

**ALASKA STATE LEGISLATURE**  
**HOUSE STATE AFFAIRS STANDING COMMITTEE**

January 25, 2011

8:02 a.m.

**MEMBERS PRESENT**

Representative Bob Lynn, Chair  
Representative Wes Keller, Vice Chair  
Representative Paul Seaton  
Representative Peggy Wilson  
Representative Pete Petersen  
Representative Kyle Johansen

**MEMBERS ABSENT**

Representative Max Gruenberg

**COMMITTEE CALENDAR**

HOUSE BILL NO. 21

"An Act relating to the membership of the Statewide Suicide Prevention Council."

- MOVED CSHB 21(STA) OUT OF COMMITTEE

HOUSE BILL NO. 14

"An Act authorizing state agencies to pay private legal fees and costs incurred by persons exonerated of alleged Alaska Executive Branch Ethics Act violations; allowing certain public officers and former public officers to accept state payments to offset private legal fees and costs related to defending against an Alaska Executive Branch Ethics Act complaint; and creating certain exceptions to Alaska Executive Branch Ethics Act limitations on the use of state resources to provide or pay for transportation of spouses and children of the governor and the lieutenant governor."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 21

SHORT TITLE: SUICIDE PREVENTION COUNCIL MEMBERS

SPONSOR(S): REPRESENTATIVE(S) FAIRCLOUGH, GARDNER, HERRON

01/18/11 (H) PREFILE RELEASED 1/7/11

01/18/11 (H) READ THE FIRST TIME - REFERRALS  
01/18/11 (H) STA, FIN  
01/25/11 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 14

SHORT TITLE: EXEC ETHICS: LEGAL FEES/FAMILY TRAVEL  
SPONSOR(S): REPRESENTATIVE(S) GRUENBERG

01/18/11 (H) PREFILE RELEASED 1/7/11  
01/18/11 (H) READ THE FIRST TIME - REFERRALS  
01/18/11 (H) STA, JUD, FIN  
01/25/11 (H) STA AT 8:00 AM CAPITOL 106

**WITNESS REGISTER**

REPRESENTATIVE ANNA FAIRCLOUGH  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Introduced HB 21 as joint prime sponsor.

REPRESENTATIVE BERTA GARDNER  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** As joint prime sponsor, highlighted the changes in the proposed committee substitute to HB 21.

KATE BURKHART, Executive Director  
Advisory Board on Alcoholism & Drug Abuse;  
Executive Director  
Alaska Mental Health Board (AMHB)  
Division of Behavioral Health (DBH)  
Department of Health & Social Services  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 21.

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

**POSITION STATEMENT:** Presented HB 14 on behalf of Representative Gruenberg, sponsor.

JUDY BOCKMON, Assistant Attorney General  
State Ethics Attorney  
Opinions, Appeals, & Ethics  
Civil Division (Anchorage)  
Department of Law (DOL)

Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 14.

**ACTION NARRATIVE**

[8:02:02 AM](#)

**CHAIR BOB LYNN** called the House State Affairs Standing Committee meeting to order at 8:02 a.m. Representatives Keller, Seaton, Wilson, Johansen, Petersen, and Lynn were present at the call to order.

[8:04:28 AM](#)

CHAIR LYNN relayed the story of his gavel, which originally belonged to his grandmother.

[8:06:41 AM](#)

CHAIR LYNN introduced new and returning committee members and invited them to say a few words.

**HB 21-SUICIDE PREVENTION COUNCIL MEMBERS**

[8:08:18 AM](#)

CHAIR LYNN announced that the first order of business was HOUSE BILL NO. 21, "An Act relating to the membership of the Statewide Suicide Prevention Council."

[8:08:20 AM](#)

REPRESENTATIVE ANNA FAIRCLOUGH, Alaska State Legislature, introduced HB 21 as joint prime sponsor. She stated that she and Representative Berta Gardner are members of the State Suicide Prevention Council. She directed attention to a handout in the committee packet entitled, "Mending the Net: Suicide Prevention in Alaska," the annual report for fiscal year 2010 (FY 10) from the council. As shown on page 11 of the report, Representative Fairclough stated that suicide is one of the top ten causes of death in Alaska. Page 20, she said, describes a public health model emphasizing community readiness, planning efforts, and outcomes, with an emphasis on community collaboration.

