

**ALASKA STATE LEGISLATURE**  
**HOUSE STATE AFFAIRS STANDING COMMITTEE**

January 30, 2018

3:02 p.m.

**MEMBERS PRESENT**

Representative Jonathan Kreiss-Tomkins, Chair  
Representative Gabrielle LeDoux, Vice Chair  
Representative Chris Tuck  
Representative Adam Wool  
Representative Chris Birch  
Representative DeLena Johnson  
Representative Gary Knopp

**MEMBERS ABSENT**

Representative Andy Josephson (alternate)  
Representative Chuck Kopp (alternate)

**COMMITTEE CALENDAR**

HOUSE BILL NO. 293

"An Act relating to powers of the Alaska Police Standards Council; and relating to background checks for admission to police training programs and certification as a police officer."

- HEARD & HELD

HOUSE JOINT RESOLUTION NO. 29

Urging the United States Congress to reauthorize the Secure Rural Schools and Communities Self-Determination Act of 2000.

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 293

SHORT TITLE: BACKGROUND CHECKS FOR POLICE & TRAINING

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/19/18	(H)	READ THE FIRST TIME - REFERRALS
01/19/18	(H)	STA, JUD
01/30/18	(H)	STA AT 3:00 PM GRUENBERG 120

BILL: HJR 29

SHORT TITLE: REAUTHORIZE SECURE RURAL SCHOOLS ACT

SPONSOR(s) : RAUSCHER

01/19/18 (H) READ THE FIRST TIME - REFERRALS  
01/19/18 (H) STA, JUD, FIN  
01/30/18 (H) STA AT 3:00 PM GRUENBERG 120

**WITNESS REGISTER**

ROBERT GRIFFITHS, Executive Director  
Alaska Police Standards Council (APSC)  
Department of Public Safety (DPS)  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 293 on behalf of the House Rules Committee, sponsor, by request of the governor.

ERIC GAFFNEY, Records and Licensing Supervisor  
Division of Statewide Services (DSS)  
Department of Public Safety (DPS)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 293.

KATHRYN MONFREDA, Chief  
Criminal Records & Identification Bureau  
Division of Statewide Services (DSS)  
Department of Public Safety (DPS)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 293.

REPRESENTATIVE GEORGE RAUSCHER  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HJR 29, as prime sponsor.

DARRELL BREESE, Staff  
Representative George Rauscher  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HJR 29 on behalf of Representative Rauscher, prime sponsor.

**ACTION NARRATIVE**

[3:02:47 PM](#)

**CHAIR JONATHAN KREISS-TOMKINS** called the House State Affairs Standing Committee meeting to order at 3:02 p.m. Representatives Wool, Birch, Knopp, and Kreiss-Tomkins were present at the call to order. Representatives LeDoux, Tuck, and Johnson arrived as the meeting was in progress.

**HB 293-BACKGROUND CHECKS FOR POLICE & TRAINING**

[3:03:58 PM](#)

CHAIR KREISS-TOMKINS announced that the first order of business would be HOUSE BILL NO. 293, "An Act relating to powers of the Alaska Police Standards Council; and relating to background checks for admission to police training programs and certification as a police officer."

[3:04:11 PM](#)

ROBERT GRIFFITHS, Executive Director, Alaska Police Standards Council (APSC), Department of Public Safety (DPS), on behalf of the House Rules Committee, sponsor of HB 293, relayed that APSC is the police standards and training organization for the State of Alaska. He mentioned the various positions he has held in law enforcement and public safety.

MR. GRIFFITHS stated that APSC was created in 1972 by the Alaska State Legislature; its goal is to professionalize public safety in Alaska; its mission includes establishing, maintaining, and enforcing regulations consistent with that goal. He gave examples of fulfilling that mission: establishing minimum qualifications for individuals to be hired and appointed as police officers; regulating required basic training programs for officers; and certifying officers who have completed the basic training.

MR. GRIFFITHS relayed that APSC occasionally investigates allegations of officer misconduct and takes appropriate administrative action when warranted. It revokes certificates or denies certification for officers not meeting minimum requirements.

MR. GRIFFITHS proclaimed that the fundamental essence of APSC's mission is to support public safety statewide by promoting professional standards for hiring and training. He explained that to be hired as a police officer, one must undergo a fingerprint-based background history check to verify identity and ensure there is no criminal history. He stated that because

all state agencies and most municipal police departments already have access to Criminal Justice Information Services (CJIS), the fingerprint requirement has never been a problem until recently.

