

**ALASKA STATE LEGISLATURE**  
**SENATE STATE AFFAIRS STANDING COMMITTEE**

February 25, 2010

9:01 a.m.

**MEMBERS PRESENT**

Senator Linda Menard, Chair  
Senator Kevin Meyer, Vice Chair  
Senator Hollis French  
Senator Albert Kookesh

**MEMBERS ABSENT**

Senator Joe Paskvan

**COMMITTEE CALENDAR**

SENATE BILL NO. 266

"An Act relating to emergency compensation from the Violent Crimes Compensation Board."

- MOVED SB 266 OUT OF COMMITTEE

SENATE BILL NO. 278

"An Act allowing certain teachers, public employees, and private sector employees to take leave without pay when their spouses are on leave from deployment in a combat zone."

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 266

SHORT TITLE: VIOLENT CRIMES EMERGENCY COMPENSATION

SPONSOR(S): SENATOR(S) THOMAS

02/10/10	(S)	READ THE FIRST TIME - REFERRALS
02/10/10	(S)	STA, FIN
02/25/10	(S)	STA AT 9:00 AM BELTZ 105 (TSBldg)

BILL: SB 278

SHORT TITLE: LEAVE FOR MILITARY SPOUSES

SPONSOR(S): SENATOR(S) WIELECHOWSKI

02/12/10	(S)	READ THE FIRST TIME - REFERRALS
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02/12/10 (S) STA, L&C  
02/25/10 (S) STA AT 9:00 AM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

GRIER HOPKINS

Aide to Senator Thomas  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Presented SB 266 for the sponsor.

GERAD GODFREY, Chair

Violent Crimes Compensation Board (VCCB)  
Department of Administration  
Juneau, AK

**POSITION STATEMENT:** Supported SB 266.

KATE HUDSON, Administrator

Violent Crimes Compensation Board (VCCB)  
Department of Administration  
Juneau, AK

**POSITION STATEMENT:** Supported SB 266.

SENATOR WIELECHOWSKI

Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Sponsor of SB 278.

GEORGE ASCOTT

Aide to Senator Wielechowski  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Provided information for SB 278.

DAN WAYNE, Lawyer

Legislative Legal Affairs (LLA)  
Juneau, AK

**POSITION STATEMENT:** Provided information for SB 278.

JEFFREY MITTMAN, Executive Director

ACLU - Alaska  
Anchorage, AK

**POSITION STATEMENT:** Supported SB 278.

STACY BANNERMAN

Representing herself

**POSITION STATEMENT:** Supported SB 278.

NIKKI NEAL, Director  
Division of Personnel and Labor Relations  
Department of Administration  
Juneau, AK

**POSITION STATEMENT:** Provided information for SB 278.

DENNY DEWITT, Alaska State Director  
National Federation of Independent Business (NFIB)  
Juneau, AK

**POSITION STATEMENT:** Opposed SB 278.

### **ACTION NARRATIVE**

[9:01:44 AM](#)

**CHAIR LINDA MENARD** called the Senate State Affairs Standing Committee meeting to order at 9:01 a.m. Present at the call to order were Senators French, Meyer and Menard.

### **SB 266-VIOLENT CRIMES EMERGENCY COMPENSATION**

[9:02:43 AM](#)

CHAIR MENARD announced the first order of business to come before the committee was SB 266.

GRIER HOPKINS, staff to Senator Thomas, said SB 266 proposes to increase the amount that victims of violent crimes can receive in emergency compensation from the Violent Crimes Compensation Board (VCCB). The current amount of \$1500 is inadequate and has not been increased since 1975; SB 266 proposed an increased limit of \$3500. Emergency compensation is primarily for relocation and counseling for families and victims whose safety and well-being are at risk. Emergency compensation can also be awarded for verifiable lost wages and security measures. The VCCB meets about five times annually and several weeks or months can go by before a claim is fully considered; emergency awards can be issued in the meantime.

The Victim's Compensation Fund receives about 70 percent of its appropriations from the state in the form of withheld permanent fund dividends from felons. The remaining 30 percent comes from a federal grant that the VCCB must apply for annually. Emergency compensation is deducted from the final amount given to the victim and SB 266 does not increase the overall cap of \$40,000

that an individual can receive. The fiscal impact to the state is zero.