[8:09:51 AM](#)

REPRESENTATIVE BERTA GARDNER, Alaska State Legislature, as joint prime sponsor, highlighted the changes in the proposed committee substitute, (CS) for HB 21, Version 27-LS0154\B, Bullard, 1/22/11. First, the proposed CS would require someone to serve on the council who brings experience from a military perspective, either as someone currently in service, a retiree, or someone who has worked with military personnel.

[8:11:11 AM](#)

REPRESENTATIVE KELLER moved to adopt the proposed committee substitute (CS) for HB 21, Version 27-LS0154\B, Bullard, 1/22/11, as a work draft. There being no objection, Version B was before the committee.

[8:11:30 AM](#)

REPRESENTATIVE GARDNER noted that the second change proposed in Version B would change the requirement of a youth serving on the council from being in grade 9, 10, 11, or 12, to being "at least 16 years or age but not more than 20 years of age" when appointed. She explained that with this change, somebody who has just graduated from high school, but is, perhaps, just becoming comfortable in his/her ability to speak out as a council member, would be able to serve.

[8:12:20 AM](#)

REPRESENTATIVE FAIRCLOUGH noted that Chair Lynn had, some time before the meeting, expressed concern that the use of the term "active military personnel" found in the original bill version was ambiguous. She noted that Version B specifies that the term means, for example, that the National Guard would be included.

CHAIR LYNN made the distinction that the National Guard works for the state, except when commandeered by the President of the United States, in which case National Guard members are working for the federal government.

[8:13:44 AM](#)

REPRESENTATIVE GARDNER, in response to a question from Chair Lynn, indicated that the results of despair and depression are the same, irrespective of their origins. She said, "It's hard to tease out exactly which threads lead to which behaviors, but there's no doubt that Alaska has leading numbers in all of those

areas: alcohol abuse, domestic violence, sexual assault, and suicide."

CHAIR LYNN offered his view that solving the problem of sexual violence, alcohol abuse, and child abuse would result in a decrease in the suicide rate.

[8:14:44 AM](#)

REPRESENTATIVE FAIRCLOUGH directed attention to page 10 of the aforementioned report, which states that of the 33 percent of those whose death was caused by suicide who were tested for drugs and/or alcohol, 44 percent tested positive for alcohol and 48 percent tested positive for other drugs. She talked about the link between a lack of hope and the occurrence of suicide.

[8:15:54 AM](#)

REPRESENTATIVE SEATON expressed appreciation of the suicide prevention efforts that are being made. He said the House Health and Social Services Standing Committee has been talking about vitamin D therapy for people living in areas that don't get much light, and he said that that therapy is more effective than light therapy. He said he looks forward to working with the council in the future, and expressed his wish that the council look at the issues more broadly.

[8:17:56 AM](#)

REPRESENTATIVE P. WILSON said she is pleased at the addition of language related to military personnel. She indicated that suicides spike [between the ages of 15-24], and she said 23 and 24 are the ages at which many of those who have served in the military come back home. She also expressed surprise to have read on page 9 of the report that another group with a high rate of suicide is that of people 85 and older.

[8:19:17 AM](#)

REPRESENTATIVE FAIRCLOUGH highlighted that in 2009, 140 individuals [in Alaska] committed suicide. She further related that between 2000 and 2009, 1,369 took their own lives. She talked about the impact suicide has on communities. She stated that although the number of suicides in Anchorage is high, the per capita ratio of suicides is considerably higher in rural areas; therefore, she warned the committee members not to jump to conclusions reading just part of the statistics. She

reemphasized the observation made by Representative Wilson that the suicide rate is higher for the young and the elderly, and she suggested the high rate of elderly suicides may be in response to life-limiting diseases.

