

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

February 25, 2016

9:02 a.m.

MEMBERS PRESENT

Senator Bill Stoltze, Chair
Senator John Coghill, Vice Chair
Senator Charlie Huggins
Senator Lesil McGuire

MEMBERS ABSENT

Senator Bill Wielechowski

COMMITTEE CALENDAR

CONFIRMATION ON GOVERNOR APPOINTEES

Violent Crimes Compensation Board

Gerard Godfrey - Eagle River

- CONFIRMATIONS ADVANCED

Alaska Police Standards Council

Bryce Johnson - Juneau
Brad Reich - Kotzebue
Carrie Belden - Anchorage
John Papasodora - Nome
Kelly Swihart - Petersburg

- CONFIRMATIONS ADVANCED

State Board of Parole

Steve Meyer - Kenai
Jason Wilson - Juneau

- CONFIRMATIONS ADVANCED

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 91

"An Act relating to criminal law and procedure; relating to controlled substances; relating to probation; relating to sentencing; establishing a pretrial services program with pretrial services officers in the Department of Corrections;

relating to permanent fund dividends; relating to electronic monitoring; relating to penalties for violations of municipal ordinances; relating to parole; relating to correctional restitution centers; relating to community work service; relating to revocation, termination, suspension, cancellation, or restoration of a driver's license; relating to the disqualification of persons convicted of certain felony drug offenses from participation in the food stamp and temporary assistance programs; relating to the duties of the commissioner of corrections; amending Rules 6, 32, 32.1, 38, 41, and 43, Alaska Rules of Criminal Procedure, and repealing Rules 41(d) and (e), Alaska Rules of Criminal Procedure; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 91

SHORT TITLE: OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS

SPONSOR(s): SENATOR(s) COGHILL

03/25/15	(S)	READ THE FIRST TIME - REFERRALS
03/25/15	(S)	STA, JUD, FIN
04/02/15	(S)	STA AT 9:00 AM BUTROVICH 205
04/02/15	(S)	Heard & Held
04/02/15	(S)	MINUTE(STA)
02/03/16	(S)	SPONSOR SUBSTITUTE INTRODUCED-REFERRALS
02/03/16	(S)	STA, JUD, FIN
02/13/16	(S)	STA AT 10:00 AM BUTROVICH 205
02/13/16	(S)	Heard & Held
02/13/16	(S)	MINUTE(STA)
02/18/16	(S)	STA AT 8:30 AM BUTROVICH 205
02/18/16	(S)	Heard & Held
02/18/16	(S)	MINUTE(STA)
02/25/16	(S)	STA AT 9:00 AM BUTROVICH 205

WITNESS REGISTER

GERAD GODFREY, Chair

Violent Crimes Compensation Board

Eagle River, Alaska

POSITION STATEMENT: Testified as an appointee to the Violent Crimes Compensation Board.

BRYCE JOHNSON, Chief of Police

Juneau, Alaska

POSITION STATEMENT: Testified as an appointee to the Alaska Police Standards Council.

BRAD REICH, Director of Public Services
Northwest Borough
Kotzebue, Alaska

POSITION STATEMENT: Testified as an appointee to the Violent Crimes Compensation Board.

CARRIE BELDEN, Division Director
Probation and Parole
Department of Corrections
Anchorage, Alaska

POSITION STATEMENT: Testified as an appointee to the Alaska Police Standards Council.

JOHN PAPASODORA, Chief of Police
Nome, Alaska

POSITION STATEMENT: Testified as an appointee to the Alaska Police Standards Council.

KELLY SWIHART, Chief of Police
Petersburg, Alaska

POSITION STATEMENT: Testified as an appointee to the Alaska Police Standards Council.

STEVE MEYER, Retired Probation Parole Officer
Kenai, Alaska

POSITION STATEMENT: Testified as an appointee to the State Board of Parole.

JASON WILSON, VPSO Manager
Tlingit & Haida
Juneau, Alaska

POSITION STATEMENT: Testified as an appointee to the State Board of Parole

JORDAN SCHILLING, Staff
Senator John Coghill
Alaska State Legislature

POSITION STATEMENT: Provided information about SB 91 on behalf of the sponsor.

