

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

March 2, 2016

1:34 p.m.

MEMBERS PRESENT

Senator John Coghill, Vice Chair
Senator Mia Costello
Senator Peter Micciche
Senator Bill Wielechowski

MEMBERS ABSENT

Senator Lesil McGuire, Chair

COMMITTEE CALENDAR

SENATE BILL NO. 174

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

- HEARD & HELD

SENATE BILL NO. 180

"An Act relating to the temporary delegation by a parent or guardian of powers related to a child; relating to adoption; and relating to the distribution to a parent or guardian in a child protection situation of information on family support services."

- MOVED CSSB 180(JUD) OUT OF COMMITTEE

SENATE BILL NO. 112

"An Act establishing procedures related to a petition for adoption of a child in state custody; adding a definition of 'proxy for a formal petition'; amending Rule 6(a), Alaska Adoption Rules; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 174

SHORT TITLE: REG. OF FIREARMS/KNIVES BY UNIV. OF AK

SPONSOR(s): SENATOR(s) KELLY

02/08/16 (S) READ THE FIRST TIME - REFERRALS
 02/08/16 (S) EDC, JUD
 02/16/16 (S) EDC AT 3:30 PM BUTROVICH 205
 02/16/16 (S) Heard & Held
 02/16/16 (S) MINUTE (EDC)
 02/17/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 02/17/16 (S) Scheduled but Not Heard
 02/18/16 (S) EDC AT 3:30 PM BUTROVICH 205
 02/18/16 (S) Heard & Held
 02/18/16 (S) MINUTE (EDC)
 02/23/16 (S) EDC AT 3:30 PM BUTROVICH 205
 02/23/16 (S) Moved CSSB 174(EDC) Out of Committee
 02/23/16 (S) MINUTE (EDC)
 02/26/16 (S) EDC RPT CS 2DP 1DNP 1NR SAME TITLE
 02/26/16 (S) DP: DUNLEAVY, HUGGINS
 02/26/16 (S) DNP: GARDNER
 02/26/16 (S) NR: GIESSEL
 02/26/16 (S) FIN REFERRAL ADDED AFTER JUD
 02/29/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 02/29/16 (S) Heard & Held
 02/29/16 (S) MINUTE (JUD)
 03/02/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 180

SHORT TITLE: PARENT-GUARDIAN/CHILD: TEMP. POWER OF ATTY
 SPONSOR(s): SENATOR(s) GIESSEL

02/12/16 (S) READ THE FIRST TIME - REFERRALS
 02/12/16 (S) JUD
 02/24/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 02/24/16 (S) Heard & Held
 02/24/16 (S) MINUTE (JUD)
 03/02/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

GREG STODDARD, representing himself
 Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 174.

ROB CLIFT, Chair
 Libertarian Party
 Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 174.

LILY COHEN, representing herself

Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition to SB 174.

BRIAN JUDY, Alaska Liaison
National Rifle Association
Sacramento, California

POSITION STATEMENT: Testified in support of SB 174.

MIKE COONS, representing himself
Palmer, Alaska

POSITION STATEMENT: Testified in support of SB 174.

SETH WEAVER, representing himself
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 174.

BRIAN SIMPSON, representing himself
Fairbanks, Alaska

POSITION STATEMENT: Testified in favor of SB 174.

MICHAEL HOSTIN, General Counsel
University of Alaska
Fairbanks, Alaska

POSITION STATEMENT: Answered questions related to SB 174.

MATT COOPER, General Counsel
University of Alaska
Fairbanks, Alaska

POSITION STATEMENT: Answered questions related to SB 174.

SENATOR CATHY GIESSEL
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 180.

KARI NORE, Staff
Senator Cathy Giessel
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided information related to SB 180.

CHARITY CARMODY, President
Beacon Hill
Anchorage, Alaska

POSITION STATEMENT: Answered questions related to SB 180.

CARL KANCIR, representing himself

Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 174.

ACTION NARRATIVE

[1:34:00 PM](#)

VICE CHAIR COGHILL called the Senate Judiciary Standing Committee meeting to order at 1:34 p.m. Present at the call to order were Senators Micciche, Wielechowski, Costello, and Vice Chair Coghill.