REPRESENTATIVE FAIRCLOUGH said she and Representative Gardner are honored to be working on this task. She said the council needs the support of the legislature, and she noted that there is a \$4,000 fiscal note [included in the committee packet]. She related that the council attempts to "get out into rural Alaska" at least once a year, because those communities are experiencing suicide rates 2-6 times the national average.

[8:21:07 AM](#)

REPRESENTATIVE GARDNER pointed out that there are instances where people die and it is not clear whether or not the cause of death was suicide. She emphasized the value in hearing the stories from people in rural Alaska first-hand. She said that doing so opens discussion of a subject that previously may have been taboo. In response to a question from Chair Lynn, she reiterated that the common denominator of suicide is despair and the inability to believe that a bad situation can get better.

[8:23:01 AM](#)

REPRESENTATIVE FAIRCLOUGH directed attention to information on page 8 of the aforementioned report, which states that suicide rates among Alaska Natives are higher than of any other ethnicity in the state, and are the highest of any ethnicity in the U.S. She recollected having read that that percentage increases further for Native Alaskan boys. She stressed the importance of prevention and building skills to help young people cope with, for example, a failed relationship. She said village elders are getting involved in the effort to build relationships between youth and elders. She said the first step is talking about suicide and hearing from those who have been affected by it. In response to Chair Lynn, she concurred that an entire community can be affected by the suicide of one of its members.

[8:25:12 AM](#)

REPRESENTATIVE KELLER expressed appreciation to Representatives Fairclough and Gardner for the work they are doing. He then directed attention to page 16, which shows funding, and he observed that "the funding doesn't follow the rate."

[8:25:53 AM](#)

REPRESENTATIVE FAIRCLOUGH explained that in a community, the involvement of individuals sometimes makes a bigger impact than money. The goal, she said, is to use the money to create a synergy inside of communities to bring all resources to the table. Each community's situation is unique, she added.

[8:27:07 AM](#)

REPRESENTATIVE GARDNER observed that there are some communities that seem to be awaiting advice and assistance, while other communities recognize that there is a problem and that the solution comes from within the community. She echoed Representative Fairclough's comment that money is not always the answer. She said money can pay for training, but there is a lot of work that can be done locally, and the council hopes to be "a gathering point" to get that process started through discussion.

[8:28:19 AM](#)

REPRESENTATIVE JOHANSEN directed attention to page 12 of report, which shows the percentage of U.S. Census area deaths attributed to suicide from 2000-2008. He asked if there are areas of Alaska that more closely match the national average.

[8:29:24 AM](#)

REPRESENTATIVE FAIRCLOUGH estimated that 3 percent of Alaska falls within the national range, and said the exact answer is in the report.

REPRESENTATIVE JOHANSEN surmised that the council must be concentrating its efforts on the areas with the highest suicide rates. He asked if former Representative Woody Salmon has been replaced on the board. He then asked how rural areas "get into the conversation."

[8:31:04 AM](#)

REPRESENTATIVE GARDNER said she is not sure how to answer that question, because the board's membership is not filled based on district, but rather based on requirements in statute. She emphasized that the perspective of the board is that one suicide is too many, and its members will try to reduce the number of suicides in Alaska no matter what the national average is.

REPRESENTATIVE FAIRCLOUGH listed entities from which people are serving: the Advisory Board on Alcoholism and Drug Abuse, the Alaska Mental Health Board, the Alaska Federation of Natives, a counselor or someone from secondary schools, a youth, someone who has experienced the death by suicide [of a family member], a person from a rural community not connected by roads, a member of clergy, a person who is under the age of 18, [and one public member]. She offered examples and names. She noted that the members will be in Juneau on January 30 - February 2, and will be visiting legislators in the capitol.

[8:34:18 AM](#)

REPRESENTATIVE GARDNER, in response to a question from Representative Petersen, said the council has not studied what other nations in northern climates are doing regarding this issue; however, she said she thinks other nations are looking at what Alaska is doing.

[8:34:51 AM](#)

REPRESENTATIVE P. WILSON observed that even though data may look good, the problem still persists. She explained that the graph on page 12 of the report shows her community in a good light, but the statistics only go through 2008, and just last month there were two suicides.

