

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

March 31, 2009

9:51 a.m.

MEMBERS PRESENT

Senator Linda Menard, Chair
Senator Kevin Meyer, Vice Chair
Senator Hollis French
Senator Joe Paskvan

MEMBERS ABSENT

Senator Albert Kookesh

COMMITTEE CALENDAR

SENATE BILL NO. 158

"An Act relating to the return of property used as evidence to the owner."

MOVED CSSB 158(STA) OUT OF COMMITTEE

SENATE BILL NO. 68

"An Act relating to the voting rights of felons."

MOVED SB 68 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 158

SHORT TITLE: RETURN OF PROPERTY

SPONSOR(S): SENATOR(S) DYSON

03/20/09	(S)	READ THE FIRST TIME - REFERRALS
03/20/09	(S)	STA, JUD
03/31/09	(S)	STA AT 9:00 AM BELTZ 211

BILL: SB 68

SHORT TITLE: FELONS' RIGHT TO VOTE

SPONSOR(S): SENATOR(S) DAVIS

01/21/09	(S)	READ THE FIRST TIME - REFERRALS
01/21/09	(S)	STA, JUD, FIN
03/31/09	(S)	STA AT 9:00 AM BELTZ 211

WITNESS REGISTER

SENATOR FRED DYSON
Alaska State Legislature
Juneau AK
POSITION STATEMENT: Presented SB 158.

ANNIE CARPENETTI, Criminal Division
Department of Law
Juneau AK
POSITION STATEMENT: Discussed SB 158.

SENATOR BETTYE DAVIS
Alaska State Legislature
Juneau AK
POSITION STATEMENT: Presented SB 68.

LYNDA ZAUGG, Staff
to Senator Davis
Alaska State Legislature
POSITION STATEMENT: Presented SB 68.

DWAYNE PEEPLES, Deputy Commissioner
Department of Corrections
Juneau AK
POSITION STATEMENT: Answered a question on SB 68.

MARGARET PUGH
Juneau AK
POSITION STATEMENT: Spoke in support of SB 68.

JEFFREY MITTMAN, Executive Director
American Civil Liberties Union of Alaska
Anchorage AK
POSITION STATEMENT: Spoke in support of SB 68.

PETER MCKAY
Kenai AK
POSITION STATEMENT: Spoke in support of SB 68.

ACTION NARRATIVE

[9:51:46 AM](#)

CHAIR LINDA MENARD called the Senate State Affairs Standing Committee meeting to order at 9:51 a.m. Senators French, Paskvan, Meyer, and Menard were present at the call to order.

SB 158-RETURN OF PROPERTY

[9:52:33 AM](#)

CHAIR MENARD announced the consideration of SB 158.

SENATOR FRED DYSON, Alaska State Legislature, said a friend of his runs a boat building shop. Two people came in and said they wanted to buy a boat. Later, almost \$45,000 worth of electronic equipment disappeared. The owner found two thirds of his goods in hock shops and on internet sales. The police picked up much of it, which led them to the perpetrators. The shop owner had to repurchase similar equipment because the stolen items were held as evidence. State law allows that the evidence be photographed for use in court. That often doesn't happen. Senator Dyson has spoken with prosecutors, district attorneys, and police officers. Due to the high volume of these low-priority crimes, the property is often not returned in a timely fashion.

[9:55:31 AM](#)

SENATOR DYSON said state law is adequate in this area; it is just a problem of emphasis and streamlining the process. SB 158 attempts to facilitate getting property back to the rightful owner without disturbing the legal process.

CHAIR MENARD said the bill allows 60 days after the final disposition of the case.

SENATOR FRENCH said this seems to be a good idea. Property owners can be inconvenienced for a long time. The bill puts the decision in the right agency. "You let the cops decide when they're through with it. That may give some people pause, but they're the people who we've charged with enforcing the law and ... beginning the process of prosecution, so it looks ... like a good idea." He asked if there are supportive letters from the police, union, or the administration.

[9:57:12 AM](#)

SENATOR DYSON said no, but Annie Carpeneti is available from the Department of Law. He has also talked with police and troopers, but he has no letters in hand. He has been told that a defense attorney has to agree for the evidence to leave custody. Sometimes the defense won't allow it in efforts to throw roadblocks in the way of the prosecution.

[9:58:07 AM](#)

SENATOR FRENCH said he doesn't know about that. Pretrial evidence may be needed but not crucial. The defense attorney may have to give permission to give something back to the victim.