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MR. GRIFFITHS offered that CJIS is formally defined in AS 12.62.900, paragraph 13. It is a criminal history and data repository that includes: the Alaska Public Safety Information Network (APSIN) operated by DPS; and the National Law Enforcement Telecommunication System (NLETS), which links the state's data to that of other states and to the Federal Bureau of Investigation (FBI) National Criminal Information Center (NCIC). He said that this "system of systems" runs on a national information backbone that is largely regulated by the FBI; and it has an advisory steering group composed of two representatives from each state participating in the NLETS network. Alaska has two representatives on the steering group.

MR. GRIFFITHS relayed that APSC strives to support and enhance public safety to the best of its ability, especially in rural Alaska. Many of the small rural communities do not have access to CJIS and cannot request a fingerprint-based background check; yet, APSC mandates that a fingerprint-based background check is required before hiring a police officer. There are 123 Alaska rural communities without access to CJIS. He maintained that when APSC attempted to assist the communities by providing training for taking fingerprints and submitting the fingerprints for background checks through APSC, it discovered that federal regulations would not allow that; Alaska lacked the statutory authority for APSC to conduct such checks, as required by federal standards. He referred to his 2/26/18 letter to the committee chair, which reviews the federal regulations.

MR. GRIFFITHS continued by saying that the federal government considers APSC and all other state Police Officer Standards and Training (POST) agencies to be professional licensing bodies. Even though APSC is within DPS and operates the CJIS system, it still does not have access to the system. He maintained that restricting access to the system for the protection of the security and the privacy of the sensitive criminal information within the data systems. The federal government requires that access to the data must be authorized by the state legislature. He concluded that for APSC to assist the small rural agencies in performing fingerprint-based background checks, Alaska needs statutory changes enabling APSC to have that authority.

MR. GRIFFITHS maintained that the intent of HB 293 is to codify Alaska's existing regulations requiring the fingerprint-based background checks that are necessary before an individual can attend the basic police academy or be appointed as a police officer. It would modify the statutes so that APSC would have the authority either to take fingerprints itself or to have fingerprints taken, then submit them for background checks. It would modify the licensing statutes so that they authorized fingerprint-based background checks for an individual to attend a basic academy or be certified as an officer.

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MR. GRIFFITHS pointed out that HB 293 has a zero-fiscal note attached. The APSC expects to use the services of the existing [Alaska State] Troopers (ASTs) and Village Public Safety Officers (VPSOs) to train local officials in rural areas to do fingerprinting, and fingerprint cards would be provided by DPS. Consequently, there would be no added expense for APSC.

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REPRESENTATIVE LEDOUX asked for clarification as to why a community could not get federal authority for itself to request a background check. She requested to know what would be involved to do that.

MR. GRIFFITHS replied that a local community can require that an applicant for a city position have a background check; however, to petition DPS for the background check, the position must be on the list of circumstances for which background checks have been approved. A person in a rural community would have to travel to a DPS facility to have his/her fingerprints taken. He maintained that 90 percent of the problem is that the communities lack the resources to pay for travel and no one locally can take the fingerprints. He said that even if someone locally took the fingerprints and sent them to APSC, it does not have the authority to submit them for the background check, because of the federal regulation.

REPRESENTATIVE LEDOUX asked whether local people in the rural communities could get the authority to submit fingerprints themselves if they were trained to take fingerprints.

MR. GRIFFITHS expressed his belief that the State of Alaska would not allow them access to the information system unless permitted by statute, and they do not have that authority

currently. He mentioned that would be a licensing issue, and APSC is focused on law enforcement issues. He offered that the legislation has been introduced to solve two problems: 1) the local communities do not have the resources or training to do fingerprinting, and 2) they do not have the ability to submit fingerprints for a background check. He stated that through the proposed legislation, APSC is requesting the legislature to give it the authority to submit the fingerprints on behalf of the local communities, which would be one way for APSC to support public safety enhancement in those communities.

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REPRESENTATIVE LEDOUX asked why the proposed legislation does not request statutory authority for the communities to submit fingerprints for background checks instead of requesting authority for the state to submit fingerprints in the communities' behalf.

MR. GRIFFITHS responded that APSC's intent was to request authority with the narrowest scope possible to accomplish the task rather than extend the authority to communities across the state.

REPRESENTATIVE LEDOUX suggested that giving the communities the authority to submit fingerprints would be a narrower scope for APSC. The APSC would only need the authority to train local people in the communities, and the communities could submit the fingerprints themselves. She maintained that if Anchorage and Fairbanks can submit fingerprints, Kwethluk or any other community should also have that authority.