SB 174-REG. OF FIREARMS/KNIVES BY UNIV. OF AK

[1:35:53 PM](#)

VICE CHAIR COGHILL announced the consideration of SB 174. He listed those who were available for questions and opened public testimony.

[1:36:48 PM](#)

GREG STODDARD, representing himself, testified in support of SB 174. He noted he works for the university, but is speaking for himself. He opined that the university's current firearms policy is more of an invitation to a perpetrator, than a deterrent. He said statistics show gun-free zones are where violence occurs. He said the bill requires the university to follow existing law. Americans have the constitutional right to defend themselves. He did not think there was anything to fear from a polite society that arms itself.

[1:39:29 PM](#)

ROB CLIFT, Chair, Libertarian Party, testified in support of SB 174. He said the Libertarian Party supports the right to carry "concealed" on campus and is cognizant that people already are carrying "concealed" on campus. He said he understands that the university is used by many people and belongs to all people of Alaska, not to the Board of Regents. He concluded that passage of the bill aligns the university with state law.

[1:42:23 PM](#)

LILY COHEN, representing herself, testified in opposition to SB 174. She said even though she works on campus, she is speaking for herself. She said she carries a gun in situations where she want to feel safe, such as out in the field, but not on campus. She stated that she does not support guns on campus and feels that they will not make the campus safer. She did not think that the committee received letters opposing the bill. She read from an article in the Onion about mass shootings around the U.S.

VICE CHAIR COGHILL noted the committee has received an equal number of letters against the bill.

[1:44:58 PM](#)

BRIAN JUDY, Alaska Liaison, National Rifle Association, testified in support of SB 174. He questioned whether a person should have less freedom or safety on a college campus and why a person who can be armed off campus, can't be armed on campus. He stated that self-defense is a fundamental right. The bill is about providing protection for law-abiding citizens both on and off campus. He maintained that law enforcement cannot not respond to shootings quick enough. He said gun-free school zones have been a disaster with every mass killing recently having been in such zones. He said there are currently 9 states that allow concealed carry on campus without any problems. He shared the history of concealed carry law. He did not believe the bill would cause fiscal problems for the university.

[1:49:21 PM](#)

MIKE COONS, representing himself, testified in support of SB 174. He cited times when there was a deadly threat and he produced a weapon to stop it. He debated the university counsel's opinion that it is not a state entity. He suggested cutting funds to the university. He said an adult in Alaska does not need a concealed carry permit and he maintained that training does not make a person safer. He concluded that children are safe around concealed carry on campus.

[1:53:38 PM](#)

SETH WEAVER, representing himself, testified in opposition to SB 174. He voiced concern about the underlying aura of fear that would infringe on one's ability to express free speech in the classroom. He spoke as a student of the university system who would be affected by this bill and the general reluctance for students to speak on a hot topic when students in their classes have guns. He referred to the Sumter Incidence where a person was caned to death for speaking up. He suggested adding an amendment to also allow concealed carry inside the state capitol.

[1:57:39 PM](#)

BRIAN SIMPSON, representing himself, testified in favor of SB 174. He said it is a constitutional right to carry concealed. He said safe zones are not safe. He concluded that those who would carry concealed are law abiding citizens.

VICE CHAIR COGHILL noted the university is preparing additional statements regarding K-12 students on campus.

[2:01:20 PM](#)

SENATOR MICCICHE asked about the UA fiscal note for \$1.3 million for FY2017 and \$800,000, per year, for FY2018 through FY2020, regarding K-12 programs. He asked if the university plans to issue another fiscal note after the acceptance of version N, which allows restricted areas.

[2:03:37 PM](#)

MICHAEL HOSTIN, General Counsel, University of Alaska System, answered questions related to SB 174. He explained that the K-12 programs are mixed in with other programs on campus that would not be subject to concerns that would normally be associated with K-12 buildings where firearms are not permitted. The university believes that there would have to be secure points, as allowed in the bill, during K-12 events.

MATT COOPER, General Counsel, answered questions related to SB 174. He said that in addition to K-12, the fiscal note represents funding to evaluate existing secure areas to see if they qualify as secure access points and possibly having to make them more secure. He gave as examples the super computer and sensitive labs at UAF. He noted they are still working on refining the fiscal note. The fiscal note accompanying version N is a substantial reduction from the previous fiscal note, which included lock boxes for secure storage.