ANNIE CARPENETI, Criminal Division, Department of Law, Juneau, said she understands that victims want to get their property back. The state has a duty to preserve evidence that is discoverable by the defense. If that is not done, the state is sanctioned, which can include dismissing the prosecution or telling the jury to presume that the evidence would not be favorable to the defense. "We are working under some constraints as to ... the constitutional right to discovery of evidence by the defense." Police need to consult with the defense and the prosecution before returning property. The way the bill is drafted makes it look like the police could make that decision on their own. Most would still consult but "we would like to make it clear that they would." It doesn't say when, it just says before 60 days after the case is completed. It is important to keep evidence to meet discovery obligations under the law.

SENATOR FRENCH asked what "final disposition of the case" means. Is that the exhaustion of all appellate opportunities?

MS. CARPENETI said yes. These days that date is not clear because of post-conviction relief and appeals. The more important the case, the longer it goes.

[10:01:12 AM](#)

SENATOR FRENCH asked Ms. Carpeneti if she has a phrase that should be added so that law enforcement must speak to the prosecution and defense before releasing property.

MS. CARPENETI said on line 9, after "determines" add ", after consulting the prosecuting authority and the defense,".

SENATOR FRENCH moved Conceptual Amendment 1 as stated above, as long as it comes back as a draft amendment from legislative legal services. Hearing no objection, Conceptual Amendment 1 was adopted.

SENATOR DYSON said the next committee of referral is the judiciary. This committee should decide that the bill is in the public interest because it protects victims from continual victimization. The legal issue can be fixed in judiciary.

[10:02:53 AM](#)

SENATOR FRENCH said the amendment passed. If the bill leaves state affairs, the language will appear in the next committee.

SENATOR PASKVAN said he concurs. The prosecution will determine the weight of the evidence. The amendment is appropriate.

SENATOR DYSON said he wants "to bump this up as a priority for the prosecutors and law enforcement folks to take care of the victim." Already they have to get permission from the defense to get the evidence released. Maybe these changes help do that. "I'm good," he concluded.

10:04:28 AM

SENATOR MEYER moved to report SB 158, as amended, from committee with individual recommendations and attached fiscal note(s). There being no objection, CSSB 158(STA) moved out of committee.

The committee took a brief at-ease.

SB 68-FELONS' RIGHT TO VOTE

10:06:37 AM

CHAIR MENARD announced the consideration of SB 68.

SENATOR BETTYE DAVIS, Alaska State Legislature, said this bill was heard in Senator French's committee last session.

LYNDA ZAUGG, Staff to Senator Davis, Alaska State Legislature, read from the following sponsor statement:

Across the country, states handle the right to vote for returning felons differently. Two states, Maine and Vermont, do not take away a felon's right to vote. Thirteen states allow felons to vote upon release from incarceration. Twenty one, including Alaska, allow felons to vote after they complete all parole/probation requirements, while fourteen states permanently disenfranchise certain felons. If our belief is that felons, once released, have paid their debt to society, returning their right to vote upon release from incarceration would be a positive step.

SB 68 allows felons, upon release from incarceration, to register to vote. This bill starts the process which allows felons to start assuming responsibility for reintegration in their communities. We are each responsible for how our government works and we do that through voting. In Alaska, 6,081 Alaskans have lost their right to vote because of felony convictions. Currently, Alaska law bars the vote to persons convicted of felonies of moral turpitude until the expiration of a post-incarceration period of parole or probation, which is often years

after they have reentered society to become productive citizens and taxpayers.

Harsh sentencing laws over the past 30 years have allowed the prison population to balloon while reducing the rehabilitative model to almost non-existent. Over 4.7 million Americans, or 1 in 43 adults, cannot vote due to felony convictions, with 1/3 or more of them incarcerated due to alcohol and drug offenses. In Alaska, we have gone from slightly over 800 prisoners in 1984 to 5,344 in 2008, an increase of 149 percent. Of those incarcerated in Alaska, 48 percent are Caucasian, 36 percent are Alaska Native, 10 percent are African American, 3 percent are Hispanic, and 3 percent are Asian/Pacific Islanders. Minority felons are disproportionately disenfranchised nationally under current law, and the harm of this continued disenfranchisement after release is exacerbated by stigma and other forms of discrimination as they try to reenter society. In Alaska, 52 percent of our incarcerated offenders are minorities.

In Alaska, we do not have a problem taking a person off the voting rolls if convicted of a felony, but we do not have a system that will automatically allow them to return to the voting rolls upon termination of supervision. Voting is just one of many steps a returning felon must make to become a productive member of the community. This bill will help provide a clear time for returning voting rights and provide an important right/responsibility to felons returning to their communities.

[10:11:26 AM](#)

SENATOR MEYER asked how many people will be affected.

MS. ZAUGG said the Division of Elections told her that 6,081 couldn't vote because of felony convictions.

SENATOR MEYER said the bill states that the department will give a person a written notification.

MS. ZAUGG said that with computers it will be relatively easy to have an automatic notice go to the division when someone is discharged. It will save a little time, and it will insure that it won't get overlooked.

