

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

February 21, 2011

1:05 p.m.

MEMBERS PRESENT

Representative Carl Gatto, Chair
Representative Wes Keller
Representative Bob Lynn
Representative Lance Pruitt
Representative Max Gruenberg
Representative Lindsey Holmes

MEMBERS ABSENT

Representative Steve Thompson, Vice Chair
Representative Mike Chenault (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 56

"An Act making arson in the first degree and arson in the second degree serious felonies for purposes of application of the crime of conspiracy."

- MOVED HB 56 OUT OF COMMITTEE

HOUSE BILL NO. 133

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

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 56

SHORT TITLE: INCLUDE ARSON IN CRIMES OF CONSPIRACY

SPONSOR(S): REPRESENTATIVE(S) GATTO, GRUENBERG, LYNN

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| 01/18/11 | (H) | PREFILE RELEASED 1/7/11 |
| 01/18/11 | (H) | READ THE FIRST TIME - REFERRALS |
| 01/18/11 | (H) | JUD, FIN |
| 02/18/11 | (H) | JUD AT 1:00 PM CAPITOL 120 |
| 02/18/11 | (H) | -- MEETING CANCELED -- |
| 02/21/11 | (H) | JUD AT 1:00 PM CAPITOL 120 |

BILL: HB 133

SHORT TITLE: INCREASING NUMBER OF SUPERIOR CT JUDGES

SPONSOR(S): RULES BY REQUEST

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| 01/31/11 | (H) | READ THE FIRST TIME - REFERRALS |
| 01/31/11 | (H) | JUD, FIN |
| 02/21/11 | (H) | JUD AT 1:00 PM CAPITOL 120 |

WITNESS REGISTER

GRETCHEN STAFT, Staff
Representative Max Gruenberg
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 56 on behalf of Representative Gruenberg, one of the bill's joint prime sponsors.

JEFF TUCKER, President
Alaska Fire Chiefs Association (AFCA)
North Pole, Alaska

POSITION STATEMENT: Testified in support of HB 56 and urged its passage.

ANNE CARPENETI, Assistant Attorney General
Legal Services Section
Criminal Division
Department of Law (DOL)
Juneau, Alaska

POSITION STATEMENT: Responded to questions during discussion of HB 56.

DOUG WOOLIVER, Administrative Attorney
Administrative Staff
Office of the Administrative Director
Alaska Court System (ACS)
Anchorage, Alaska

POSITION STATEMENT: Presented HB 133 and responded to questions.

QUINLAN STEINER, Director
Central Office
Public Defender Agency (PDA)
Department of Administration (DOA)
Anchorage, Alaska

POSITION STATEMENT: Responded to a question during discussion of HB 133.

SUE STANCLIFF, Special Assistant
Office of the Commissioner
Department of Public Safety (DPS)
Anchorage, Alaska

POSITION STATEMENT: Responded to a question during discussion of HB 133.

ACTION NARRATIVE

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CHAIR CARL GATTO called the House Judiciary Standing Committee meeting to order at 1:05 p.m. Representatives Gatto, Lynn, Keller, Pruitt, and Gruenberg were present at the call to order. Representative Holmes arrived as the meeting was in progress. Representative Thompson was excused.

HB 56 - INCLUDE ARSON IN CRIMES OF CONSPIRACY

[1:06:25 PM](#)

CHAIR GATTO announced that the first order of business would be HOUSE BILL NO. 56, "An Act making arson in the first degree and arson in the second degree serious felonies for purposes of application of the crime of conspiracy."

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GRETCHEN STAFT, Staff, Representative Max Gruenberg, Alaska State Legislature, explained on behalf of Representative Gruenberg, one of the bill's joint prime sponsors, that HB 56 would add the crimes of arson in the first degree and arson in the second degree [to AS 11.31.120(h)(2) - the list of serious felony offenses for which a person could be charged with the crime of conspiracy]. It was brought to Representative Gruenberg's attention last year that these arson crimes were not yet included in Alaska's conspiracy statute, and this caused him concern, she relayed, because currently two or more people conspiring to commit arson could only be charged with the crime of arson if the arson actually occurs. House Bill 56 would address this problem and provide further deterrence to the crime of arson. Under the bill, if two or more people conspire to commit arson and the arson occurs, they could be charged with both the crime of arson and the crime of conspiracy, and if the arson doesn't actually occur, they could at least still be charged with the crime of conspiracy. The Department of Law

(DOL), she relayed, has indicated that it considers the change proposed by the bill to be appropriate because the crimes of arson in the first degree and arson in the second degree are serious felonies. The joint prime sponsors have not heard any opposition to the bill, and it's highly supported by Alaska's fire departments, the Alaska Fire Chiefs Association (AFCA), the Alaska Peace Officers Association (APOA), and other such groups.

CHAIR GATTO, speaking as one of HB 56's joint prime sponsors, mentioned that back in 2003, he and Representative Gruenberg sponsored legislation adding arson to the list of crimes for which the Violent Crimes Compensation Board (VCCB) could provide compensation.

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JEFF TUCKER, President, Alaska Fire Chiefs Association (AFCA), relayed that the AFCA supports HB 56 and urges its passage.

CHAIR GATTO, after ascertaining that no one else wished to testify, closed public testimony on HB 56.

REPRESENTATIVE KELLER asked whether the bill would increase the penalties for arson crimes.