SENATOR KOOKESH joined the meeting.

[9:05:03 AM](#)

SENATOR FRENCH asked if a sufficient pot of money is available to pay out emergency claims.

MR. HOPKINS replied that the increased emergency amount should not be a problem.

SENATOR FRENCH asked if the VCCB supports SB 266.

MR. HOPKINS replied yes; the VCCB was the impetus behind SB 266.

GERAD GODFREY, Chair, Violent Crimes Compensation Board (VCCB), Department of Administration, said emergency compensation was put in place for those in dire need during the interim between VCCB board meetings.

[9:07:41 AM](#)

The allowable amount for emergency compensation has been at \$1500 since 1975. Adjusted for inflation, that would amount to over \$6000 today. The VCCB considers three criteria for an emergency award: lost wages, counseling and relocation. These needs cannot wait ten or eleven weeks for the next VCCB meeting. He provided an example of a female cooperating with the police after being beaten or assaulted. If the perpetrator threatens to find and harm her, relocation cannot be delayed but \$1500 is often not enough for a plane ticket or a deposit on a new apartment.

He explained that up to \$1500 per victim is allowable in emergency funding. If the woman has two children, she will get up to \$4500 to relocate her family. However, just one woman would only receive \$1500. Without the ability to award more than \$1500 between VCCB meetings, that woman is stuck.

[9:10:32 AM](#)

MR. GODFREY clarified that SB 266 does not give victims more money overall but rather gives them more, up front, of what they are going to get.

SENATOR KOOKESH referred to the table "Violent Crimes Compensation Board: New Claims Received by Location of Crime" and asked about the seven out-of-state cases.

MR. GODFREY replied that anyone in Alaska, who is a victim of a violent crime here, whether he or she is a resident or not, is eligible for compensation. The seven out-of-state cases could include a person who was victimized while visiting Alaska or victims who have relocated near a support network in another state. Victims must demonstrate why going to another place is best for them.

[9:14:17 AM](#)

KATE HUDSON, Administrator, Violent Crimes Compensation Board (VCCB), Department of Administration, clarified that the seven out-of-state claims are people residing outside of Alaska but claiming compensation from Alaska. They were either victims of crime while visiting Alaska or are relatives of homicide victims travelling to attend a funeral in Alaska. She said the vast majority of claimants are Alaska residents but statute does allow compensation for visitors. She pointed out that an Alaskan resident, who is victimized in another state, would be compensated under that state's program.

[9:15:52 AM](#)

CHAIR MENARD closed public testimony.

SENATOR FRENCH moved to report SB 266 from committee with individual recommendations and attached fiscal note(s). There being no objection, the motion carried.

[9:16:35 AM](#)

CHAIR MENARD called an at ease from 9:16 a.m. to 9:18 a.m.

### **SB 278-LEAVE FOR MILITARY SPOUSES**

[9:18:00 AM](#)

CHAIR MENARD announced the next order of business to come before the committee to be SB 278.

SENATOR WIELECHOWSKI, sponsor of SB 278, said SB 278 allows the spouses of soldiers serving in combat zones to take up to 10 days of unpaid leave from work while the soldier is on leave from a combat zone. SB 278 applies to all active duty and reserve members whose family members live in Alaska. Leave for soldiers is often unpredictable and a spouse should not have to worry about time off work when a loved one has a few days away from a combat zone.

SENATOR WIELECHOWSKI said horror stories from people who were not granted time off work were the impetus behind SB 278. Ten states have similar bills, some of which allow up to 30 days of leave. To be respectful to the business community, SB 278 limits time off to 10 days. He noted opposition has come from the National Federation of Independent Business / Alaska (NFIB). Other states have had zero opposition to similar bills and no complaints from similar legislation.

9:21:02 AM

CHAIR MENARD asked if consideration has been given to the parents of soldiers.

SENATOR WIELECHOWSKI said other states have provisions for siblings, grandparents or close relationships. He said he is trying to limit the impact and be considerate of the business community by starting small and targeting the spouses.

CHAIR MENARD She said she is sensitive to the impact that SB 278 could have on small business with only two or three employees.

