

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

January 31, 2017

8:02 a.m.

MEMBERS PRESENT

Representative Zach Fansler, Co-Chair
Representative Justin Parish, Co-Chair
Representative Harriet Drummond
Representative Dean Westlake
Representative George Rauscher
Representative David Talerico

MEMBERS ABSENT

Representative Dan Saddler
Representative Matt Claman (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 8

"An Act relating to protective orders."

- MOVED HB 8 OUT OF COMMITTEE

HOUSE BILL NO. 78

"An Act establishing the second Monday of October of each year as Indigenous Peoples Day."

- MOVED HB 78 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 8

SHORT TITLE: ENFORCEMENT OF FOREIGN PROTECTIVE ORDERS

SPONSOR(S): REPRESENTATIVE(S) EDGMON

01/18/17	(H)	PREFILE RELEASED 1/9/17
01/18/17	(H)	READ THE FIRST TIME - REFERRALS
01/18/17	(H)	CRA, JUD
01/31/17	(H)	CRA AT 8:00 AM BARNES 124

BILL: HB 78

SHORT TITLE: INDIGENOUS PEOPLES DAY

SPONSOR(S): REPRESENTATIVE(S) WESTLAKE

01/25/17 (H) READ THE FIRST TIME - REFERRALS
01/25/17 (H) CRA
01/31/17 (H) CRA AT 8:00 AM BARNES 124

WITNESS REGISTER

TIM CLARK, Staff
Representative Bryce Edgmon
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 8 on behalf of Representative Edgmon, prime sponsor.

MARY LUNDQUIST, Senior Assistant Attorney General
Opinions, Appeals & Ethics Section
Civil Division (Fairbanks)
Department of Law (DOL)
Fairbanks, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 8.

CASEY SCHROEDER, Assistant Attorney General
Legal Services Section
Criminal Division
Department of Law (DOL)
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 8.

ELIZABETH REXFORD, Staff
Representative Dean Westlake
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 78, on behalf of Representative Westlake, prime sponsor.

LINDSEY LAYLAND
Dillingham, Alaska

POSITION STATEMENT: Testified in support of HB 78

ALANNAH HURLEY
Dillingham, Alaska

POSITION STATEMENT: Testified in support of HB 78.

JONATHAN WOOD
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 78.

ACTION NARRATIVE

[8:02:16 AM](#)

CO-CHAIR ZACH FANSLER called the House Community and Regional Affairs Standing Committee meeting to order at 8:02 a.m. Representatives Talerico, Rauscher, Westlake, Drummond, Parish, and Fansler were present at the call to order.

HB 8-ENFORCEMENT OF FOREIGN PROTECTIVE ORDERS

[8:03:54 AM](#)

CO-CHAIR FANSLER announced that the first order of business would be HOUSE BILL NO. 8, "An Act relating to protective orders."

[8:05:47 AM](#)

TIM CLARK, Staff, Representative Bryce Edgmon, Alaska State Legislature, presented HB 8 on behalf of Representative Edgmon, prime sponsor. He paraphrased from the sponsor statement, which read as follows [original punctuation provided]:

In 2014, a bill sponsored by Sen. Lisa Murkowski and former Sen. Mark Begich eliminated the "Alaska Exemption" from the Violence Against Women Act (VAWA). This brought attention to the state's obligation to enforce protection orders issued by other jurisdictions, including other state, territorial, or tribal courts.

As current statutes are written, law enforcement is only compelled to enforce a tribal or another state's protection order if it has been filed (that is, registered) in an Alaska court. However, with Alaska subject to the VAWA, the state is required to enforce protection orders issued in another jurisdiction even if the order has not been registered.

HB 8 follows the recommendation of the Department of Law to amend conflicting state statutes in order to bring Alaska into compliance with the federal law. HB 8 will not only clarify the duties of law enforcement but also will eliminate potential lawsuits that could

stem from the contradictions currently found in state statutes.

Additionally, the bill adds a presumption of validity on the part of state law enforcement, so that they are required to enforce a protective order issued in another jurisdiction so long as it appears authentic on its face. HB 8 also more clearly specifies in statute that "other states" and "other jurisdictions" include courts of another state or territory, United States military tribunals, and tribal courts.