ACTION NARRATIVE

[9:02:20 AM](#)

CHAIR BILL STOLTZE called the Senate State Affairs Standing Committee meeting to order at 9:02 a.m. Present at the call to order were Senators Coghill, Huggins, and Chair Stoltz. He noted Senator Wielechowski was excused.

CONFIRMATION HEARINGS ON GOVERNOR APPOINTEES

[9:03:47 AM](#)

CHAIR STOLTZE announced confirmation hearings on Governor Walker's appointees.

Violent Crimes Compensation Board

[9:04:30 AM](#)

GERAD GODFREY, Chair, Violent Crimes Compensation Board, testified as an appointee to the Violent Crimes Compensation Board. He described his past experience serving on the board since 2003 and shared that the board has made a lot of positive contributions for victims of violent crime. He said the staff on the board is extremely dedicated. He pointed out there were about 950 victim claims last year.

CHAIR STOLTZE asked for the primary funding source for the compensation restitution fund.

MR. GODFREY said it is funded from garnished PFD monies of incarcerated felons and with federal Victims of Crime Act funds. He said only once did they have to request general fund support. He related that their budget has been as low as \$400,000 and as high as \$2.4 million; generally \$2 million is adequate to meet their mission. The last board meeting is scheduled for the end of the fiscal year in order to deal with the funding status.

CHAIR STOLTZE asked if he has concerns about a restructuring of the PFD and how it would affect the funding source.

MR. GODFREY stated there is uncertainty there. He gave an example of how it might look with a \$1,000 PFD; it would provide funds for half the year. He referred to the Murkowski years when the PFD was small and there was a need to reduce the compensation amounts. During that time, caps were put on counseling, funeral, and medical bills. He provided strategies they learned from that scenario toward negotiations over medical bills.

[9:13:01 AM](#)

CHAIR STOLTZE mentioned victims' rights issues.

SENATOR MCGUIRE joined the committee.

[9:13:26 AM](#)

She thanked Mr. Godfrey for his service. She asked whether the board could negotiate funeral and other costs if the PFD is reduced. She requested the board use a range to fund victims.

MR. GODFREY reported that funeral homes are not interested in negotiating. He said counseling allocations should be revisited and, in the past, there was a cap on counseling payments. He agreed that the PFD is declining. He said the board values lost wage replacement highly.

[9:17:18 AM](#)

CHAIR STOLTZE thanked Mr. Godfrey and other board members, Dr. Brown, Dr. Regina Chenault, and Leroy Barker.

Alaska Police Standards Council

[9:19:01 AM](#)

BRYCE JOHNSON, Chief of Police, testified as an appointee to the Alaska Police Standards Council (APSC). He shared his background in law enforcement and said he cares deeply about the profession and where it is headed. He called law enforcement a success due to a decline in crime rates.

[9:20:45 AM](#)

CHAIR STOLTZE asked what the challenges of being on the council might be going forward.

CHIEF JOHNSON replied that one of the challenges is ensuring the standards of the profession by looking at confidential cases of officers who have done things that would disqualify them from serving in the profession and coming to a just decision as to the consequences. However, he said another focus should be on how to keep things positive, such as by leadership training.

SENATOR MCGUIRE thanked Chief Johnson for his willingness to serve on the council. She noted a cultural shift in the way law enforcement relates to the public by enforcing community values and outreach. She spoke of Chief Johnson's innovative ideas toward that goal.

CHIEF JOHNSON agreed that there is a shift from the warrior mentality to a guardian ethos. He spoke of how law enforcement

has evolved from community-oriented policing to intelligence-led policing after 911. After Ferguson, most agencies turned back to the community-guardian model. He spoke of the "Coffee with the Cops," a national program, and other ways of reaching out to the public.

[9:26:23 AM](#)

SENATOR HUGGINS agreed that 911 created a real problem in the country. He said some police look more like the Gestapo. He suggested taking a look at that in light of recent shootings. He asked how to keep police standards high for applicants.

CHIEF JOHNSON agreed that standards need to be high. He used LA and Miami as examples where police standards were lowered resulting in scandals. He said the challenge is to find qualified applicants and to decide whether or not to adjust standards. He noted APSC sets base standards and most of the new standards have raised the bar and include a psychological profile. He said there is about a 6 percent pass rate for new applicants in Juneau.

[9:30:33 AM](#)

SENATOR HUGGINS asked why an officer cannot use marijuana.