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MR. GRIFFITHS clarified that the communities who currently can submit fingerprints have access to the CJIS system; they purchased it and are participants in the system. He mentioned that Kwethluk and the other small communities don't have the foundation, economic base, or enough need for the system to justify being members of the CJIS system, which is expensive.

[3:19:15 PM](#)

ERIC GAFFNEY, Records and Licensing Supervisor, Division of Statewide Services (DSS), Department of Public Safety (DPS), explained that a request for an FBI background check must be made under existing state or federal law that has been approved

by the U.S. attorney general for the purpose the check is requested. He stated that currently some of the applicants that APSC wishes to certify and for whom APSC has requested background checks do not fall under any state or federal law that the U.S. attorney general has recognized for that purpose. He mentioned that he could not comment on whether the proposed legislation should include allowing local communities to directly request background checks. He offered that even if with that statutory authority, the communities would still have to submit fingerprints through DPS to the FBI, and since the [criminal history report] would be returned to the communities, APSC would still have a certification issue.

REPRESENTATIVE LEDOUX asked why the communities would have to submit fingerprints through DPS if they had statutory authority to request background checks and were trained to take fingerprints. She questioned why the communities would not submit the fingerprints directly to the FBI in that case.

MR. GAFFNEY replied that the federal government does not deal with individual communities on that basis; the process is centralized in each state within an agency such as DPS.

[3:24:15 PM](#)

REPRESENTATIVE LEDOUX asked if Anchorage and Fairbanks submit requests for background checks through DPS, and not directly to the federal government.

MR. GAFFNEY replied, "That is correct."

REPRESENTATIVE LEDOUX asked why the smaller communities couldn't submit requests for background checks through DPS just like Anchorage and Fairbanks, if someone in the community had fingerprinting training.

MR. GAFFNEY expressed his understanding that the police agencies of some smaller communities do not qualify under the existing law because of infrastructure issues and lack of access to criminal justice information systems; the existing law extends to Anchorage Police Department (APD) and similar agencies.

REPRESENTATIVE LEDOUX replied that she understands that the smaller communities do not qualify under existing law but wants to know why the proposed legislation doesn't give the local communities the authority to request background checks rather than giving the authority solely to DPS.

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MR. GAFFNEY responded that he cannot answer the question as to the proper scope of the proposed legislation. He mentioned that the mission of APSC is to certify applicants. If background checks are being made by local communities, the results would go back to those communities, but that would not help APSC to certify applicants; it would need to conduct its own background checks.

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CHAIR KREISS-TOMKINS asked if there are two options, as described by Representative LeDoux.

MR. GRIFFITHS expressed his belief that the small communities do not have the capacity to set up and implement the complex information-sharing agreements that would be needed for them to be members of CJIS so that they could submit fingerprints directly to DPS and on to the FBI. The proposed legislation would provide the smaller communities with a way to avoid having to do that.

CHAIR KREISS-TOMKINS conceded that there are capacity restraints for the police departments of small communities; he asked if there are any statutory barriers for them.

MR. GRIFFITHS replied yes. He said that they must be authorized in statute, and currently statute does not authorize it. He relayed that the prohibition exists due to federal law [28 U.S. Code § 534 and Code of Federal Regulations (CFR) 28 Part 20] and state law, AS 12.62.

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REPRESENTATIVE BIRCH opined that the proposed legislation offers a balanced approach for rural areas [needing to fill positions]. He maintained that there is risk associated with widespread access to very secure and critically important data. He asked for the number of jurisdictions with APSC certified employees and whether VPSOs would be included among those employees.

MR. GRIFFITHS responded that there are at least 123 communities that meet APSC criteria - off the road system, population of under 1,000, incorporated city, and no active police department - and would be potential customers [of the service APSC could

offer under the proposed legislation]. He said that APSC does not know how many of those communities currently have police officers, because the agencies are not complying with APSC's reporting requirements. He stated that under HB 293, APSC hopes to make a concerted effort to reach out to these communities, provide education on submitting fingerprints for background checks, encourage the reporting of law enforcement personnel hires to APSC, and ensure training of new hires. He offered that about 50-60 of the communities have VPSOs, and APSC has information on only about 20 VPSOs.

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REPRESENTATIVE BIRCH referred to police officers that are trained in Alaska and leave for better employment opportunities. He asked if Mr. Griffiths has data on the number of APSC certified officers in Alaska who have left the state.