It's important to note that the state still encourages registration of protection orders from other jurisdictions. As the Department of Law has noted, the state's central registry "gives officers access to tribal and foreign protection orders anywhere in Alaska, even if the victim does not have a copy of the order at hand."

[8:09:45 AM](#)

REPRESENTATIVE TALERICO clarified there are concerns that Alaska be given the ability to enforce [protective orders of other jurisdictions], and the general idea behind HB 8 is to support the victims of sexual assault. He added, "We want to be expedient with this."

MR. CLARK said Representative Talerico stated that summary very well. He gave an example of someone in Ohio who has a protective order in place and moves to Alaska, but is not aware of the need to register the protective order in Alaska. That person then is menaced in some way by the person against whom the protective order was made and needs help immediately. The proposed legislation would ensure that help is "legal and possible."

[8:11:47 AM](#)

REPRESENTATIVE DRUMMOND asked whose job it is to register the protective order and whether the person with the order would need an attorney to complete such a registration.

MR. CLARK offered his understanding that it would be the holder of the protective order - the victim - and would be a fairly routine matter of contacting the court.

8:12:28 AM

REPRESENTATIVE WESTLAKE questioned how the registration process would work, in terms of a police officer in a rural community being able to look up information and "get a hit."

MR. CLARK answered that the registration process is well-established in Alaska. Under HB 8, if someone has failed to register a protective order, the enforcement could take place immediately anyway. He reiterated that the proposed legislation would add "a presumption of validity." He noted that often, a person who has taken out a protective order possesses a hard copy of that order; therefore, in a threatening situation, the person could call law enforcement, who could enforce the order if it "appears authentic on its face."

8:14:38 AM

CO-CHAIR PARISH asked if he is correct in saying that everywhere else in the U.S. is "on board with this" and enforcing protective orders issued by other jurisdictions.

MR. CLARK answered that is correct. He emphasized that the State of Alaska is on board with this and is working under the requirements of the federal law. He said the intent of HB 8 is to address contradictions that exist in state statute. He said such change would not only act in favor of the victims, but also assist law enforcement, because continued contradictions in statute can cause conflicts in prosecutions going forward by presenting ambiguities in the prosecution of a case.

8:16:27 AM

REPRESENTATIVE RAUSCHER directed attention to language on page 4, lines 21 and 22, which read as follows:

(d) A protective order issued in another jurisdiction that appears authentic on its face is presumed valid.

REPRESENTATIVE RAUSCHER asked, "What's the procedure they're going to use to validate this, and do they need to validate anything?"

MR. CLARK replied that the reason for that language is to "err on the side of caution." He said if someone does not register a protective order from another jurisdiction, is in a threatening

situation, and law enforcement arrives, and the person has the protective order in hand, then law enforcement is authorized to determine whether the hard copy looks valid and, if so, proceed to enforce the protection. He said, "It exists in other states as a precaution in order to ... give as much help and assistance to someone in a threatening situation as possible. And to put it plainly, those matters can be sorted out; the validity itself can be sorted out after the situation is brought under control and people are safe."

MR. CLARK, in response to follow-up questions, confirmed that the matter would be settled in terms of validity before any prosecution would go forward. He said the section of the Violence Against Women Act that authorizes what the bill is describing includes certain criteria that a protective order from another jurisdiction must meet: the issue in court must have jurisdiction in the parties and the matter under the laws of the state, territory, or tribe, and that the issue in court must give reasonable notice and opportunity to the person against whom that order is sought in order for that person's due process to be protected.

REPRESENTATIVE RAUSCHER queried as to whether there are any statistics showing whether there have been any "frivolous orders."

[8:21:05 AM](#)

MARY LUNDQUIST, Senior Assistant Attorney General, Opinions, Appeals & Ethics Section, Civil Division (Fairbanks), Department of Law (DOL), stated that she is not aware of any frivolous use of protective orders. She deferred to Casey Schroeder to more specifically address questions regarding protective orders.

[8:21:48 AM](#)

CASEY SCHROEDER, Assistant Attorney General, Legal Services Section, Criminal Division, Department of Law (DOL), stated, "We're not aware of any frivolous or perhaps fraudulent uses of protective orders in this context, and we don't have any specifics on that either, unfortunately."

[8:22:26 AM](#)

CO-CHAIR PARISH asked Ms. Lundquist for an estimate of how many people in Alaska have protective orders from other jurisdictions.

