

**ALASKA STATE LEGISLATURE**  
**SENATE JUDICIARY STANDING COMMITTEE**

February 2, 2011

1:31 p.m.

**MEMBERS PRESENT**

Senator Hollis French, Chair  
Senator Bill Wielechowski, Vice Chair  
Senator Joe Paskvan  
Senator Lesil McGuire

**MEMBERS ABSENT**

Senator John Coghill

**COMMITTEE CALENDAR**

SENATE BILL NO. 31

"An Act relating to the counting of write-in votes."

- MOVED CSSB 31(JUD) OUT OF COMMITTEE

SENATE BILL NO. 33

"An Act relating to the disposition of remains of a member of the military if the member dies while in a duty status."

- MOVED CSSB 33(STA) OUT OF COMMITTEE

SENATE BILL NO. 58

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

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 31

SHORT TITLE: COUNTING OF WRITE-IN VOTES

SPONSOR(S): SENATOR(S) THOMAS, FRENCH, MENARD, WIELECHOWSKI

01/19/11	(S)	PREFILE RELEASED 1/7/11
01/19/11	(S)	READ THE FIRST TIME - REFERRALS
01/19/11	(S)	STA, JUD
01/25/11	(S)	STA AT 9:00 AM BUTROVICH 205
01/25/11	(S)	Heard & Held

01/25/11 (S) MINUTE(STA)  
01/27/11 (S) STA AT 9:00 AM BUTROVICH 205  
01/27/11 (S) Moved CSSB 31(STA) Out of Committee  
01/27/11 (S) MINUTE(STA)  
01/28/11 (S) STA RPT CS 5DP NEW TITLE  
01/28/11 (S) DP: WIELECHOWSKI, KOOKESH, PASKVAN,  
MEYER, GIESSEL  
01/31/11 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
01/31/11 (S) Heard & Held  
01/31/11 (S) MINUTE(JUD)  
02/02/11 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 33

SHORT TITLE: DISPOSITION OF SERVICE MEMBERS' REMAINS  
SPONSOR(s): SENATOR(s) WIELECHOWSKI, PASKVAN, COGHILL

01/19/11 (S) PREFILE RELEASED 1/14/11  
01/19/11 (S) READ THE FIRST TIME - REFERRALS  
01/19/11 (S) STA, JUD  
01/25/11 (S) STA AT 9:00 AM BUTROVICH 205  
01/25/11 (S) Heard & Held  
01/25/11 (S) MINUTE(STA)  
01/27/11 (S) STA AT 9:00 AM BUTROVICH 205  
01/27/11 (S) Moved CSSB 33(STA) Out of Committee  
01/27/11 (S) MINUTE(STA)  
01/28/11 (S) STA RPT CS 5DP NEW TITLE  
01/28/11 (S) DP: WIELECHOWSKI, KOOKESH, PASKVAN,  
MEYER, GIESSEL  
01/31/11 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
01/31/11 (S) Heard & Held  
01/31/11 (S) MINUTE(JUD)  
02/02/11 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 58

SHORT TITLE: INCREASING NUMBER OF SUPERIOR CT JUDGES  
SPONSOR(s): RULES BY REQUEST

01/21/11 (S) READ THE FIRST TIME - REFERRALS  
01/21/11 (S) JUD, FIN  
02/02/11 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

DOUG WOOLIVER, Administrative Attorney  
Alaska Court System  
Anchorage, AK

**POSITION STATEMENT:** Presented SB 58.

QUINLAN STEINER, Director  
Public Defender Agency  
Department of Administration  
Anchorage, AK

**POSITION STATEMENT:** Provided information related to SB 58.

RACHEL LEVITT, Director  
Office of Public Advocacy  
Department of Administration  
Anchorage, AK

**POSITION STATEMENT:** Provided information related to SB 58.

#### **ACTION NARRATIVE**

[1:31:59 PM](#)

CHAIR HOLLIS FRENCH called the Senate Judiciary Standing Committee meeting to order at 1:31 p.m. Senators Paskvan, Wielechowski, McGuire, and French were present at the call to order. Senator Coghill was unable to attend due to a scheduling conflict.

#### **SB 31-COUNTING OF WRITE-IN VOTES**

[1:32:34 PM](#)

CHAIR FRENCH announced the consideration of SB 31. [The bill was heard previously and public testimony was taken.] Finding no one who wanted to testify, Senator French closed public testimony. He noted that Alpheus Bullard sent a memo responding to the following questions that were raised during the previous hearing:

- 1) The reasons that abbreviations are included along with misspellings and other minor variations.
- 2) The function of the committee substitute's Sec. 15.15.365(b)
- 3) The reason that the phrase "as appears on the write-in declaration of candidacy" was retained in the committee substitute's Sec. 15.15.360(d)(3) and (4).
- 4) Whether or not a write-in candidate running for the office of governor can run without an accompanying write-in candidate for lieutenant governor.