MR. GRIFFITHS answered that there are currently a little over 1,300 active officers in the state; APSC is supposed to be notified when officers separate from an agency and receives notice for about 99 percent of them; and unless a separating officer goes to another Alaska agency, APSC does not know where he/she goes unless he/she returns back to Alaska, files paperwork with APSC, and goes through the steps necessary to reactivate his/her certification.

REPRESENTATIVE BIRCH asked for information on the change in the number of officers over the years.

MR. GRIFFITHS agreed to provide that information.

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REPRESENTATIVE KNOPP mentioned that there are private contractors who take fingerprints, but he does not know to whom the fingerprints are submitted. He stated that many of the rural communities have not adopted police powers: therefore, their officers work under DPS. He suggested that the communities referred to by Mr. Griffiths are those that have adopted police powers. Since statute clearly states that organized boroughs and municipalities may utilize those powers unless prohibited by state law, they could adopt an ordinance requiring fingerprinting and background checks. He said that he supports advocating for communities to request their own background checks.

MR. GRIFFITHS stated that private contractors who take fingerprints return the fingerprint card to the applicant, who then submits it to the government agency to which he/she is applying. For example: for someone applying for a hazardous material ("hazmat") [endorsement], the fingerprint card would go to the federal government, and the federal government would perform the fingerprint background check; for someone applying for a real estate license, the card would go to the State of Alaska DPS to perform the check, and the results would go to the licensing agency.

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REPRESENTATIVE KNOPP pointed out that when he renewed his hazmat endorsement, he did not mail a fingerprint card to anyone; it was all done in his behalf.

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KATHRYN MONFREDA, Chief, Criminal Records & Identification Bureau, Division of Statewide Services (DSS), Department of Public Safety (DPS), responded to the question about municipalities submitting fingerprints for a background check without going through APSC, as follows: An incorporated village with a functioning government body could submit fingerprints directly to DPS, such as is done by Fairbanks and Anchorage. The proposed legislation is to assist villages without a form of government that could process the prints.

REPRESENTATIVE KNOPP asked, "Are we not providing public safety to the rural communities through DPS?"

MS. MONFREDA answered yes. The VPSOs in the villages are vetted through the DPS AST VPSO program; however, the proposed legislation relates to communities with village police officers (VPOs), whose fingerprint background checks must go through a government entity, because under federal law, DSP cannot release a national criminal history to a non-governmental entity.

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CHAIR KREISS-TOMKINS asked whether the purpose of bill is to do background checks on VPSOs.

MS. MONFREDA replied not the VPSOs, the VPOs.

CHAIR KREISS-TOMKINS asked for the number of VPOs currently in Alaska.

MS. MONFREDA responded that she did not know.

MR. GRIFFITHS answered that he did not know either, but the number of VPOs that APSC has certified is just a few, with a few more working to be certified. He said that the rest are not reported to APSC.

CHAIR KREISS-TOMKINS asked whether there are other types of law enforcement personnel for whom the proposed legislation would assist in getting background checks.

MR. GRIFFITHS replied no.

CHAIR KREISS-TOMKINS summarized by saying that the proposed legislation would help villages with VPOs do background checks on prospective officers.

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REPRESENTATIVE LEDOUX asked for the number of villages that have VPOs and whether all of them are without a form of government.

MR. GRIFFITHS relayed that most of the villages with VPOs are incorporated; they must be incorporated to hire VPOs. He offered that based on Ms. Monfreda's testimony, these communities probably could do background checks if they enact the appropriate ordinances and procedures. He maintained that APSC has not been successful in convincing the communities to do so; therefore, it is offering an alternative.

REPRESENTATIVE LEDOUX stated that she would like to hear testimony by someone from one of the villages for his/her opinion. She offered that the proposed legislation would assist about 12 villages.

MR. GRIFFITHS replied that he does not know the number of agencies that would be interested in pursuing that capacity; APSC has been getting an increasing number of applications because of outreach efforts for the VPO training program; there are 10-12 participating communities for each training session, which occurs once per year. He reiterated that it is difficult to know the number of agencies, because different villages come to the training programs from year to year and village personnel change.

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REPRESENTATIVE LEDOUX referred to the zero-fiscal note and suggested that giving overworked public safety officers additional duties would result in additional cost. She said, "Legislation actually costs."

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REPRESENTATIVE WOOL gave as an example the procedures involved for massage therapists to get a background check: a massage therapist gets fingerprinted periodically; the fingerprints are sent in to the FBI for the background check; the results are sent back to the [Board of Massage Therapists]; and the board reviews the report for infractions. He suggested that for massage therapists, background checks can be done because the fingerprints are being submitted through a state agency. He asked for the reason someone in a village could not follow that same protocol.