SENATOR FRENCH said SB 278 would apply to state of Alaska teachers, public employees and private sector businesses with 20 or more employees.

SENATOR WIELECHOWSKI said Senator French's interpretation is correct. SB 278 applies to businesses with more than 20 employees.

9:23:20 AM

CHAIR MENARD asked if the employer has a mechanism to verify that the employee is married to the soldier.

SENATOR WIELECHOWSKI said he thinks verification is appropriate and noted that lying about having a spouse in the armed forces is grounds for termination. Some states have provisions allowing for documentation. He said this type of legislation is a growing trend with 10 states adopting similar legislation since 2007. Information on other state's requirements is in the committee packet.

CHAIR MENARD asked if other additional states have a similar bill in progress.

GEORGE ASCOTT, aide to Senator Wielechowski, replied that he is not aware of other states with a bill in progress now. He said Senator Ron Wyden has sponsored a federal bill that would do the

same thing. That bill has not passed and Mr. Ascott is unsure of its current status.

9:26:09 AM

SENATOR MEYER felt that the ability to verify that the spouse truly was in a combat zone is important. He is concerned about a spouse leaving his or her job without notice as that could be devastating to a large retail store right before Christmas, for example, or to a small rural school. He asked how other states deal with this problem.

SENATOR WIELECHOWSKI replied that Alaska would be supporting the troops by allowing their spouses to have this time off. Doing so may cause some hardship for some employers. He said military leave is unpredictable and addressing the problem of notification for employers is challenging.

9:29:12 AM

SENATOR MEYER said he wonders if the blow to public and private employers can be lessened. He noted that a fiscal note was not present and said if a state employee is absent for ten days, a cost would be incurred to fill in for that person.

CHAIR MENARD noted that paying for a substitute teacher is also a cost.

SENATOR WIELECHOWSKI said the leave addressed in SB 278 is unpaid leave. A state employee would not get paid for this time off so there could be a positive fiscal impact to the state. A substitute teacher typically does not get paid anywhere near what a regular teacher does.

SENATOR MEYER stated that if a state employee can be gone for 10 days and not have an impact, then we have too many employees. If an employee is absent, a temporary employee has to be brought in. He said he would like to hear from Superintendent Comeau (Anchorage School District) about getting substitute teachers at the last minute. While they are paid less, the quality of education is impacted.

SENATOR WIELECHOWSKI said he is open to suggestions.

9:31:56 AM

SENATOR WIELECHOWSKI asked the bill drafter, Dan Wayne, to address Senator Meyer's question about the timeliness of the request for leave.

DAN WAYNE, Lawyer, Legislative Legal Affairs (LLA), replied that a reasonable time for giving notice of time off work is not defined and would be subject to interpretation by the employer.

SENATOR KOOKESH said a lot of military personnel do get notice of leave. He noted it is a two or three day trip from Afghanistan to the United States. He suggested that some notice should be given to the employer if possible; certain circumstances or exemptions could be drafted into SB 278.

CHAIR MENARD commented that 24 or 48 hours might be possible.

SENATOR KOOKESH said he was thinking of 24 hours of notice.

[9:34:56 AM](#)

SENATOR MEYER said even with 48 hours of notice, the employer needs some way to know that the employee's spouse is even in the military. He commented that like any good program, people will abuse it.

SENATOR WIELECHOWSKI said he would work on some language about verification.

[9:35:54 AM](#)

CHAIR MENARD opened public testimony.

JEFFREY MITTMAN, Executive Director, ACLU - Alaska, noted he is a former infantry lieutenant of the US Army. He said the ACLU is concerned with civil liberties and constitutional rights under the US and Alaska constitutions. The ACLU supports SB 278. He stated that under the Alaska Supreme Court's ruling in ACLU v. Alaska, the Supreme Court recognized that, because the Alaska constitution forbids same-sex domestic partners from the opportunity to legally marry, it is a violation of the equal protection clause to confer benefits by the government on legally married spouses and deny them to same sex domestic partners. The ACLU - Alaska asks that SB 278 be amended to state "spouses or same-sex couples" or "spouses and same-sex domestic partners" rather than just "spouses". The non-partisan urban institute has estimated 65,000 lesbian, gay and transgender individuals, many with families, are serving in the United States military in both combat and non-combat zones. Amending SB 278 in this way would affirm the current realities of combat members and keep consistent with the Supreme Court.