VICE CHAIR COGHILL set SB 174 aside, awaiting further public testimony.

[2:06:48 PM](#)

At ease

SB 180-PARENT-GUARDIAN/CHILD: TEMP. POWER OF ATTY

[2:07:47 PM](#)

VICE CHAIR COGHILL announced the consideration of SB 180.

SENATOR CATHY GIESSEL, Alaska State Legislature, sponsor of SB 180, noted this was the second hearing and there was a new CS, version H.

[2:08:53 PM](#)

SENATOR MICCICHE moved to adopt the CS for SB 180, labeled 29-LS1431\H, as the working document.

SENATOR WIELECHOWSKI objected for discussion.

2:09:23 PM

KARI NORE, Staff, Senator Cathy Giessel, Alaska State Legislature, explained changes in the new CS for SB 180, version H. The first change occurs on page 5 of the original bill, version W; subsection (j), beginning on line 14 on page 5, was removed due to concerns by the Office of Children's Services (OCS). She noted OCS was afraid (j) would allow individuals to circumvent OCS by diverting to the power of attorney (POA) process. OCS suggested the sponsor put forward a statutory exemption under AS 47.32 for organizations similar to Beacon Hill and Safe Families for Children.

She reported that the second change was on page 7 of version H, where two additional sections were added. Section 5 references the exemption and Section 6 is the actual exemption.

MS. NORE reviewed questions previously raised by committee members and Legislative Legal Services' responses. In response to Senator McGuire's concern, Legislative Legal attorneys determined that the bill does not supersede judicial bypass. Senator Costello had asked whether both parents must sign the POA and the answer is that the delegation of powers is the first step in a custody case. The goal of the bill is to make the process quick and easy and to not involve an attorney, so it is not necessary to have both parents sign. She stressed that a delegation of powers over a minor does not affect the rights of a non-signing parent and it can be revoked at any time.

2:12:29 PM

VICE CHAIR COGHILL offered his understanding that if there are disagreements between parents, there are other legal avenues available for appeal.

MS. NORE agreed. She explained that the delegation of powers is designed to be an easy way to help families get back on their feet without risk of losing custody of their children.

MS. NORE addressed the question raised by Senator Wielechowski concerning PFD's and property belonging to a minor child. She said the sponsor proposes a change to remove the words "of property" on page 2, line 3, and on page 3, line 13, to prevent the host family or attorney-in-fact from having purview over the property of the minor child; it would remain with the biological parent.

SENATOR WIELECHOWSKI asked if the sponsor will propose that change.

MS. NORE said yes. She said there was also a question raised about the ability to recoup medical and dental costs, or costs related to the care of a child. The sponsor decided not to address this issue because when a family enters into an agreement using the power of attorney, such as with Beacon Hill, there is a built-in agreement that the family will not seek recovery of medical costs. It is supposed to be minimal cost to the host parent or attorney-in-fact.

[2:14:41 PM](#)

SENATOR WIELECHOWSKI summarized that the person with the POA would not be responsible for expensive medical care, should the child need it.

MS. NORE said, "Correct."

[2:15:24 PM](#)

MS. NORE addressed a question posed by Senator Wielechowski regarding emancipation. She explained that the bill does not address emancipated minors and it would be up to the organizations to set standards related to placement based on age.

SENATOR COSTELLO asked what happens if one parent disagrees with the POA being provided to a third party.

MS. NORE said if one parent signs and one does not, the one who does not sign does not lose any rights, and either parent can revoke the POA at any time.

SENATOR COSTELLO said she was trying to think of a family situation where one parent thinks the POA will result in harm to the child.

[2:17:24 PM](#)

SENATOR GIESSEL suggested that the president of Beacon Hill address the question. She maintained that families seeking assistance voluntarily call Beacon Hill because they want to retain custody of their children and they are working hard to resolve their issues. She suggested that there is much more cooperation between parents than Senator Costello envisions.

SENATOR WIELECHOWSKI said he had the same question.