MR. GRIFFITHS responded that the reason is that APSC is not on the list of agencies [who may submit fingerprints through DPS to the FBI to obtain a national criminal history record check to evaluate a person's qualifications]; the agencies on the list [in AS 12.62.400] include those that license massage therapists, real estate agents, and psychoanalysts; the submission of fingerprints for a background check is allowed for everyone on the list.

REPRESENTATIVE WOOL suggested that if the intent of the proposed legislation is to add APSC to the list and allow many rural communities to background-check prospective VPOs through APSC, then it makes perfect sense.

MR. GRIFFITHS stated, "Yes, that was the intent."

CHAIR KREISS-TOMKINS announced that HB 293 would be held over.

**HJR 29-REAUTHORIZE SECURE RURAL SCHOOLS ACT**

[3:49:26 PM](#)

CHAIR KREISS-TOMKINS announced that the final order of business would be HOUSE JOINT RESOLUTION NO. 29, Urging the United States Congress to reauthorize the Secure Rural Schools and Communities Self-Determination Act of 2000.

[3:49:49 PM](#)

REPRESENTATIVE GEORGE RAUSCHER, Alaska State Legislature, relayed that HJR 29 encourages the U.S. Congress to reauthorize the Secure Rural Schools (SRS) and Community Self-Determination Act of 2000. He stated that the SRS Program expired and has created budgetary shortfalls for school districts around Alaska, which will continue, if Congress fails to reauthorize this longstanding federal obligation to local governments. He said that the SRS Program compensates more than 700 forest communities nationwide and 33 communities in Alaska for timber harvesting revenue lost due to changes in federal forest management policy.

REPRESENTATIVE RAUSCHER stated that historically, school districts in Alaska have relied on a share of receipts from this federal program to supplement local funding for education services and for roads.

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REPRESENTATIVE KNOPP asked to know when the authorization expired and whether Alaska is receiving any timber receipts currently for distribution.

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DARRELL BREESE, Staff, Representative George Rauscher, Alaska State Legislature, responded that the authorization expired in 2015; the last money authorized was in the [state] fiscal year 2018 (SFY 18) budget; and it was a very small amount. He referred the committee to the documents included in the committee packet, entitled "FFY16 SRS/NFR Payments Final (SFY 17)" and "FFY17 SRS/NFR Payments (SFY18)," which indicate that Anchorage received \$62,762.77 in SFY 17, but only \$3,581.13 in SFY 18 due to the expiration of the authorization. He stated that this year [SFY 19] there will be no receipts.

MR. BREESE referred to proposed federal legislation, H.R. 2340 and S. 1027, included in the committee packet, which have broad bipartisan support and support from 29 states across the country. He mentioned many of the states whose congressmen are cosponsoring the legislation and referred to the lists of states included in the committee packet. He said that the communities that would lose money are listed in the two previously mentioned documents showing payments; these are the communities that live

adjacent to the Tongass National Forest (TNF) in Southeast Alaska and the Chugach National Forest (CNF) [in Southcentral Alaska], in which forestry occurred; and they are the communities for which money was provided [under the program].

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REPRESENTATIVE WOOL asked whether only communities adjacent to a national forest received the funds.

MR. BREESE replied, that is correct.

REPRESENTATIVE WOOL asked for clarification of "management activities" mentioned in the sponsor statement, included in the committee packet.

MR. BREESE explained that the primary source of revenue to the communities was timber sales; other sources of revenues were leases and other activities in the national forest. When the Act was enacted in 2000, the intent was to compensate for the loss of timber sale revenue to the neighboring communities. He said that the communities of Southeast Alaska were impacted more than many other communities, because the timber industry there was much larger than in other parts of the state.

REPRESENTATIVE WOOL expressed surprise that Anchorage was compensated and said, "You wouldn't think of Anchorage as a real timber town."

MR. BREESE suggested that the compensation to Anchorage was due to its proximity to the Chugach National Forest.

[3:55:38 PM](#)

REPRESENTATIVE KNOPP commented that he advocated for this for many years during his tenure on the Alaska Municipal League (AML) Board of Directors.

REPRESENTATIVE RAUSCHER relayed that there are many community school districts that have submitted letters of support for the proposed legislation.

CHAIR KREISS-TOMKINS announced that HJR 29 would be held over.

[3:57:00 PM](#)

## **ADJOURNMENT**

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 3:57 p.m.