[9:38:21 AM](#)

CHAIR MENARD asked if the military person would have a same-sex partner declared.

JEFFREY MITTMAN said that based on the current policy of "Don't Ask, Don't Tell," requiring declaration of a same-sex partner for the military is not possible. The non-military member of a partnership would inform their employer that they would like time off to spend time with their military partner. That does not require the partner's identity to be disclosed to the military and does not violate "Don't Ask, Don't Tell."

SENATOR KOOKESH said even for people married in statute, they will have to prove that one is in the military.

JEFFREY MITTMAN said the issue of documentation was handled in ACLU v. Alaska. Verification of domestic partnership can be proved with notarized statement that an ongoing, intertwined, emotional and financial relationship exists. Leave orders could provide verification of military status.

[9:41:07 AM](#)

CHAIR MENARD asked if SB 278 would have a negative effect on small businesses hiring military spouses.

SENATOR WIELECHOWSKI said no detrimental impact has been experienced in other states with similar legislation.

MR. ASCOTT said the legislators and staff he spoke with in Oregon and California reported no complaints about similar legislation.

SENATOR KOOKESH said a business with 19 employees is no longer a small business and taking one away should not be a disruption. He is comfortable having the number of employees set at 20 before SB 278 takes effect.

MR. WAYNE pointed out that all leave statutes for state employees allow the departments to set regulations. The burden is on the employee to provide information if asked by the employer.

[9:44:54 AM](#)

STACY BANNERMAN, blue star wife of an Army National Guard Soldier, said her husband returned from his second combat deployment in Iraq in the Fall of 2009 and will likely serve a third deployment. She said in a few months, another 30,000 troops, most with children and spouses who work, will be

deploying to Afghanistan. SB 278 would allow a working spouse to spend time with a loved one on military leave without fear of losing his or her job.

Family members can provide their employer with documentation, such as a copy of the military spouse's orders. Any additional questions or needs of the employer could be addressed by the Family Readiness Coordinator. She said her husband spent several months training thousands of miles away prior to his second tour in Iraq. When he had leave, she had recently started a new job with no sick leave or vacation time available and it would be more than one year before she saw her husband again. Supporting the troops includes supporting military families.

[9:48:26 AM](#)

MS. BANNERMAN said this is the first time in US history that the burdens of war have been borne virtually exclusively by troops and their families during an extended conflict. When the veteran comes home, family support is the single most critical factor in successful reintegration of that veteran. The demands of the War on Terror and the demographics of the 21st century military are very different from the past. Adapting to those realities must include expanding support for military families. She read three letters from military wives about the need for a military family leave act:

...Women have had to make the choice sometimes of quitting their jobs in order to have that time with their husbands and in today's economy that is clearly not the best choice for some families.

I've had friends treated poorly over asking for time off when their hubbies were coming home from 15 month deployments and friends who subsequently had to quit their jobs in order to get that time that is so well deserved and much needed...

My husband left in October last year in his second tour to Iraq. I had to travel cross-country to see him for four days at Fort Dix, New Jersey and I almost lost my job because of it. I had to fight for it. After calling upper management and the mayor's office, they finally backed off. There's still a lot of tension at work. He'll be home this summer for his two weeks and I'm already fighting for time off as we speak. They always ensure that they support the troops and my husband but they're sorry I can't have the time

off. I hope the bill passes so I don't have to worry about spending time with my husband and our children in the future.

MS. BANNERMAN concluded that ten days off for one employee is a tiny sacrifice to help shoulder the burden of war borne exclusively by troops and their families. For some, the reality is that their soldier will come home in a box. Alaska's military families deserve ten days.

[9:51:44 AM](#)

SENATOR MEYER asked Ms. Bannerman if she gets notice when her husband is coming home.

MS. BANNERMAN said generally speaking advanced notice is given. Anticipated leave dates are usually known two to four weeks in advance though last minute changes sometimes alter things by 48 hours or so. She noted that the spouse's employer could be given a copy of the soldier's Title 10 orders for deployment prior to the soldier's deployment.

[9:54:37 AM](#)

She said military family members need to communicate with employers. She pointed out that some incidences render advance notice impossible.