[2:18:46 PM](#)

CHARITY CARMODY, President, Beacon Hill, answered questions related to SB 180. She provided an example similar to the situation Senator Costello posed where the mother used a POA to put the kids in Safe Families for Children and the dad appeared after a month and agreed to sign the same POA, but if he wouldn't have agreed, he could have revoked the POA.

SENATOR COSTELLO asked if the legislation were to pass and Beacon Hill were not in place, what would happen when a POA is signed without the other parent's knowledge.

MS. CARMODY offered her belief that it was the same concept for other POA issues, such as enrolling a child in school, and the parent would have the right to cancel the POA.

[2:21:39 PM](#)

SENATOR MICCICHE asked if existing law has the POA cancelling provision in it.

MS. CARMODY said it does.

SENATOR WIELECHOWSKI asked why the bill is needed.

MS. NORE explained that originally the existing POA statute was included in the bill. The sponsor made the bill more robust at the request of OCS due to the sensitivity of the cases. Currently, entities such as Beacon Hill operate under a variance under OCS, and the intent is to allow those entities to continue to provide services without running the risk that the variance could be withdrawn.

[2:23:36 PM](#)

SENATOR WIELECHOWSKI said he supports the concept of the bill but believes the worst case scenarios should be considered during the discussion. He summarized that the statute gives a single parent the right to create a POA and does not require both parents to sign it. He voiced concern when there is a broken family and parents disagree. He asked if there should be a requirement that both parents agree to the POA.

SENATOR GIESSEL explained that Chad Hutchinson, the majority's attorney, provided a summary of delegation of powers by a parent, which consists of a scale. The lowest end of the scale is delegation of powers by a parent and requires no court filing, does not affect the rights of a non-signing parent, and

can be revoked at any time. The next level up is guardianship which requires court action. The bill provides for a nimble, easy, safe process.

[2:26:12 PM](#)

SENATOR WIELECHOWSKI referred to language in Section 2 where it says a parent or guardian of a minor child may delegate to another person, whereas in subsection (b), line 9, it says "a parent or guardian who delegates a power." He voiced concern about a parent that is not informed, finds out about the POA, and then is relying on the other person to revoke the POA.

MS. NORE referred to number 3 on the legal memo and pointed out that the bill uses the singular term and the plural term.

SENATOR WIELECHOWSKI countered that it says one or both parents can execute a POA for their child. The legal memo states that the sponsor may want to address whether or not both parents must sign the POA and what would happen if one parent disagreed. He suggested specifying that both parents need to agree.

VICE CHAIR COGHILL asked for Ms. Carmody to comment.

MS. CARMODY offered her understanding that this language already exists in the current POA statute. She noted that some parents are missing or not involved and it would pose problems to have to track down both parents or prove who they are.

[2:29:39 PM](#)

SENATOR MICCICHE referred to existing law AS 13.26.020 and Sec. 01.10.050(b), where it explains that the plural and singular references to parent/parents includes both. Existing law allows permission for POA by one or both parents.

VICE CHAIR COGHILL said he could see that when there is a divided family, the POA may need to be resolved in court. He asked if one parent has veto power in this bill.

MS. NORE said yes.

[2:30:25 PM](#)

SENATOR COSTELLO said she thought it was an implied power on page 2, line 21, "unless a parent or guardian revokes a power of attorney." She suggested adding "where reasonable" to avoid the situation just described and to add protection.

MS. NORE explained that the issue with adding qualifications for contacting a parent who is out of the picture is that the point of the delegation of powers is to provide quick action when there are emergency circumstances in the family. She gave an example of a parent who relapses and is at risk of losing her children. She concluded that qualifications could defeat the whole purpose of the bill.

[2:32:44 PM](#)

SENATOR WIELECHOWSKI referred to page 2, lines 9 - 12. He said he believes the lines mean the parent or guardian who delegated the POA can revoke it. He suggested adding "either parent can revoke the POA."

[2:33:42 PM](#)

MS. CARMODY said she likes the idea that both parents would have the right to revoke the POA.

VICE CHAIR COGHILL asked whether Senator Wielechowski is suggesting to make it explicit that it is either parent who can revoke the POA.