MS. LUNDQUIST deferred to Ms. Schroeder.

MS. SCHROEDER answered that the division could obtain statistics showing the overall number of protective orders and those registered with the court; however, she said she does not know if there would be a specification of which of those are from other jurisdictions.

CO-CHAIR PARISH indicated that he did not require Ms. Schroeder to research information if she did not already have it on hand, as the information is not vital. He added, "It's a pretty clear bill."

[8:23:51 AM](#)

CO-CHAIR FANSLER opened public testimony on HB 8.

[8:25:20 AM](#)

REPRESENTATIVE WESTLAKE said he endorses and embraces the proposed legislation. He said at the village level, when someone wants to leave to get away from a bad situation, he/she goes to bigger city, and [HB 8] addresses that.

[8:26:25 AM](#)

CO-CHAIR FANSLER closed public testimony on HB 8.

[8:26:50 AM](#)

CO-CHAIR FANSLER stated support for HB 8 as a way to ensure there are no problems between federal and state law.

[8:27:32 AM](#)

CO-CHAIR PARISH moved to report HB 8 out of committee with individual recommendations and the accompanying fiscal notes.

[8:27:54 AM](#)

REPRESENTATIVE RAUSCHER [objected] to note that Co-Chair Parish had asked for information that [Ms. Schroeder] had said she could provide, and he said if possible he would like more time to review the bill.

[8:28:21 AM](#)

REPRESENTATIVE TALERICO objected for purpose of discussion.

[8:28:50 AM](#)

CO-CHAIR PARISH reiterated that he does not think there are conflicts between state and federal law, and he clarified that he had withdrawn his request for information. He urged Representative Rauscher to support HB 8, but reminded him that he had the right to pass the bill with "no recommendation" and the opportunity to move an amendment on the House floor.

[8:29:56 AM](#)

REPRESENTATIVE WESTLAKE offered his understanding that the state is basically already doing what is proposed under HB 8, but the proposed legislation would [make it official]. He indicated he would like to ask more questions of the representatives from the state agencies.

[8:30:33 AM](#)

The committee took an at-ease from 8:30 a.m. to 8:32 a.m.

[8:32:37 AM](#)

REPRESENTATIVE RAUSCHER noted that [during consideration of a similar bill heard during the Twenty-Ninth Alaska State Legislature,] three members [of the House Judiciary Standing Committee] had voted "no recommendation." He said he would like to vote in support of HB 8, but wonders what problem those legislators in the former legislature saw in regard to [House Bill 221]. He expressed interest in finding out an answer.

CO-CHAIR FANSLER asked Representative Rauscher if he had any questions.

REPRESENTATIVE RAUSCHER answered no.

[8:34:15 AM](#)

REPRESENTATIVE WESTLAKE asked Ms. Schroeder if Alaska is already compliant or if the proposed legislation is an attempt to make the state compliant with federal law addressing domestic violence and protective orders.

MS. SCHROEDER answered that is correct: "the federal law already requires us to do this." The proposed legislation "cleans up direct conflicts" of unconstitutionality and streamlines the process, which will help with prosecutions. She continued as follows:

The current law, the way it reads, it's an element of the offense that ... the protective law be registered, and the federal law says no, we can't do that anymore - that cannot be a requirement. So, what this is going to do, is when it comes to prosecuting people for violating protective orders, it's really going to help us out when the law is clear and it matches the federal law and we're all doing what we're supposed to do. It'll hopefully cut down on litigation ... so we can just focus on protecting victims.

[8:35:45 AM](#)

REPRESENTATIVE DRUMMOND expressed appreciation that Ms. Schroeder had mentioned the desire to protect victims. She opined that it is of the utmost importance to hurry the bill along in order to afford that protection.

[8:36:18 AM](#)

CO-CHAIR FANSLER stated his intent is to move HB 8 out of committee today. He suggested that because there is another committee of referral, Representative Rauscher would have time to get his research done and work with the bill sponsor.

[8:37:24 AM](#)

REPRESENTATIVE TALERICO removed his objection.

[8:37:34 AM](#)

REPRESENTATIVE RAUSCHER, in response to Co-Chair Fansler, clarified that he has no objection [to the motion to move HB 8 out of committee with individual recommendations and the attached fiscal notes].

