

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

March 21, 2014

1:34 p.m.

MEMBERS PRESENT

Senator John Coghill, Chair
Senator Lesil McGuire, Vice Chair
Senator Fred Dyson
Senator Bill Wielechowski

MEMBERS ABSENT

Senator Donald Olson

COMMITTEE CALENDAR

CONFIRMATION HEARINGS

Board of Governors of the Alaska Bar
William Granger - Anchorage

- CONFIRMATION ADVANCED

Commission on Judicial Conduct
Marc June - Anchorage

- CONFIRMATION ADVANCED

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 292(JUD)

"An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

- MOVED CSHB 292(JUD) OUT OF COMMITTEE

SENATE BILL NO. 170

"An Act relating to a defense to the crime of prostitution for victims of sex trafficking."

- MOVED SB 170 OUT OF COMMITTEE

SENATE BILL NO. 176

"An Act relating to the regulation of firearms and knives by the University of Alaska."

- MOVED CSSB 176(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 292

SHORT TITLE: 2014 REVISOR'S BILL

SPONSOR(s): RULES BY REQUEST OF LEGISLATIVE COUNCIL

02/03/14 (H) READ THE FIRST TIME - REFERRALS
02/03/14 (H) JUD
02/10/14 (H) JUD AT 1:00 PM CAPITOL 120
02/10/14 (H) Moved CSHB 292(JUD) Out of Committee
02/10/14 (H) MINUTE(JUD)
02/12/14 (H) JUD RPT CS(JUD) 5DP
02/12/14 (H) DP: LEDOUX, FOSTER, LYNN, GRUENBERG,
KELLER
02/17/14 (H) TRANSMITTED TO (S)
02/17/14 (H) VERSION: CSHB 292(JUD)
02/18/14 (S) READ THE FIRST TIME - REFERRALS
02/18/14 (S) JUD
03/19/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/19/14 (S) Scheduled But Not Heard

BILL: SB 170

SHORT TITLE: AFFIRMATIVE DEFENSE TO PROSTITUTION

SPONSOR(s): GARDNER

02/12/14 (S) READ THE FIRST TIME - REFERRALS
02/12/14 (S) JUD
03/14/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/14/14 (S) -- MEETING CANCELED --
03/17/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/17/14 (S) Heard & Held
03/17/14 (S) MINUTE(JUD)

BILL: SB 176

SHORT TITLE: REG. OF FIREARMS/KNIVES BY UNIVERSITY

SPONSOR(s): COGHILL

02/14/14 (S) READ THE FIRST TIME - REFERRALS
02/14/14 (S) JUD
03/03/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/03/14 (S) Heard & Held
03/03/14 (S) MINUTE(JUD)
03/05/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/05/14 (S) Heard & Held
03/05/14 (S) MINUTE(JUD)

03/10/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/10/14 (S) Heard & Held
 03/10/14 (S) MINUTE(JUD)
 03/14/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/14/14 (S) -- MEETING CANCELED --
 03/17/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/17/14 (S) Heard & Held
 03/17/14 (S) MINUTE(JUD)
 03/19/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/19/14 (S) Heard & Held
 03/19/14 (S) MINUTE(JUD)

WITNESS REGISTER

WILLIAM A. GRANGER, Appointee
 Board of Governors of the Alaska Bar
 Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Board of Governors of the Alaska Bar.

MARC W. JUNE, Appointee
 Commission on Judicial Conduct
 Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Commission on Judicial Conduct.

LISA KIRSCH, Assistant Revisor of Statutes
 Legal Services
 Legislative Affairs Agency
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Introduced HB 292.

SENATOR BERTA GARDNER
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 170.

STEVEN HANDY, Staff
 Senator Berta Gardner
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Provided supporting testimony on SB 170.

KELLY HOWELL, Legislative Liaison
 Office of the Commissioner
 Department of Public Safety (DPS)

Juneau, Alaska

POSITION STATEMENT: Described the current DPS training program on human trafficking and sex trafficking.

JARMYN KRAMLICH, President

UAS Student Government

Juneau, Alaska

POSITION STATEMENT: Testified in opposition to SB 176.

JESSICA DOMINY, Vice-President

UAS Student Government

POSITION STATEMENT: Testified in opposition to SB 176.

RUSSELL KELL, representing himself

Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 176.

MIKE COONS, representing himself

Palmer, Alaska

POSITION STATEMENT: Testified in support of the original version of SB 176.

ROBERT CLIFT, representing himself

Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 176.

MICHAEL CHAMBERS, Chair, Alaska Libertarian Party

Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 176.

BARBARA J. STRUBLE, representing herself

Anchorage, Alaska

POSITION STATEMENT: Asked the committee to pass SB 176 in its original form.

MARK FISH, representing himself

Big Lake, Alaska

POSITION STATEMENT: Asked the committee to pass SB 176 in its original form.