CHIEF JOHNSON replied that it is against federal law; it is a controlled illegal substance.

CHAIR STOLTZE asked whether the council addresses department standards.

CHIEF JOHNSON explained that there are rules for department standards that the council addresses.

CHAIR STOLTZE noted the council is also responsible for standards for correctional officers.

CHIEF JOHNSON looked at the report regarding correctional officers and has talked to the Department of Corrections about concerns with Title 47 holds. He thought the underlying issues were similar to police department policies and procedures.

[9:33:47 AM](#)

SENATOR MCGUIRE asked what resources are available to officers in Juneau when they encounter someone under the influence of alcohol or drugs.

CHIEF JOHNSON explained that JPD follows Title 47, which labels intoxication a medical problem. Other options are for officers to take the person home, make use of the Rainforest Recovery Center, admit them to Bartlett Regional Hospital - Housing First is in process - and the last resort is Lemon Creek Correctional Center. He said they do not use Title 47 as a catchall and it is not used when a crime is committed.

[9:36:41 AM](#)

SENATOR COGHILL thanked Chief Johnson. He spoke of Village Public Safety Officers (VPSO's) and the range of issues they deal with. He asked how to lay out an open door for those who want to go into law enforcement. He voiced concern about how to prevent youthful discretions from disqualifying a person from a law enforcement career.

CHIEF JOHNSON replied that he recommends to those who are interested in the profession to "be a good person." He said there are school resource programs, such as Youth Academy for middle school students and the Police Explorer Program at the high school level. He described the program's curriculum.

SENATOR COGHILL thought those programs would be important for the up-and-coming generation.

[9:40:56 AM](#)

SENATOR HUGGINS asked what the standards to become a police chief are.

CHIEF JOHNSON replied that they would have to be able to be certified as a police officer in Alaska by attending a police academy. To become a police chief they must have all the qualifications to become a police officer and then have additional leadership training and experience.

[9:42:43 AM](#)

SENATOR MCGUIRE inquired about crisis intervention training. She asked about how much time is spent in pro-active and re-active interventions and how much time the council spends in providing training programs for officers.

CHIEF JOHNSON said the APSC staff sponsors a lot of pro-active training. He thought the council spent the majority of their time dealing with negative behavior and sanctions. He used a pyramid analogy to describe how their time should be allocated. He said one of his goals is to engage more in the pro-active area.

[9:47:05 AM](#)

BRAD REICH, Director of Public Services, Northwest Borough, testified as an appointee to the Alaska Police Standards Council. He discussed his new role with the VPSO program. He noted this will be his second term on the council and he is looking forward to working on police ethics, planning, training, and following standards. He agreed that there are some negative duties on the council, but also positive ones, such as the training program and improving public safety.

CHAIR STOLTZE asked about standards for correctional officers.

MR. REICH suggested to focus on more training for correctional officers.

SENATOR COGHILL expressed gratitude for Mr. Reich's work.

MR. REICH shared his past experience as a VPSO in 1990. He said his region has 9 VPSO's and could use 13, as they are really helping the region. He thanked the state and legislature for the VPSO program.

CHAIR STOLTZE asked if there have been any challenges or opportunities as a member of the council on the use of firearms for VPSO's.

[9:51:05 AM](#)

MR. REICH said there are 4 or 5 VPSO's in training at the academy and the last stage is where they are required to pass a psychological test. He said this process is new and he would like to get more information about it.

[9:52:04 AM](#)

CARRIE BELDEN, Division Director, Probation and Parole, Department of Corrections (DOC), testified as an appointee to the Alaska Police Standards Council. She described her professional background as a probation officer, on the parole board, and currently as a division director. She said she believes in the service the council provides and would like to help them with their decisions and issues related to DOC. She agreed that officers should be warriors and guardians and be pro-active. She concluded that there are things that law enforcement agencies could do better.

[9:55:03 AM](#)

SENATOR HUGGINS referenced Ms. Belden's resume and noted the term "absconder bank." He asked what an "absconder bank" is.

MS. BELDEN explained that it is for people on parole who are no longer reporting to their parole officers and have active warrants.

SENATOR HUGGINS asked if that is a large number.

MS. BELDEN said it varies by community.

SENATOR HUGGINS asked for her view on how effective ankle monitors are.