[8:37:54 AM](#)

CO-CHAIR FANSLER announced that there being no further objection, HB 8 was reported out of the House Community and Regional Affairs Standing Committee.

[8:38:36 AM](#)

The committee took an at-ease from 8:39 a.m. to 8:46 a.m.

HB 78-INDIGENOUS PEOPLES DAY

[8:46:51 AM](#)

CO-CHAIR FANSLER announced that the final order of business would be HOUSE BILL NO. 78, "An Act establishing the second Monday of October of each year as Indigenous Peoples Day."

[8:48:03 AM](#)

REPRESENTATIVE WESTLAKE, as prime sponsor, presented HB 78. He stated that HB 78 would establish the second Monday of October, every year, as Indigenous People's Day. He said this is the same day on which Columbus Day is observed. He said, "While it's not recognized by the State of Alaska as an official holiday, it is a federal holiday." He emphasized that the intent of HB 78 is not to "tear down or destroy Columbus Day in any way, fashion, or form," but is meant as a "unification and celebration of us as Native peoples." He stated, "On a day that recognizes some of the first Europeans of the Americas, we also can be recognizing that we have always lived here." Representative Westlake continued as follows:

I don't think that anyone would argue against the significant cultural influence indigenous peoples have had, especially here in Alaska. There are more ... federally recognized tribes [in Alaska] than [in] the entire Lower 48 combined. That's us.

So, HB 78 does not create a new state holiday: it creates a day of recognition, a day of honor. Placing it on the same day as Columbus Day recognizes the intermingling of cultures that make Alaska such a great and vibrant state. It honors Alaska's rich cultural history.

REPRESENTATIVE WESTLAKE concluded that HB 78 would provide a day of celebration of all the cultures in Alaska - especially the indigenous peoples. He thanked committee members for considering the bill and offered to answer questions.

[8:50:20 AM](#)

REPRESENTATIVE RAUSCHER asked why the day is being proposed to occur on Columbus Day.

REPRESENTATIVE WESTLAKE answered, "It's a day when we were supposedly discovered; we never knew we were lost; and it's a great day - it really is." He said it is a time when Western culture and "our culture" met for the first time, and he opined that "it's an appropriate day." He said, "We can celebrate it from either side; it's all about multiculturalism, getting along as people on the same land, and it just seems appropriate."

[8:51:26 AM](#)

CO-CHAIR FANSLER offered his understanding that the state has had celebrations of indigenous people before, and those celebrations also occurred on the second Monday of October.

[8:51:47 AM](#)

ELIZABETH REXFORD, Staff, Representative Dean Westlake, Alaska State Legislature, on behalf of Representative Westlake, prime sponsor of HB 78, confirmed that for the last two years, Governor Bill Walker has signed a proclamation designating the second Monday of October as Indigenous People's Day [on an annual basis]. She indicated Mayor Ethan Burkowitz of the City of Anchorage had done the same in Anchorage in 2015. She said there have been requests to make this day of recognition a permanent one for Alaska.

[8:52:41 AM](#)

REPRESENTATIVE TALERICO expressed appreciation for the discussions he has had with the bill sponsor. He offered his understanding that contrary to some comments contained in letters received in response to HB 78, the intent of the bill sponsor is not to "eliminate Columbus Day." He said Representative Westlake has made it clear to him that his intent is to add to the day. Representative Talerico said he appreciates the bill sponsor's "multi-culture approach to the celebration of that day." He asked Representative Westlake to respond.

[8:53:43 AM](#)

REPRESENTATIVE WESTLAKE relayed that in his community of Kotzebue, he had researched the phrase "good morning" to find

out how many languages are spoken there. He said there are 17 indigenous languages. He indicated that languages spoken in Kotzebue include Norwegian and [Kinyarwanda]. He opined that such diversity above the Arctic Circle is "wonderful" and "makes us all so much better."

[8:54:31 AM](#)

CO-CHAIR FANSLER opened public testimony on HB 78.

[8:55:15 AM](#)

LINDSEY LAYLAND testified in support of HB 78. She characterized the first line of the second paragraph of the sponsor statement [included in the committee packet] as "spot on." It read as follows [original punctuation provided]:

Indigenous people are an integral part of the spiritual, cultural, linguistic, scientific and historical fabric of the State of Alaska and the Americas at large.