[8:36:05 AM](#)

KATE BURKHART, Executive Director, Advisory Board on Alcoholism & Drug Abuse; Executive Director, Alaska Mental Health Board (AMHB), Division of Behavioral Health (DBH), Department of Health & Social Services, testified in support of HB 21. She stated that the proposed legislation is a direct reflection of the council's determination to respond to public comment. She said the council held a meeting in Fairbanks in October 2010, at which time it heard passionate testimony from young people. That is one reason that the council wants to augment the youth member requirement in statute. She emphasized that the council considers itself responsible to the citizens of Alaska and really listens to what the public has to say.

[8:38:56 AM](#)

REPRESENTATIVE SEATON expressed appreciation for the ideas that have been brought forward and stated support of the idea that

young people can be effective in the process. He credited a new legislator, Representative Alan Dick, for bringing energy from rural Alaska. He questioned whether the education system prepares young people for diversity and leaving their villages. He suggested that education that is relevant to students may help in eliminating despair, and he opined that the council should be part of that discussion.

[8:40:34 AM](#)

REPRESENTATIVE JOHANSEN stated support of the changes proposed in Version B, and expressed appreciation that the joint prime sponsors have continued the work that former Representative Richard Halford began in 2001. He opined that extending the age requirement of the youth member to 20 will be helpful, because the time in a young person's life when he/she is just out of high school can present choices that can be overwhelming and lead to despair. He mentioned there are many military bases in Alaska, and indicated that the addition of language in Version B to include the military is a good idea.

[8:42:06 AM](#)

REPRESENTATIVE WILSON moved to report the proposed committee substitute (CS), Version 27-LS0154\B, Bullard, 1/22/11, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 21(STA) was reported out of the House State Affairs Standing Committee.

**HB 14-EXEC ETHICS: LEGAL FEES/FAMILY TRAVEL**

[8:42:42 AM](#)

CHAIR LYNN announced that the last order of business was HOUSE BILL NO. 14, "An Act authorizing state agencies to pay private legal fees and costs incurred by persons exonerated of alleged Alaska Executive Branch Ethics Act violations; allowing certain public officers and former public officers to accept state payments to offset private legal fees and costs related to defending against an Alaska Executive Branch Ethics Act complaint; and creating certain exceptions to Alaska Executive Branch Ethics Act limitations on the use of state resources to provide or pay for transportation of spouses and children of the governor and the lieutenant governor."

[8:43:02 AM](#)

GRETCHEN STAFT, Staff, Representative Max Gruenberg, Alaska State Legislature, presented HB 14 on behalf of Representative Gruenberg, sponsor. She stated that HB 14 would put in statute the attorney general's proposed regulations [establishing standards regarding legal fees resulting from ethics violation accusations and payment of travel expenses for families of the lieutenant governor and governor]. She said the proposed legislation would address "the appearance of impropriety" related to the executive branch creating its own regulations.

MS. STAFT offered a sectional analysis of HB 14. She noted that on page 2, line 10, there is a stylistic change from "partisan political purposes" to "partisan political purpose". Also in Section 1, the definition of partisan political purposes is deleted from page 2, lines 14-23. Ms. Staft pointed out that in Section 2, on page 2, line 25, there is a change that conforms with that in Section 1, such that "partisan political purposes" is changed to "partisan political purpose". Ms. Staft related that Section 3 addresses the issue of resources used for transporting the spouse or child of a governor or lieutenant governor. She said the attorney general defines a "child" as a minor, while HB 14 defines "child" [on page 3, lines 7-10, which read as follows]:

a biological child, an adoptive child, or a stepchild of the governor or lieutenant governor and is under 19 years of age or, without regard to age, is dependent on the governor or lieutenant governor for care because of a physical or mental disability.

MS. STAFT stated that under HB 14, state resources could be used by the governor or lieutenant governor to pay for family travel in two ways. First, the governor or lieutenant governor could travel with the family member and subsequently reimburse the state. Second, the governor or lieutenant governor would be able to use state funds toward a family member's travel expenses if that travel expense is seen to be; and if the attendance of the person is of benefit to the state. The situations in which the latter would be considered are enumerated on page 3, lines 15-29.