HANS RODVIK, Intern

Senator John Coghill

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Countered some of the concerns that have been raised in testimony on SB 176.

CHAD HUTCHISON, Staff
Senator John Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Described CS for SB 176, Version Y, as the least restrictive alternative and a fair balance of the elements.

ACTION NARRATIVE

[1:34:19 PM](#)

CHAIR JOHN COGHILL called the Senate Judiciary Standing Committee meeting to order at 1:34 p.m. Present at the call to order were Senators Dyson, Wielechowski, and Chair Coghill. Senator McGuire arrived during the course of the meeting.

CONFIRMATION HEARINGS

[1:35:29 PM](#)

CHAIR COGHILL announced the first order of business would be confirmation hearings. He asked Mr. June why he wants to serve and his history.

[1:35:45 PM](#)

MARC W. JUNE, Appointee, Commission on Judicial Conduct, Anchorage, Alaska, said this is an important oversight commission regarding the conduct of members of the judiciary. This body addresses complaints about the actions of judges and ensures that there is a strong, ethical judiciary. He said he looks forward to serving. He provided his professional credentials as a lawyer and with the Alaska Bar Association. He concluded that service on the Commission is another avenue of public service.

CHAIR COGHILL thanked Mr. June for his service. He asked what legislators ought to know about the ethics laws that relate to the judiciary.

[1:38:33 PM](#)

MR. JUNE explained there is a canon on judicial conduct that lays out the rules. He shared an example of a Bethel judge who was found to be biased in cases and was suspended.

SENATOR DYSON asked if any judges from Alaska were found to be "on the take."

MR. JUNE said he didn't recall any judge who was cited for bribery. He added that there is a system in place for judges to recuse themselves when appropriate.

[1:40:55 PM](#)

SENATOR DYSON asked for the restrictions on what judges or their supporters can do when advocating for retention.

MR. JUNE replied he didn't know the applicable rules regarding the retention of sitting judges. He said he has seen judges respond to ads requesting their non-retention.

CHAIR COGHILL asked how the commission receives a challenge to a judge on their conduct.

MR. JUNE said any member of the public can make a complaint about a judge. The complaint goes through a process to determine whether or not it will go forward.

[1:44:03 PM](#)

CHAIR COGHILL asked if there is a gatekeeper.

MR. JUNE said the executive director sees the complaint first, but does not act unsupervised.

[1:45:07 PM](#)

SENATOR MCGUIRE joined the committee.

CHAIR COGHILL thanked Mr. June for being willing to serve.

CHAIR COGHILL asked Mr. Granger to tell the committee his interest in serving and what he expects to do as an appointee.

[1:46:51 PM](#)

WILLIAM A. GRANGER, Appointee, Board of Governors of the Alaska Bar, Anchorage, Alaska, said he's a life-long Alaskan and a banker by profession. As a banker he's had considerable contact with attorneys and has enjoyed that interaction. He guessed this would be his fourth appointment to the Board of Governors of the Alaska Bar and that he is probably the longest serving in the history of the Board. He said he feels fortunate to have that institutional knowledge to share with other members of the Board. The most important aspect personally is the opportunity for public service.

[1:52:01 PM](#)

CHAIR COGHILL asked what some of the ethical issues are that differ from what the general public would expect.

MR. GRANGER replied some issues might be lawyers out of trust, neglecting their clients, not respecting Bar Association rules, and grievances with clients over fees.

[1:53:34 PM](#)

SENATOR DYSON asked if a lawyer approaches the line on ethics when he/she misrepresents a client's spouse.

MR. GRANGER replied a nonfactual representation would be an ethics violation and something the Bar Association would be interested in looking into.

[1:56:44 PM](#)

CHAIR COGHILL asked if there was any objection to forwarding the names Marc June and Bill Granger to the full legislature for consideration.

SENATOR WIELECHOWSKI disclosed he is a member of the Alaska Bar Association.

[1:57:19 PM](#)

At Ease

HB 292-2014 REVISOR'S BILL

[1:58:12 PM](#)

CHAIR COGHILL announced the consideration of HB 292. [CSHB 292(JUD) was before the committee.]

[1:58:21 PM](#)

LISA KIRSCH, Assistant Revisor of Statutes, Legal Services, Legislative Affairs Agency, Alaska State Legislature, Juneau, Alaska, said the purpose of the Revisor's Bill is to improve the form of the statutes - to clean up the statutes. It does not change any policy. The Attorney General's Office has reviewed the bill and has no objections to it.

MS. KIRSCH reviewed several highlights of HB 292. A few references have been changed. The words "adoptive child" were changed to "adopted child." There are new names for a federal bureau, there is a boiler code name change, several instances of "but not limited to" were removed, a typo for "stimulate" was fixed, and obsolete terms were corrected. She stated that the bill is policy neutral.