MS. BELDEN thought ankle monitors were a tool in the tool box. They help for some people to remain connected to their family and keep working. They are not appropriate for others.

CHAIR STOLTZE asked if she is an exempt employee.

MS. BELDEN said yes.

CHAIR STOLTZE asked if there was any conflict of interest when dealing with corrections officers.

[9:58:33 AM](#)

MS. BELDEN said she would recuse herself from the revocations of corrections officers that belong to her agency. She did not feel her appointment would be a conflict of interest. She concluded that she would do what is right.

CHAIR STOLTZE asked if she would participate in the discussions and debates and when she would recuse herself.

MS. BELDEN assumed that the council had an established pattern in place for that situation.

CHAIR STOLTZE was impressed by Ms. Belden's boundaries.

SENATOR COGHILL said he has high regard for Ms. Belden.

[10:01:37 AM](#)

JOHN PAPASODORA, Chief of Police, testified as an appointee to the Alaska Police Standards Council. He shared his professional background as a law enforcement officer and on the council. He described the council as a regulatory committee and one that can promote professionalism.

CHAIR STOLTZE thanked Chief Papasodora for his service.

[10:04:33 AM](#)

KELLY SWIHART, Chief of Police, testified as an appointee to the Alaska Police Standards Council. He provided his background in military service and in 20 years of law enforcement. He said the council has an important job and deals with negative aspects, but also helps define limits, develop standards and training programs, and provides accountability. He welcomed the chance to serve.

CHAIR STOLTZE noted Chief Swihart's good reputation in the Mat-Su Valley.

SENATOR COGHILL thought Chief Swihart's varied experience was an asset.

CHAIR STOLTZE acknowledged two appointees in the audience, Commissioner Williams and Commissioner Folger.

State Board of Parole

[10:09:04 AM](#)

STEVE MEYER, Retired Probation Parole Officer, testified as an appointee to the State Board of Parole. He provided his professional background at DOC, at the Anchorage Police Academy, at Wildwood, and then as a probation officer.

CHAIR STOLTZE noted his broad interest in public service.

MR. MEYER said public service has been a big part of his life and he is honored to have been appointed to the board.

CHAIR STOLTZE asked if Mr. Meyer has looked at SB 91 and the proposed provisions of parole.

MR. MEYER said he has and he generally supports the bill.

[10:11:41 AM](#)

CHAIR STOLTZE asked for his opinion of corrections officers spending more time with prisoners and having a larger role in the appropriateness of release.

MR. MEYER thought the idea had merit because corrections officers have valuable input.

CHAIR STOLTZE said there are two sides to the issue. He thought parole officers might have an advisory role in prisoner release.

SENATOR HUGGINS noted Mr. Meyer is on the Board of Directors for the Safari Club in Kenai.

MR. MEYER said he is no longer on that board.

[10:15:47 AM](#)

JASON WILSON, VPSO Manager, Tlingit & Haida, testified as an appointee to the State Board of Parole. He shared his professional background as a youth counselor at the Johnson Youth Center, on the Indian Child Welfare Team, and currently as the VPSO manager for Southeast Alaska.

CHAIR STOLTZE asked if his background is in youth corrections.

MR. WILSON said for the most part.

SENATOR HUGGINS thanked Mr. Wilson for his application. He told a story about youth hunting on reservations. He noted success is an important part of the building block for youth.

MR. WILSON agreed. He shared his experience at hearings where youths have graduated to the adult system. He maintained that making a difference has to start with youth.

[10:20:09 AM](#)

CHAIR STOLTZE asked whether the revisions made to the juvenile waiver bill work and if they should be changed or repealed.

MR. WILSON thought there was room for improvement and the ramifications and negative impacts needed to be looked at. He said some parts work and some don't.

CHAIR STOLTZE shared a story of a juvenile murderer and discussed efforts of some to repeal the bill. He noted youthful offenders can be violent.

CHAIR STOLTZE closed public testimony.

CHAIR STOLTZE advanced the names of the appointees to the full membership of the Legislature in joint session for consideration and a final vote.

[10:23:48 AM](#)

At ease

SB 91-OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS

10:24:39 AM

CHAIR STOLTZE announced the consideration of SB 91. He noted Senator Coghill has four amendments to the bill.