[8:48:54 AM](#)

MS. STAFT directed attention to Section 4, regarding ethics violations, and said under HB 14, the state would be authorized to reimburse a state employee who was recused after being charged with an ethics violation. Currently the state can pay

the ongoing fees before the employee is exonerated. She said the sponsor thinks that it is a better idea to wait until the person is exonerated before the state puts forth those fees. She said the funds could only be put forward by a state agency that may lawfully put forth that payment. Ms. Staff then related that Section 4 also contains definitions for "exonerated" and "fees and costs of private legal representation", beginning on page 4, line 22, through page 5, line 3. She drew attention to Section 5, on page 5, lines 6-8, which shows that the bill, if adopted, would not be retroactive.

[8:51:57 AM](#)

MS. STAFT, in response to a question from Chair Lynn, said she does not know the cost of an ethics violation for which the alleged offender is later exonerated. She offered to find out, but also deferred to Judy Bockmon, an assistant attorney general with the Department of Law.

[8:53:16 AM](#)

MS. STAFT, in response to questions from Representative Seaton regarding the details behind exoneration, offered her understanding that the attorneys for the employee would have to keep detailed records of "hourly expenditures on each issue." Therefore, if three ethics claims were brought against a person and two of those claims were dismissed, then that person could recover whatever legal fees and costs were incurred as a result of the two exonerated claims brought against him/her. She said the onus would be on the employee and his legal council to identify the purpose of the fees and to show when those fees were incurred.

REPRESENTATIVE SEATON said he does not think the wording in bill makes that clear. He requested more details from the sponsor.

[8:56:00 AM](#)

MS. STAFT, in response to Chair Lynn, said she is not aware of any discussion having taken place regarding the possibility of requiring reimbursement from a complainant when an ethics violation claim does not result in an ethics violation. She said she would ask the sponsor about that issue.

[8:58:11 AM](#)

REPRESENTATIVE KELLER observed that the bill does not seem to address the issue of excessive accusations, and he asked if the sponsor predicts an increase in accusations in the future. He explained that he is curious why the bill is being brought forward. He directed attention to page 4, beginning line 22, to the definition of "exonerated". He opined that this sentence seems to give too much power to the courts to give corrective action that would undo intent. He said he would like feedback from the sponsor on that issue.

[9:00:30 AM](#)

MS. STAFT said she will speak to the sponsor about that. In response to another question, she offered her understanding that the statutes listed in the bill are the only ones tied to the proposed legislation.

[9:01:42 AM](#)

REPRESENTATIVE P. WILSON, regarding the reimbursement of "fair market value of the person's transportation", observed that the cost of a seat on a commercial airline would be easy to calculate, while it would not cost any more for the governor, for example, to bring one or two family members with him on a state-owned plane.

CHAIR LYNN added that that same idea may apply to travel on military aircraft to a military function.

[9:02:49 AM](#)

MS. STAFT offered her understanding that such scenarios would be covered under HB 14, and she said she would confirm that for the committee at a future meeting.

[9:04:51 AM](#)

MS. STAFT, in response to a question from Representative Keller, confirmed that the only regulatory change proposed in Section 3 is the definition of child, and that the purpose is to eliminate the appearance of impropriety.

[9:06:43 AM](#)

MS. STAFT, in response to a question from Representative Seaton regarding the term "necessarily incurred" on page 4, line 31, said there would be an inquiry into whether a fee or cost was

necessarily incurred. She stated, "The burden would be on the employee and legal council to prove that, but basically we're looking at industry standards."

REPRESENTATIVE SEATON requested the sponsor get a legal opinion to accompany the bill packet.