[A copy of the memo may be found in the bill file.]

[1:34:20 PM](#)

SENATOR WIELECHOWSKI moved to report CS for SB 31, labeled 27-LS0350\E, from committee with individual recommendations and attached fiscal note(s). There being no objection, CSSB 31(JUD) moved from the Senate Judiciary Standing Committee.

At ease from 1:34 p.m. to 1:35 p.m.

**SB 33-DISPOSITION OF SERVICE MEMBERS' REMAINS**

[1:35:59 PM](#)

CHAIR FRENCH announced the consideration of SB 33. The bill was heard previously and public testimony was closed. [CSSB 33(STA) was before the committee.] Senator French asked the sponsor if he had heard from anyone who opposes the bill.

SENATOR WIELECHOWSKI answered no.

[1:36:46 PM](#)

SENATOR WIELECHOWSKI moved to report CS for SB 33 from committee with individual recommendations and attached fiscal note(s). There being no objection, CSSB 33(STA), labeled 27-LS0188\D, moved from the Senate Judiciary Standing Committee.

At ease from 1:37 p.m. to 1:38 p.m.

**SB 58-INCREASING NUMBER OF SUPERIOR CT JUDGES**

CHAIR FRENCH announced the consideration of SB 58 relating to adding two superior court judges in Anchorage.

[1:38:37 PM](#)

DOUG WOOLIVER, Administrative Attorney, Alaska Court System, stated that the court is asking for two additional superior court judges in Anchorage. The request last year for one additional judge was unsuccessful. In part this request reflects the increase in case load in Anchorage since last year, but more so the request is generated by the work associated with two types of cases in particular.

The first are the child-in-need-of-aid (CINA) cases. Over the last several years superior court judges in Anchorage have been spending more time on CINA cases doing work that was previously done by standing masters. This was better for the families, but the cases still bounced back and forth between the standing master and superior court judge depending on whether or not an issue was contested.

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Under the new model the standing master takes the case initially, but once an issue is contested the file moves permanently to a particular superior court judge. That judge then has that file for the life of the case. Everyone associated with these cases agrees that they get to know the family better under this model and the family is therefore better served. He noted that some families come back more than once in CINA cases and now they'll always have the same superior court judge. This creates a better dynamic and is a more humane way to treat the family. However, this means that a lot of the work that was done by a standing master is now done by a sitting superior court judge. So even though the CINA case load hasn't increased, the amount of time judges spend on those cases has increased.

Another important change in CINA cases is that judges are starting to have status hearings using the therapeutic court model, which means the family comes before the court much more frequently. He further explained that sometimes the list of things the parent needs to do to get their child back is long; under the old system, the judge gave the parent a list and then the judge didn't see the parent for months. The new model sets out important jobs for the parents during the first two weeks, which leads to more oversight and greater success.

[1:44:31 PM](#)

MR. WOOLIVER also explained the therapeutic court model has taught the judiciary that if you can bring people back to court more regularly, with smaller goals each time, you will be more successful. CINA cases also have federal government timelines, and if the parents don't make enough progress within a certain amount of time, the state is required to proceed with termination of their parental rights. But, he noted, this timeline should not be a race; the goal of the CINA statutes is family reunification. This model is a better way to get there. But it means more hearings and more judicial time.

[1:45:12 PM](#)

The second area that is affecting superior court workloads is domestic relations cases where the litigant is unrepresented. He noted that while the number of CINA cases isn't increasing, the number of domestic relation has increased this year over last. In these cases at least one party doesn't have an attorney over half the time and neither party has an attorney about thirty-eight percent of the time. For a number of reasons having no attorneys in a divorce case creates more work for the judge.

[1:46:31 PM](#)

MR. WOOLIVER stated that some states have taken the approach of avoiding this problem by making it difficult or impossible to get to court without an attorney, but Alaska has taken the approach of making the courts as accessible as possible. There is a family law self-help center, which has been tremendously successful; however, because of this, superior court judges now handle a lot of domestic relations cases where the litigants are unrepresented.

[1:47:47 PM](#)

Asking for more judges, he said, isn't the only way to address this problem. He mentioned the new pro se settlement project the court just started, that they are looking for federal mediation money to help with the high conflict custody cases, and that they have hired staff to help figure out child support awards for pro se litigants. He explained that they are asking for more judges at the same time that they're trying these other avenues, but there are still many things that only a superior court judge can do, which makes the workload in Anchorage unsustainable.

[1:49:15 PM](#)

SENATOR PASKVAN asked if in CINA cases one judge sees all the children in a particular family, even when they're years apart.

MR. WOOLIVER responded yes, those families keep coming back under the same case numbers, and as long as the same judge is there that judge will hear those cases.

SENATOR PASKVAN asked if there is a procedure for a family trying to disqualify the judge.

MR. WOOLIVER replied he would need to check to see if coming back to court with another case in the same family would restart the clock for a preemptory challenge.