MS. LAYLAND said she has seen and heard arguments against this proposed recognition by those claiming that it would be exclusive to all non-indigenous people - a claim Ms. Layland said she thinks is absurd. She said the status quo is Columbus Day, which celebrates and recognizes "a single, white male whose actions have led to widespread genocide" and who was not actually the first European to "reach the Americas in discovery."

MS. LAYLAND said the proposed bill offers an opportunity to celebrate all the women, men, and children, who are the original inhabitants of Alaska and whose culture is vital in the founding of the state. She opined that it is important to those who would oppose such a bill to look across party lines, even to Alaska's state leaders at the federal level where Ms. Layland offered her understanding that Senator Lisa Murkowski proudly wears her kuspuk in public and professional settings. She posited that this is a nonpartisan issue that "reveals qualities of discrimination and racism in those that might oppose it."

[8:57:30 AM](#)

ALANNAH HURLEY testified in support of HB 78. She indicated concurrence with the statements made by the previous testifier. She relayed that she was "born and raised Yupik in this region."

She said she thinks the bill is about recognizing history that is not taught in mainstream school curriculum. She stated her belief that there is no way to move forward and heal some of the racial divides in Alaska and the nation, without recognizing the injustices of the past. She said she thinks that across the nation, people are choosing to replace Columbus Day with Indigenous Peoples Day, because "we're talking about somebody from an indigenous perspective who was one of first perpetrators of genocide in this country - someone who's been compared to Hitler." She questioned the message that children are being taught be celebrating [Columbus Day]. She concluded as follows:

This is really a movement across the nation to recognize real history and to celebrate the first people of this nation. And as the state that has the most tribes across the country, I think it would be amazing and make a great statement about ... how Alaska values its indigenous people.

[9:00:23 AM](#)

JONATHAN WOOD testified in support of HB 78. He said Alaska's population is nearly 15 percent American Indian and Alaska Native - by far the highest of any state in the U.S. He stated, "Just like an intricately woven Chilkat blanket, Alaska's various indigenous cultures are intricately woven throughout the history of this great state and territory prior to our statehood." He said unfortunately history is also filled with much cruelty and ugliness. Mr. Wood opined it is important to officially recognize and draw attention to the terrible losses suffered by the Native American people and their culture through disease, warfare, massacre, and forced assimilation. He stated that by designating a specific day to promote Native American culture and history, [Alaskans] can celebrate the rich traditions and continue the healing process for Alaska Natives. He opined that with the focus on this healing element, people will become better global citizens, with "an awareness of the continued struggle and experiences of other peoples and groups throughout the rest of the world."

[9:02:25 AM](#)

CO-CHAIR FANSLER, after ascertaining that there was no one else who wished to testify, closed public testimony on HB 78.

[9:02:59 AM](#)

REPRESENTATIVE DRUMMOND noted that many letters of support reference House Bill 275, which was a bill she sponsored in the Twenty-Ninth Alaska State Legislature that passed the House, but not the Senate. She stated support of HB 78. She queried whether the House Community and Regional Affairs Standing Committee was the only committee of referral.

CO-CHAIR FANSLER offered his understanding that is correct.

[9:03:50 AM](#)

The committee took an at-ease from 9:04 a.m. to 9:06 a.m.

[9:05:44 AM](#)

REPRESENTATIVE TALERICO reiterated that he does not see the [sponsor's] intent as being to remove a federal holiday and replace it with a new one. He expressed appreciation for the sponsor's intent to be inclusive and for the enjoyable aspects of Alaska Native culture. He acknowledged that there were atrocities and injustices that had happened, but said he thinks the intent of HB 78 is to move forward and try and avoid those things in the future - not just for particular groups of people, but for everyone.

[9:07:46 AM](#)

CO-CHAIR FANSLER expressed appreciation for the comments from Representative Talerico that "hit the nail on the head." He said he supports HB 78 and considers his co-sponsorship of it a great honor and source of pride. He said as a Representative from a district that is a majority Alaska Native, he thinks "this is the least we can do to recognize all the amazing contributions ... that we've received from indigenous people from around the world."

[9:09:06 AM](#)

CO-CHAIR PARISH moved to report HB 78 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 78 was reported out of the House Community and Regional Affairs Standing Committee.

[9:09:57 AM](#)

The committee took an at-ease from 9:10 a.m. to 9:12 a.m.

9:12:12 AM

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 9:12 a.m.