SENATOR JOHN COGHILL, sponsor of SB 91, noted four amendments resulting from conversations with the Office of Victims' Rights, law enforcement, shelters for domestic violence, and new concepts in law. He said the goal is to make sure the public is safer.

10:26:39 AM

He explained that Amendment 1 is the largest and changes several sections; it is under the misdemeanor section and would remove domestic violence assaults from the trier fact to ensure that domestic violence assault in the fourth degree can be sentenced within the normal range of the misdemeanor-A range of zero to 365 days or a year. He added that Amendment 1 will also take harassment-2, trespass-2, and criminal mischief-5 back to class-B misdemeanors; these changes involve Sections 8, 13, 26, and 27.

He related that under felonies, the inflation adjustment was taken out of the felony theft level. The criminal negligence homicide of a child remained the same. Sex offenders were excluded from administrative parole in Section 95, as were geriatric sex offenders. Administrative parole was made discretionary.

10:30:07 AM

He addressed changes in probation. In Section 61, the maximum term of probation for an unclassified felony was increased to ten years. Under probation and parole, unclassified felonies of sexual assault and domestic violence were excluded from the presumptive early discharge. Language requiring victims to testify was also deleted.

He explained that suspended entry of judgement excludes domestic violence offenses under Section 59. He said there were changes in controlled substance; heroin was moved into its own category and methamphetamine precursor language was added.

10:32:26 AM

JORDAN SCHILLING, Staff, Senator Coghill, Alaska State Legislature, provided information about SB 91 on behalf of the sponsor. He explained changes to the misconduct involving controlled substances, responding to concerns by the Office of Victims Rights (OVR). The meth precursor language was added back into the bill and the enhanced presumptive range for delivery to an individual under 19 will come back up to the unclassified felony range, rather than the Class A felony range. There was also concerns from Law and OBR that it wouldn't be prudent to change the enhanced sentence for possessing drugs within 500 feet of a school. That was moved to its existing level. Another concern from OVR was the change of the enhanced presumptive range for manufacture of methamphetamine in a residence where a child resides, so that was also left at its existing range of 7 to 11 years.

SENATOR COGHILL clarified that it was returned back to the higher felony.

He addressed a change requested by law enforcement in Anchorage, on page 21, lines 15 and 25. He asked which section that was found in.

MR. SCHILLING clarified that it is in AS 12.25.180 or Section 37.

SENATOR COGHILL continued to explain that the change is regarding someone who is a "significant" danger to self and others. The word "significant" was removed. Exceptions for sexual offenses were created. Also, a new subsection was created that offers liability immunity for police officers when making quick judgement calls.

[10:35:49 AM](#)

He discussed an amendment regarding random drug testing for those who have been convicted for a drug offense. He said it is a Title 47 issue. The amendment states that those in welfare system programs will be required to participate in random drug testing. He said it is a public safety issue.

CHAIR STOLTZE stated that the amendment is focused only on those in the criminal justice system.

SENATOR COGHILL agreed. He added that the purpose is for accountability and marijuana testing was excluded at this time due to questions about testing.

CHAIR STOLTZE noted that the amendments are posted on BASIS.

SENATOR COGHILL said Amendment 1 is the most complicated.

CHAIR STOLTZE suggested a brief description of each be included in the posting. He thanked Senator Coghill for including comments from the public into the changes.

SENATOR COGHILL described the extensive number of meetings that took place. He maintained that the bill is a work in progress, but the most troublesome areas have been addressed.

CHAIR STOLTZE commented on the outreach to police officers and that their testimony is reflected in the changes.

SENATOR COGHILL concluded that the guiding principal is to keep people safe.

CHAIR STOLTZE pointed out that the amendments will most likely be rolled into the bill.

10:41:30 AM

SENATOR HUGGINS complimented the committee and the sponsor for accommodating outside opinions and ideas, as well for saving money.

SENATOR MCGUIRE agreed and appreciated the work the sponsor and committee have done, and the balance in the bill between protection, victims' rights, and costs. She called it one of the best pieces of legislation in her career.

CHAIR STOLTZE appreciated Commissioner Williams' following of the legislation.

CHAIR STOLTZE held SB 91 in committee.

10:45:40 AM

There being no further business to come before the committee, Chair Stoltz adjourned the Senate State Affairs Committee at 10:45 a.m.