[2:01:31 PM](#)

CHAIR COGHILL referenced Section 11 and asked if the U.S. code was changed.

MS. KIRSCH said the site changed; the code is the same.

SENATOR DYSON expressed a desire to meet and discuss with the director about obsolete provisions.

CHAIR COGHILL solicited a motion.

[2:03:29 PM](#)

SENATOR DYSON moved to report CSHB 292, Version O, from committee with individual recommendations and attached fiscal note(s).

CHAIR COGHILL announced that without objection, CSHB 292(JUD) moved from the Senate Judiciary Standing Committee.

[2:04:23 PM](#)

At Ease

SB 170-AFFIRMATIVE DEFENSE TO PROSTITUTION

CHAIR COGHILL reconvened the meeting and announced the consideration of SB 170. "An Act relating to a defense to the crime of prostitution for victims of sex trafficking." He said it was the second hearing on the bill and several questions were awaiting answers.

[2:06:24 PM](#)

SENATOR BERTA GARDNER, Alaska State Legislature, Juneau, Alaska, sponsor of SB 170, clarified that this is a trafficking bill, not a prostitute bill. She addressed the questions and suggestions from previous testimony. She emphasized that this bill is a first step and should remain uncontroversial.

CHAIR COGHILL said a more comprehensive approach may be preferable, but this bill has a chance of passing this year.

[2:08:00 PM](#)

STEVEN HANDY, Staff, Senator Berta Gardner, Alaska State Legislature, said the suggestions that were proffered during the last hearing were well-intended. However, the goal of this effort is to get to the traffickers who are ruining lives. He noted the resources for enforcement of the bill are already in

place. Training for law enforcement and access to service providers for victims of sex trafficking are in place and the bill is a strong link between those two. He thanked the committee for its efforts on the bill.

SENATOR GARDNER noted that a representative from the Department of Public Safety was available to discuss training.

2:10:07 PM

KELLY HOWELL, Legislative Liaison, Department of Public Safety (DPS), explained that DPS currently provides training on human trafficking and sex trafficking at the Public Safety Training Academy for new police recruits and in regional trainings for existing officers. The training covers identification and investigation of sex trafficking crimes, as well as understanding the dynamics of the crime and how people become victims. She stated that DPS believes that this current training adequately differentiates between someone who is actively engaging in prostitution and someone who is a victim of sex trafficking.

CHAIR COGHILL asked if this would be another descriptive element in the training.

MS. HOWELL answered yes.

CHAIR COGHILL observed that the bill wouldn't have a large fiscal impact.

He thanked the sponsor and asked about her expectations of the bill moving forward.

SENATOR GARDNER replied that the people who testified during the first hearing of the bill raised interesting questions. One was that if a person is charged with prostitution, they are listed on CourtView even before they've had a trial. There is also a question of people who have a previous history and if there should be retroactive expungement of that record. The other issue is there are a series of crimes that are associated with trafficking a victim might be coerced into committing, such as shoplifting. The problem is to determine which crimes are a result of trafficking and which are not.

2:14:22 PM

SENATOR DYSON said trafficking under Alaska law doesn't mean transporting. He asked if "induced" includes: getting hooked on

drugs, threats of deportment, threats against family members, and building dependency.

SENATOR GARDNER agreed. She noted that some people many choose of their own volition to become involved in commercial sex trade, but the bill addresses people who have been induced in a variety of ways and where someone else benefits.

SENATOR DYSON clarified that getting someone hooked on drugs in order to get them to work in the sex trade is a part of what "induced" means.

SENATOR GARDNER said it is her understanding that very often that is the case.

SENATOR DYSON requested that Senator Gardner state that it is her intention that inducements, such as intentional addiction, are "positive defenses" because the victim was not acting of her own free will.

SENATOR GARDNER agreed that is her intention.

[2:16:55 PM](#)

CHAIR COGHILL said the intent is to make an affirmative defense.

SENATOR GARDNER thanked the committee. She said this legislation is a start and a way to better understand this multi-level problem.

CHAIR COGHILL asked for the will of the committee.

[2:17:52 PM](#)

SENATOR DYSON moved to report SB 170 from committee with individual recommendations and attached zero fiscal note(s).

CHAIR COGHILL announced that without objection SB 170 moved from the Senate Judiciary Standing Committee.

[2:18:26 PM](#)

At Ease

SB 176-REG. OF FIREARMS/KNIVES BY UNIVERSITY

[2:19:51 PM](#)

CHAIR COGHILL reconvened the meeting and announced the consideration of SB 176. "An Act relating to the regulation of

firearms and knives by the University of Alaska." He invited public testimony.