SENATOR WIELECHOWSKI said he was open to the discussion.

VICE CHAIR COGHILL offered his belief a parent has that right.

[2:34:36 PM](#)

SENATOR MICCICHE opined that is already the case in existing law, but he was not opposed to clarification.

VICE CHAIR COGHILL said it is important to fine-tune the law at this level.

SENATOR GIESSEL said she understands what Senator Wielechowski is seeing in line 9, and she suggested, "Either a parent or guardian under (a) of this section may revoke the power of attorney at any time." It removes "who delegates a power" which is where there is confusion.

SENATOR WIELECHOWSKI agreed that seems to solve the problem.

[2:36:14 PM](#)

VICE CHAIR COGHILL summarized that the idea is to strike "who delegates a power."

SENATOR WIELECHOWSKI suggested "who delegates a power under (a) of this section."

SENATOR WIELECHOWSKI removed his objection to adopting version H.

VICE CHAIR COGHILL found no further objection and version H was adopted.

[2:37:00 PM](#)

MS. NORE pointed out there was discussion about potentially removing the word "property" on page 2, line 3.

[2:37:30 PM](#)

SENATOR MICCICHE moved Conceptual Amendment 1: in Section 2, on page 2, line 3, remove the word "property" regarding the delegation of powers over a minor child. It should now say "regarding the care or custody of the minor child. . . "

[2:38:03 PM](#)

MS. NORE pointed out the additional need to remove "property" on page 3, line 13.

SENATOR MICCICHE restated Conceptual Amendment 1 to remove the word "property" on page 2, line 3, and on page 3, line 13.

VICE CHAIR COGHILL found no objection and Conceptual Amendment 1 was adopted.

[2:39:13 PM](#)

VICE CHAIR COGHILL referred to a potential amendment on page 2, line 9, removing the words "who delegates a power under (a) of this section."

SENATOR MICCICHE suggested removing "who delegates a power under (a) of this section" from the first part of the sentence and adding "under (a) of this section" after "power of attorney." Then it would read "a parent or attorney may revoke the power of attorney under (a) of this section at any time."

SENATOR COGHILL said he did not think it made any difference because it falls under the "delegation of powers over minor child" section. It was a stated right to revoke the POA.

[2:40:37 PM](#)

SENATOR MICCICHE said it is pointing to a specific POA. Legislative Legal clarified that any parent or guardian can revoke a POA.

SENATOR MICCICHE moved to adopt Conceptual Amendment 2, on page 2, line 9, where it says "a parent or guardian may revoke the power of attorney under (a) of this section at any time" the words "who delegates a power under (a) of this section" would be removed.

VICE CHAIR COGHILL found no objection and Conceptual Amendment 2 was adopted.

[2:42:24 PM](#)

SENATOR COSTELLO noted there is another bill going through the legislative process that removes any reference to "attorney-in-fact" which is commonly used for POA.

SENATOR GIESSEL thanked Chair Costello for that information. She said page 5, subsection (j)(2) has a definition of attorney-in-fact related to this particular bill. She assumed revisers would update it.

VICE CHAIR COGHILL commented that it was a good catch.

[2:43:57 PM](#)

SENATOR MICCICHE moved to report the CS for SB 180, version H as amended, from committee with individual recommendations and attached fiscal note.

VICE CHAIR COGHILL announced that without objection, CSSB 180(JUD) is reported from the Senate Judiciary Standing Committee.

SB 174-REG. OF FIREARMS/KNIVES BY UNIV. OF AK

[2:44:42 PM](#)

VICE CHAIR COGHILL returned to public testimony for SB 174.

[2:44:58 PM](#)

CARL KANCIR, representing himself, testified in support of SB 174. He said an armed society is a safe society. He said the college police said they could arrive at a crime scene in two minutes, however, he shared his experience in the service and opined that campus police cannot get there in time. He gave an example of robbers in a bar. He gave an analogy of a hockey game. He maintained that concealed carry is good for defense. He shared a number of stories.

VICE CHAIR COGHILL thanked the testifier and held SB 174 in committee.

2:50:36 PM

There being no further business to come before the committee, Vice Chair Coghill adjourned the Senate Judiciary Standing Committee at 2:50 p.m.