NIKKI NEAL, Director, Division of Personnel and Labor Relations, Department of Administration, addressed Senator Meyer's earlier question about the cost associated with filling in for an absent employee for 10 days. She said employees have unexpected periods of leave for many reasons. Absences of 10 days or less are not commonly back-filled. Other employees and the supervisor take on work that is needed immediately and other work can be delayed.

SENATOR MEYER asked if some teachers are state employees, such as at Mt. Edgecumbe.

MS. NEAL replied yes and said substitutes are pulled from a pool, for many reasons, with an associated cost covered within their budget.

SENATOR MEYER said the fiscal note should be indeterminate because the impact is unknown. He said a substitute teacher, for example, has to be paid to something for 10 days of work.

MS. NEAL reiterated that paying substitutes is managed within their school budgets.

CHAIR MENARD asked if Ms. Neal thought 10 days was a manageable absence.

[9:58:53 AM](#)

MS. NEAL said 10 days is reasonable. Employees also have deaths and unplanned medical emergencies in the family. She said she would not expect SB 278 to create employee absences too regularly in any one department.

DENNY DEWITT, Alaska State Director, National Federation of Independent Business (NFIB), said the NFIB has a number of concerns with SB 278. Many small employers, such as tourism businesses, go over 20 employees at a time when they need all employees on a "crash basis". He said half of the employees of a small business near a military base, such as North Pole, might be military spouses. He pointed out that 4,000 troops just rotated home in Fairbanks and said 4,000 spouses taking unnoticed leave could be devastating. Some small businesses could have more than one or two employees taking this leave. He said he has spoken with employers who say they try to work things out with their employees, providing opportunities for time off, and keep the business running. A small employer might have to pay overtime to fill vacancies the cost of benefits for the absent employee is still being carried.

[10:02:33 AM](#)

MR. DEWITT noted that the penalties for not providing time off are more severe in SB 287 than they are in relation to jury duty.

CHAIR MENARD asked if he would like SB 287 to mirror laws pertaining to jury duty.

MR. DEWITT said mirroring jury duty would be more appropriate than SB 287 is now. He said applying this law to the private sector would be government interference.

SENATOR KOOKESH asked Mr. Dewitt to suggest what could be changed and still get to the end result of military spouses getting time off while a spouse has leave from a combat zone. He noted that when 4,000 troops return to Fairbanks, they are coming home, not coming out of combat and going right back.

[10:05:37 AM](#)

MR. DEWITT replied when his son has come home from Iraq and Afghanistan, he comes home on leave. Many of the folks who come

back are on leave. As NFIB reads SB 287, returning from deployment on leave would be covered as well.

He said he has talked to a number of NFIB members with businesses near bases who have not reported a problem and do not see a need for legislation to get involved in dealing with their employees which they already do as best they can. He noted that governmental employees, because of the structure of statutes, have more difficulty accommodating employees on different issues than the private sector does. In the private sector, most employers and employees know each other and work through problems. Government involvement makes it more difficult for private sector employers to deal with issues.

10:08:16 AM

SENATOR KOOKESH said it seems the NFIB will not support SB 287. He pointed out that Ms. Bannerman's testimony illustrated the kinds of problems that SB 287 is trying to address.

MR. DEWITT replied that he does not know who the employers of the women who wrote the letters were. He noted one was apparently from Portland and said Alaskan businesses have a very different relationship with the military than most states. He said another letter read by Ms. Bannerman referred to having to go up the chain to the Mayor, which implies a public employer. He said private employers in Alaska have been very supportive and want to continue to hire military spouses.

SENATOR MEYER said SB 287 should include some requirement of giving notice to the employer if at all possible. He also asked how a small business is defined.

MR. DEWITT replied that the federal notion of a small business is under 100 employees. However, he said several things besides the number of employees differentiate large employers from small employers and gave an example of a hospitality operator with 225 employees who is competing against major global employers.

10:12:37 AM

CHAIR MENARD closed public testimony.

CHAIR MENARD said she felt it was in the committee's best interest to hold SB 278 for a future hearing and get some of their questions fine-tuned.

10:13:08 AM

CHAIR MENARD adjourned the meeting at 10:13 a.m.