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ANNE CARPENETI, Assistant Attorney General, Legal Services Section, Criminal Division, Department of Law (DOL), after concurring with Ms. Staff's comments pertaining to the DOL, explained that under the bill, the crime of conspiracy would warrant a separate, additional charge that would not be merged with the underlying charge of arson. Although the crime of conspiracy is not often prosecuted - perhaps because it can be difficult to prove - it's helpful to have as an option, she concluded.

CHAIR GATTO, speaking as a former firefighter, indicated that investigators are able to determine whether a particular fire was started under suspicious circumstances.

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REPRESENTATIVE KELLER moved to report HB 56 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 56 was reported from the House Judiciary Standing Committee.

The committee took an at-ease from 1:14 p.m. to 1:16 p.m.

HB 133 - INCREASING NUMBER OF SUPERIOR CT JUDGES

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CHAIR GATTO announced that the final order of business would be HOUSE BILL NO. 133, "An Act increasing the number of superior court judges designated for the third judicial district; and providing for an effective date."

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DOUG WOOLIVER, Administrative Attorney, Administrative Staff, Office of the Administrative Director, Alaska Court System (ACS), explained that HB 133 was introduced by the House Rules Standing Committee at the request of the Alaska Supreme Court. Specifically, HB 133 would add two new superior court judge positions to Alaska's Third Judicial District, and these two judges would serve on the civil court in Anchorage. One reason for requesting these new positions is that such judges have the largest caseloads in the state, currently 687 cases per judge, and this high caseload results from a combination of an increase in the number of unrepresented litigants in domestic relations cases coming before the courts, and internal procedural changes wherein more status hearings are taking place in child in need of aid (CINA) cases, and now once a CINA case is contested, a superior court judge handles the case from then on.

MR. WOOLIVER, with regard to those procedural changes, added that although they require more superior court resources, they have proven to be very beneficial for the families involved, particularly since the goal of the CINA statutes is get families healthy and the children back in the home. With regard to domestic relations cases wherein at least one of the parties is unrepresented, he added that such cases - which constitute approximately two-thirds of all domestic relations cases in Anchorage - create a lot more work for the court and take more time to resolve because unrepresented litigants tend to file a lot more motions, often neglect to address the legal issues before the court, and don't always come prepared with sufficient documentation. With the addition of the two new positions, although there would still be the same number of superior court civil cases in Anchorage, it is hoped that those cases could be resolved more quickly; furthermore, the ACS has been instituting

and researching other programs and changes in procedure that may help it address its backlog of civil cases.

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CHAIR GATTO asked for more information about the fiscal notes accompanying HB 133.

MR. WOOLIVER relayed that the ACS's fiscal note [of \$1,440,800 for the first year and \$930,400 for subsequent years] reflects funding for the proposed two new judge positions and accompanying in-court clerk position, law clerk position, and administrative assistant position for each judge; office equipment/supplies and computer hardware, software, and licensing and fees for those positions; travel costs; and capital expenditures for remodeling the courthouse to accommodate the new positions. Those capital expenditures have also been included in the ACS's capital budget request, however, and so would be removed from the ACS's fiscal note on HB 133 if they are fully funded in the capital budget.

MR. WOOLIVER then ventured that the Alaska Judicial Council's (AJC's) fiscal note [of \$23,200 for the first year and \$1,900 for subsequent years] reflects costs associated with filling two new judge positions and amortized retention costs for those two positions, though page 2 provides a detailed breakdown of [the first year's costs if the positions are filled separately as well as a detailed breakdown of reduced costs if the positions are filled simultaneously]. With regard to the [Office of Public Advocacy's (OPA's)] fiscal note, he explained that any time new judges are added to the court system, there are going to be more hearings, more active cases, more courtrooms to cover, and therefore the costs and staffing needs of the various departments/agencies in the criminal justice system are going to increase as well. Both the OPA and the Public Defender Agency (PDA) address CINA cases, he added.

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QUINLAN STEINER, Director, Central Office, Public Defender Agency (PDA), Department of Administration (DOA), indicated that with the addition of two new superior court judge positions, the PDA would need to add an attorney position [and a law office assistant position] to address the estimated increase in the PDA's workload. Currently, the PDA's civil division has only six attorneys available to appear before ten superior court

judges handling CINA matters in Anchorage, and so already has problems getting attorneys in the courtrooms on a daily basis.

CHAIR GATTO relayed that he's been informed that the Department of Corrections' (DOC's) fiscal note [of \$111,400] is inaccurate [in that it reflects the addition of a new adult probation officer position that would be addressing felony crimes].

MR. WOOLIVER surmised that because HB 133 itself doesn't specify that the proposed new superior court judges would be addressing only civil cases, the DOC's fiscal note was probably crafted under the assumption that the proposed new superior court judges would be addressing criminal cases.

CHAIR GATTO observed that the Office of the Governor has submitted a zero fiscal note, and that the Department of Public Safety's (DPS's) fiscal note [of \$135,400 for the first year and \$117,300 for subsequent years] reflects the addition of a new position.

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SUE STANCLIFF, Special Assistant, Office of the Commissioner, Department of Public Safety (DPS), clarified that the new position would be for a court service officer who would be responsible for handling court paperwork and maintaining order in the courtroom; this additional position is being requested based on an assumption that there would be a new courtroom built to accommodate the two new judges. She mentioned that because domestic relations cases can often become very difficult and emotional, court service officers are often needed to provide assistance.

CHAIR GATTO, after ascertaining that no one else wished to testify, closed public testimony on HB 133 but indicated that he might reopen it, and relayed that HB 133 would be held over in order to address the DOC's fiscal note.

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ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 1:42 p.m.