SENATOR MEYER noted the large number of people, so he questioned the zero fiscal note.

MS. ZAUGG said there is no fiscal impact because, "in theory, that's already occurring, it's just staggered out over a longer period of time." A vast majority have a five-year probation. Ms. Zaugg was a probation officer, and she sees that staff are really focusing on the next problem walking in the door instead of the person walking out. It can slip through the cracks.

[10:13:30 AM](#)

SENATOR MEYER asked if the intent of SB 68 is that when a convicted felon leaves prison, he or she has paid the price and should then be a voting citizen.

MS. ZAUGG said this bill says that these people have paid their institutional price. One of the goals of probation is to reintegrate people into society without creating a risk to others. To be tied to society they need to get back some responsibilities, and voting is one.

SENATOR MEYER said he doesn't disagree with that, and the state should start giving back their PFDs because that will help them get their feet back on the ground.

CHAIR MENARD said she sees this as a dignity bill. There is dignity attached to being able to vote. It extends the olive branch to people to promote their success.

SENATOR PASKVAN asked how many people will seek the right to vote annually.

[10:15:40 AM](#)

MS. ZAUGG said there over 5,000 on supervised probation or parole. There are probably 1,000 to 1,500 sentenced felons.

SENATOR PASKVAN asked how many people will use this annually.

MS. ZAUGG said she doesn't know because the 6,081 were on the voting roles and taken off when convicted. The bill is targeting those who were registered to vote previously, she believes.

[10:17:24 AM](#)

SENATOR DAVIS said the parole officer will let them know they are eligible to vote. It would be up to them to decide to register.

SENATOR PASKVAN asked if probation officers are not now telling those who complete probation that they have the right to register to vote. What percentage of people who have completed their incarceration and probation actually register?

SENATOR DAVIS said she doesn't know.

10:19:16 AM

DWAYNE PEEPLES, Deputy Commissioner, Department of Corrections, said in 2007 there were 2,700 people who would have fallen under this bill.

MARGARET PUGH, Juneau, said this is a national issue and she is glad that Alaska is one of the states addressing it. Voting rights of felons are different in every state. Some states never take the right to vote away from a felon, and some take it away and never give it back. In a democracy, that might not be good. She believes that the denial of voting rights is a vestige of an earlier period. Illiterate people or those who did not own property were once denied the right to vote. There was a time when people couldn't vote if they didn't pay a poll tax. We don't do that any more. With computers it will be simple to send the list to the Division of Elections. It is the right thing for Alaska. Ms. Pugh is retired from the field of corrections.

10:23:42 AM

JEFFREY MITTMAN, Executive Director, American Civil Liberties Union of Alaska, said the ACLU supports SB 68. A majority of Alaskans who are disenfranchised are not in prison; they are living in the communities. There are a growing number of states limiting the amount of disenfranchisement, "and we hope that Alaska joins their ranks." Restricting voting rights does not prevent crime or provide compensation to victims. It accomplishes the opposite of what the state should be doing to promote re-entry. Those who vote after release from supervision are half as likely to be re-arrested. Alaska Natives are about 31 percent of the total disenfranchised population, although they are only about 15 percent [of Alaska's population]. There is a disparate racial impact of disenfranchisement. The American Probation and Parole Association resolved that restoration of voting rights upon completion of a prison sentence should occur, and it advocates no loss of voting rights while on supervision. The National Black Police Association supports automatic restoration of voting rights upon discharge. The American Bar Association does not support collateral sanctions such as the deprivation of voting rights, except during confinement. He suggested a change to the bill of not requiring those who become

re-eligible to vote to provide proof that they have completed their sentence. That is an unnecessary obstacle and a paperwork issue. Individuals who vote are more likely to give to charities, volunteer, attend school board meetings, serve on juries, be interested in politics, participate in public demonstrations, and cooperate with fellow citizens -- all things that society wants former offenders to do.

[10:27:17 AM](#)

PETER MCKAY, Kenai, said he is a parent of a felon. His son is now on parole. This bill is not being driven by lobbyists or special interest groups. Senator Davis should be recognized for bringing this bill on behalf of convicts, a group without a voice. This is not a large voting block and will not have a large impact on elections, but it is a nice gesture to former convicts. He supports rehabilitation. The correctional system can do more of that. If even one ex-felon uses this small gesture and doesn't reoffend, or it eases the transition back into society, then the state has done the right thing. This bill restores one of our most important rights to citizens, and they are citizens, like you or me. He asked members to cosponsor it.

SENATOR MEYER moved to report SB 68 from committee with individual recommendations and attached fiscal note(s). There being no objection, SB 68 moved out of committee.

[10:30:02 AM](#)

The meeting was adjourned at 10:30 a.m.