious rights and recognize the universal importance of the Ecumenical Patriarchate.

[2:47:28 PM](#)

SOPHIA JANE ZABO, representing herself, said that as an Orthodox Christian and American she is asking the Legislature to pass SJR 28 in support of the Ecumenical Patriarchate and religious rights in Turkey. Religious freedom should be celebrated not just in Turkey, but everywhere, she said. In conclusion she quoted Ecumenical Patriarch Bartholomew:

Every ecosystem on this planet is like a nation. The estuary is not the tundra, nor is the savannah the desert. But like every culture, every ecosystem will have an effect that goes far beyond its boundaries. And when we understand that every ecosystem is part of the singular ecosphere that is inhabited by every living breath filling the world, then do we grasp the interconnectedness, the powerful communion of all life, and our true interdependency on one another.

CHAIR FRENCH closed public testimony and announced he would hold SJR 28 in committee.

SENATOR COGHILL expressed a desire to hear whether or not the Governor had taken a position on the resolution, if the State Department had been involved, and the impact that resolutions from other states might have had.

[2:51:15 PM](#)

CHAIR FRENCH responded the bill sponsor will have an opportunity to bring that information at the next hearing. He set SJR 28 aside.

SB 292-PAWNBROKERS

[2:51:56 PM](#)

CHAIR FRENCH announced the consideration of SB 292.

JOSH TEMPEL, Staff, to Senator Huggins, sponsor, said SB 292 would create a statewide standard for regulating pawnbrokers. Basically, it will codify what good pawnshops are already doing thereby providing Alaska consumers and businesses with further protection. This effort started four years ago and has generated a lot of interest.

MR. TEMPEL explained that pawnshops loan money on items that a person brings in and leaves as collateral. The person redeems

their collateral item by paying off the loan plus a little interest. The bill establishes that pawnbrokers would be licensed under the Department of Commerce, Community and Economic Development and it places a few restricts on pawnbroker transactions. For example, a pawnbroker may not enter a pawnbroker transaction with a person who is 1) under age 18; 2) under the influence of alcohol or a controlled substance; 3) without proper identification; and 4) pawning stolen property. Furthermore, pawnbrokers would be required to maintain a written or electronic log of each transaction for a period of one year after the transaction is complete. The pawnbroker must give the pledgor a receipt for the item and a copy of the transaction agreement.

SB 292 places restrictions on the interest and fees that a pawnbroker may charge and requires pawnbrokers to safely store any items used as collateral. It also offers guidelines for people who aren't able to repay their loan in the appropriate amount of time including a 30-day grace period. If a service member pawns an item and then deploys, the interest on the item is frozen until the service member returns. At that time the original agreement becomes active.

MR. TEMPEL said the bill requires that employees of pawnshops are of good character and it offers guidelines to both police and property owners when they find stolen property in a pawnshop. Pawnbrokers are required to conduct a weekly inventory and report to local law enforcement agencies. Pawnbrokers may be disciplined if they don't adhere to these requirements.

MR. TEMPEL reiterated that good pawnbrokers already do these things. The bill has support and it's good for consumers and businesses in Alaska.

[2:56:47 PM](#)

SENATOR WIELECHOWSKI observed that page 1, line 14, removes current language about a person lending money on secondhand articles.

MR. TEMPEL explained that the bill aims to exclusively regulate pawnbrokers so pawnbrokers will no longer be associated with regulations for secondhand stores and used bookstores.

SENATOR WIELECHOWSKI questioned the impact of this proposed change.

MR. TEMPEL replied the bill has no impact on individuals who deal in secondhand articles; it relates specifically to pawnbrokers He offered to provide information on the separate regulations governing secondhand stores.

2:58:16 PM

SENATOR WIELECHOWSKI said he'd appreciate that information. He then asked the impact of removing the phrase "and the electronic record" from page 2, lines 14-15.

MR. TEMPEL replied it cleans up the language; both the electronic record and the book in which entries are made are addressed later in the statute.

SENATOR WIELECHOWSKI asked if there would still be a requirement to record entries electronically.

MR. TEMPEL replied that's correct; the bill adds sections to separately regulate pawnbrokers, starting with the new Sec. 08.76.100.

CHAIR FRENCH said he'd like to take public testimony today and Mr. Tempel would be asked to return to give an in-depth analysis of the provisions at a future hearing.

3:00:06 PM

FERNANDO PENNIA, Government Affairs Director, Cash America, said he is pleased to speak in support of SB 292. This bill will provide a regulatory framework for the operation of pawnshops in Alaska, five of which are operated by Cash America in Anchorage. Alaska is the only state that does not have comprehensive, statewide regulation of pawnshops. The bill addresses this deficit and will provide protection for consumers and businesses. SB 292 is proactive and seeks to protect pawnshop owners and their customers who are currently vulnerable to unforeseen circumstances that could affect the industry.

CHAIR FRENCH closed public testimony and held SB 292 in committee.

3:03:37 PM

There being no further business to come before the committee, Chair French adjourned the meeting at 3:03 p.m.