SENATOR PASKVAN said he agrees that it's better if the judge is familiar with the family.

MR. WOOLIVER restated that he would research the issue.

[1:51:17 PM](#)

SENATOR MCGUIRE observed that Mr. Wooliver's argument is compelling and then asked about the gender balance on the court. To what end have there been discussions, and is the court looking at what other states are doing to get more women to apply, she asked.

[1:53:32 PM](#)

MR. WOOLIVER offered to find out, and noted that Justice Fabe does a lot of work on womens' issues.

SENATOR MCGUIRE noted that over 70 percent of court staff are women who are in their baby-making years, and child care is a problem. She would like to be a partner with the court system in coming up with creative ideas to help recruit and retain women on the bench.

CHAIR FRENCH thanked Senator McGuire for bringing up those ideas and noted that of the 24 sitting Anchorage superior court judges, just one is female.

[1:57:03 PM](#)

CHAIR FRENCH observed that last year the court asked for one additional judge, which did not happen, and now it is asking for two. He asked if the request for one more judge in Anchorage will be an annual request.

MR. WOOLIVER responded he doesn't anticipate doing that; the last time judges were added in Anchorage was in 2006.

CHAIR FRENCH asked if all the superior court judges in Anchorage are operating out of the Nesbitt Court House.

MR. WOOLIVER said he isn't sure because they're in the process of remodeling and so are in transition.

[1:58:42 PM](#)

SENATOR PASKVAN asked if there has been any analysis of having family law matters such as divorce without children handled by district court judges, leaving superior court judges to handle the more significant civil issues and felony criminal issues.

MR. WOOLIVER replied not that he was aware of, but the family law cases are the bulk of what superior court judges currently do.

SENATOR PASKVAN noted that the highest paid and smartest judges generally sit at the superior court level and he questions allocating their time to dividing assets in divorce cases.

MR. WOOLIVER responded that is also a large chunk of the supreme court cases, since everyone has the right to appeal and many do.

[2:01:00 PM](#)

SENATOR PASKVAN stated that would be another reason to have divorce cases heard in district court, since they would then have a mandatory right of appeal to superior court, but not to the supreme court.

[2:01:25 PM](#)

SENATOR WIELECHOWSKI stated agreement and noted that some states have a family court division, which is worth exploring for Alaska.

MR. WOOLIVER offered to see if the court has considered that in the past.

CHAIR FRENCH said he clerked in the superior court and the difference between civil disputes and family law cases was striking. Family law cases were emotional and time-intensive, whereas civil cases frequently turned on technical matters of law. Clearly, he said, the committee is interested in knowing if additional judges are needed in order to handle family law cases.

CHAIR FRENCH questioned why there are fiscal notes from the probation office and the public defender when the bill adds civil court judges.

[2:04:04 PM](#)

QUINLAN STEINER, Director, Public Defender Agency, Department of Administration (DOA), explained that their civil division handles CINA cases and the addition of two judges scheduling these matters would require the agency to put more attorneys before those judges. Even though the CINA case load isn't increasing, they would not be able to meet the workload without the resources, he stated.

[2:04:49 PM](#)

CHAIR FRENCH asked Ms. Levitt if she had a similar answer.

RACHEL LEVITT, Director, Office of Public Advocacy (OPA), Department of Administration, said they would be in a similar position, since they provide parental representation in CINA cases when the Public Defender Agency has a conflict of interest.

SENATOR PASKVAN calculated that the fiscal note shows \$475,000 per judge per year, including all costs and said he believes

that in divorce cases with no children or assets the state has a better use for those superior court judges.

MR. WOOLIVER offered to look at other ways of handling family law matters.

CHAIR FRENCH closed public testimony and announced he would hold SB 58 in committee.

[2:06:38 PM](#)

SENATOR WIELECHOWSKI noted that the state does have an obligation to process family law cases in a timely manner and he would be interested in looking at alternative solutions that are more efficient. He asked if Mr. Wooliver could get back to the committee within the next few weeks.

SENATOR MCGUIRE noted that Oregon requires mediation before getting a divorce. The benefit to the families is that the judges in that unit become highly trained in family law. She also noted that training for family law judges does not exist and there may be individuals in the community that look at family law cases as an opportunity rather than a burden.

[2:10:57 PM](#)

CHAIR FRENCH said that Mr. Wooliver is correct; most judges don't pine for these cases. But it could be helpful if during the judicial selection process they recruited specifically for a family law judge, this.

SENATOR PASKVAN observed that there is a mind-set for each area; for instance, some people can deal with divorce but not with criminal cases.

[2:12:48 PM](#)

CHAIR FRENCH announced he would hold SB 58 in committee.

[2:12:52 PM](#)

There being no further business to come before the committee, Chair French adjourned the Senate Judiciary Standing Committee hearing at 2:12 p.m.