[2:20:21 PM](#)

JARMYN KRAMLICH President, UAS Student Body Government, Juneau, Alaska, testified in opposition to SB 176. He reported that students at the Juneau campus feel that SB 176 will have unintended consequences that will interfere with the main purpose of the University of Alaska. Students voiced concern for their safety and that the Board of Regents would not be able to enact policies in the best interest of students.

[2:22:53 PM](#)

JESSICA DOMINY, Vice-President, UAS Student Government, Juneau, Alaska, testified in opposition to SB 176. She shared that fellow students from rural areas are very comfortable around firearms, but don't understand why they should be on the college campus. She questioned what accommodations would be made for high school and elementary students who are frequently on campus. She urged the committee not to pass the legislation.

SENATOR DYSON said our form of government provides that rights should only be restricted if there is a compelling public reason. He questioned whether there is a compelling reason in this instance and then if it extends to first amendment and fourth amendment rights. He further questioned whether feelings should govern the restriction of rights, particularly freedom of speech.

MR. KRAMLICH replied that the issue is that students don't feel concealed weapons have any place in the classroom.

[2:29:04 PM](#)

RUSSELL KELL, representing himself, Anchorage, Alaska, testified in support of SB 176. He said people are safest when they can defend themselves. He questioned why millions of dollars should be spent on an institution that ignores rights.

[2:31:00 PM](#)

MIKE COONS, representing himself, Palmer, Alaska, said he opposes the committee substitute because it is an attempt to placate the Board of Regents that is abrogating rights. He recommended passing the original bill.

[2:33:55 PM](#)

ROBERT CLIFT, representing himself, Anchorage, Alaska, testified in support of SB 176. He pointed out that students are already

around people on campus who are armed. If the university knows, they just ask the person to leave. He said the administration enforces its policy when it sees fit and ignores it when it doesn't.

[2:36:29 PM](#)

MICHAEL CHAMBERS, Chair, Alaska Libertarian Party, Anchorage, Alaska, testified in support of SB 176. He maintained that the right to bear arms is a fundamental right.

[2:37:29 PM](#)

BARBARA J. STRUBLE, representing herself, Anchorage, Alaska, asked the committee to pass SB 176 in its original form. She concurred with the four previous speakers.

[2:38:28 PM](#)

MARK FISH, representing himself, Big Lake, Alaska, asked the committee to pass the original version of SB 176. He said it is a public university on public land and individual rights ought to be respected. If the university doesn't provide for the students, they ought to be able to provide for themselves.

CHAIR COGHILL closed public testimony. He removed his objection and Version Y was adopted.

He explained that there has to be a compelling reason to restrict a right. Requiring a permit may be restrictive, but it may be the least restrictive option. He asked his staff to comment.

[2:42:31 PM](#)

HANS RODVIK, Intern, Senator John Coghill, responded to some of the concerns that have been raised in testimony on SB 176. He said a large concern is there are K-12 students on campus. These students are already surrounded by adults who conceal carry statewide. Following the university's logic, the state should prohibit concealed carry everywhere the students happen to be.

Another concern is that the university would be defenseless to defend the campus. This is incorrect because all laws would still stand. The bill simply says that people would be able to defend themselves.

He maintained that the bill codifies current practice because students and others are already exercising their fundamental rights.

He said the idea that the policy distracts from the learning environment argument is faulty because the public is already around people who conceal carry.

He turned to the argument about the presence of drugs and alcohol on campus and said his research shows evidence of that not being a problem. It is a crime to conceal carry under the age of 21.

MR. RODVIK concluded that this bill contains a proper balance between the public safety interest of the university and two fundamental rights. The data shows that lawful adults who go through the rigorous process to obtain concealed hand gun permits will remain law abiding, will be properly suited to defend themselves and others, and won't distract from the learning environment on university campuses.

[2:48:25 PM](#)

CHAD HUTCHISON, Staff, Senator John Coghill Alaska State Legislature, Juneau, Alaska, described the CS for SB 176, Version Y, as the least restrictive alternative and a fair balance of the elements.

CHAIR COGHILL noted that this is the first committee of referral.

[2:49:35 PM](#)

SENATOR DYSON moved to [report the CS for SB 176, Version Y, from committee with individual recommendations and the attached fiscal note(s).]

CHAIR COGHILL objected. He noted the legal principle is fully debated. He said the bill has a fiscal note and will go to the Senate Finance Committee.

SENATOR DYSON wished that the definition of lock box was better and that long guns were permitted on campus.

[2:50:59 PM](#)

SENATOR WIELECHOWSKI said he would vote to move the bill forward because there are strong constitutional issues to support it. He recalled the examples in Utah and in Colorado with no incidences.

CHAIR COGHILL removed his objection.

CHAIR COGHILL announced that without objection, CSSB 176(JUD) was reported from the Senate Judiciary Standing Committee.

2:52:39 PM

There being no further business to come before the committee, Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 2:52 p.m.