[9:08:21 AM](#)

JUDY BOCKMON, Assistant Attorney General, State Ethics Attorney, Opinions, Appeals, & Ethics, Civil Division (Anchorage), Department of Law (DOL), echoed Ms. Staff's comments that currently there are regulations in place regarding the two topics covered in HB 14. She said the difference is that the bill addresses statute, whereas regulations are "setting standards to interpret the act." Regarding Chair Lynn's previous query as to how much money the state has spent in defending ethics complaints regarding the governor, she said she does not know. She noted that former Governor Sarah Palin "has defended herself." She said there have not been other instances where council has been hired for another governor or a lieutenant governor or other state officer other than in one circumstance in the last couple years, and in that situation the person was not exonerated. She added that the administration has, through its risk management system, done some representation of state officers; however, she indicated she does not know if any of that was done under the Ethics Act. She said Governor Palin's situation aside, during the last ten years, "the number of cases in which there has been defense council ... has been relatively small."

[9:11:24 AM](#)

MS. BOCKMON, in response to a prior question from Representative Seaton regarding apportionment of a claim, said regulation requires that the public officer provide clear documentation that the expenses were limited to the violation for which the officer was exonerated. Regarding the term "necessarily incurred", she said there is a practice of review in a court system for attorneys' fees requests. She continued as follows:

In addition to the comment regarding ... clear evidence that it relates to the exonerated claim, we extended our regulation on ... reasonable expenses necessarily incurred ... to include evaluation of complexity, the rate charge, the hours extended, the relationship between the amount of work performed and

the significance of the claim, and several ... other relevant factors depending on the circumstance. So, I think that ... what is certainly contemplated is that when a person makes a claim for reimbursement or payment of their attorney's fees, the request will be examined for reasonableness to ensure that these were necessarily incurred in the language of the [regulations] and the proposed statute, and that ... if it's a situation where there are multiple claims and there's a basis for separating out claims on which a representative's been exonerated from perhaps another violation, we'll be able to do so.

[9:13:55 AM](#)

MS. BOCKMON, regarding Representative Keller's previous question about corrective action, referred to the language in the bill addressing dismissals [in Section 4, subparagraph (A)] and the statutes listed there. She indicated that [AS 39.52.310(d)] addresses the initial review stage, [AS 39.52.320] addresses dismissal for finding no probable cause after an investigation, and [AS 39.52.370(d)] addresses dismissal after public hearing by the board. She mentioned [AS 39.52.370(f), in subparagraph (B), which addresses dismissals following an appeal], and [AS 39.52.330, in subparagraph (C), which addresses an allegation "resolved solely with a recommendation for preventive action"]. Ms. Bockmon continued as follows:

And so, the definition of exonerated is intended - both in the regulations and in Representative Gruenberg's bill - to cover all of those situations in which we could ... end up with something other than simply a clean dismissal and finding of no ... violation. And the contemplation would be [that] these would not be available in any situation where the matter was not cleanly dismissed. That is if we come to terms to settle on some corrective action - which is what most often happens when there is a violation - that would not mean exoneration, even though a person may not admit to a violation.

[9:16:45 AM](#)

MS. BOCKMON, in response to Chair Lynn, said the department has not looked at [recovering fees from the complainant if there is an exoneration], and she said she did not know if it would be possible to do so under current statute.

[9:18:21 AM](#)

REPRESENTATIVE SEATON recalled a past bill that proposed a \$5,000 fine if a filed ethics complaint was later dismissed. He stated that the issue is whether the public would be discouraged to file for fear of a potential huge bill if the ethics complaint is found in favor of the defendant.

[9:19:54 AM](#)

REPRESENTATIVE PETERSEN pointed out that in a situation in which a person or group has filed a complaint that turns out to be valid, that person or group has often put forth a lot of money and is not reimbursed. He said the bill does not address that issue.

[9:20:35 AM](#)

MS. BOCKMON, regarding Representative Wilson's previous question as to travel expenses for family members of the governor or lieutenant governor, noted that an opinion was prepared in 2004 or 2005 that suggested that it was inappropriate for the person involved to be traveling on the state's aircraft at the state's expense for other than state business. She said the consideration is of benefits, not just cost.

[9:22:43 AM](#)

CHAIR LYNN announced that HB 14 would be held over.

[9:23:40 AM](#)

**ADJOURNMENT**

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:24 a.m.