

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

March 28, 2018

1:48 p.m.

MEMBERS PRESENT

Senator John Coghill, Chair
Senator Mia Costello
Senator Pete Kelly
Senator Bill Wielechowski
Senator Mike Shower

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CONFIRMATION HEARINGS

Alaska Bar Association Board of Governors
William Gordon

- CONFIRMATION ADVANCED

State Board of Parole
Sarah Possenti

- CONFIRMATION ADVANCED

Violent Crimes Compensation Board
Jeffrey Stubblefield

- REMOVED FROM AGENDA

SENATE BILL NO. 202

"An Act relating to the liability of a Native corporation for the release or threatened release of hazardous substances present on certain lands."

- MOVED SB 202 OUT OF COMMITTEE

SENATE BILL NO. 184

"An Act restricting the release of certain records of convictions; relating to criminal history information for state employment applications; amending Rule 37.6, Alaska Rules of Administration; and providing for an effective date."

- MOVED CSSB 184 (JUD) OUT OF COMMITTEE

SENATE BILL NO. 150

"An Act relating to pretrial release procedures; amending Rule 41, Alaska Rule of Criminal Procedure; and providing for an effective date."

- HEARD & HELD

CS FOR HOUSE BILL NO. 43 (JUD)

"An Act relating to prescribing, dispensing, and administering an investigational drug, biological product, or device by physicians for patients who are terminally ill for the purpose of sustaining the patient's life; providing immunity related to manufacturing, distributing, or providing investigational drugs, biological products, or devices; and relating to licensed health care facility requirements."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: SB 202

SHORT TITLE: NATIVE CORP. LIABILITY FOR CONTAMINATION

SPONSOR(s): SENATOR(s) HOFFMAN

02/19/18	(S)	READ THE FIRST TIME - REFERRALS
02/19/18	(S)	RES, JUD
02/26/18	(S)	RES AT 3:30 PM BUTROVICH 205
02/26/18	(S)	Moved SB 202 Out of Committee
02/26/18	(S)	MINUTE (RES)
02/28/18	(S)	RES RPT 4DP 2NR
02/28/18	(S)	DP: GIESSEL, BISHOP, COGHILL, VON IMHOF
02/28/18	(S)	NR: STEDMAN, MEYER
03/26/18	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/26/18	(S)	Heard & Held
03/26/18	(S)	MINUTE (JUD)
03/28/18	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 184

SHORT TITLE: ACCESS TO MARIJUANA CONVICTION RECORDS

SPONSOR(s): SENATOR(s) BEGICH

02/12/18 (S) READ THE FIRST TIME - REFERRALS
02/12/18 (S) JUD, FIN
03/21/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/21/18 (S) Heard & Held
03/21/18 (S) MINUTE(JUD)
03/28/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 150

SHORT TITLE: PRETRIAL RELEASE; NON-AK CRIM HISTORY
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/18/18 (S) READ THE FIRST TIME - REFERRALS
01/18/18 (S) JUD
03/21/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/21/18 (S) Heard & Held
03/21/18 (S) MINUTE(JUD)
03/28/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

WILLIAM GORDON, Nominee
Board of Governors of the Alaska Bar
Salsha, Alaska

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

SARAH POSSENTI, Nominee
State Board of Parole
Alaska

Fairbanks, Alaska

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

SENATOR LYMAN HOFFMAN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 202

MARIDON BOARIO, Staff
Senator Lyman Hoffman
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided answers to questions that were
raised during the previous hearing relating to SB 202.

JORDAN SHILLING, Staff

Senator John Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Reviewed the changes in the CS for SB 184, version N.

SENATOR TOM BEGICH
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As sponsor, stated support for the CS for SB 184, version N.

NANCY MEADE, General Council
Administrative Staff
Office of the Administrative Director
Alaska Court System
Anchorage, Alaska

POSITION STATEMENT: Commented on the CS for SB 184, version N.

BRADLEY MILLER, representing self
Eagle River, Alaska

POSITION STATEMENT: Testified that SB 150 is a band aid for the failures of SB 91.

TAMMY WELLS, representing self
Anchorage, Alaska

POSITION STATEMENT: During the testimony on SB 150, urged the repeal of Senate Bill 91.

LARRY DISEBROW, representing self
Eagle River, Alaska

POSITION STATEMENT: Testified that SB 150 won't really help.

BONNIE LILLEY, representing self
Anchorage, Alaska

POSITION STATEMENT: During the hearing on SB 150, testified that she didn't like Senate Bill 91 when she first saw it and her assessment was spot on.

LESLIE DISBROW, representing self
Eagle River, Alaska

POSITION STATEMENT: Testified that SB 150 doesn't go far enough to adequately address the problems with crime in the state.

CLIFF COOK, Eagle River Community Patrol
Eagle River, Alaska

POSITION STATEMENT: During the hearing on SB 150, testified that starting over is the right first step to get crime under control in Alaska.

BRITTNEY NUXALL, representing self
Anchorage, Alaska

POSITION STATEMENT: During the hearing on SB 150, testified to the suffering her family has gone through as a result of Senate Bill 91.

AMY DEMBOSKI, representing self
Chugiak, Alaska

POSITION STATEMENT: During the hearing on SB 150, urged the repeal of Senate Bill 91.

LYNETTE CLARK, representing self
Fox, Alaska

POSITION STATEMENT: Testified that SB 150 is nothing but a band aid on the crime wave in Alaska when a tourniquet is needed.

ACTION NARRATIVE

[1:48:57 PM](#)

CHAIR JOHN COGHILL called the Senate Judiciary Standing Committee meeting to order at 1:48 p.m. Present at the call to order were Senators Shower, Wielechowski, Costello, and Chair Coghill. Senator Kelly arrived soon thereafter.

CONFIRMATION HEARING(S)
Alaska Bar Association Board of Governors
State Board of Parole

CHAIR COGHILL announced the consideration of governor appointments to boards and commissions. He asked Mr. Gordan to tell the committee about his interest in serving on the Board of Governors of the Alaska Bar.

[1:50:25 PM](#)

WILLIAM GORDON, Nominee, Board of Governors of the Alaska Bar, Salsha, Alaska, said he has served two previous terms and has found it very rewarding. He is a lifelong Alaskan who has worked and lived across the state. This has given him a working knowledge of what goes on in the villages. He has public and private sector experience, sometimes at the highest level. He has also spent a lot of time volunteering.

[1:52:35 PM](#)

SENATOR KELLY joined the committee.

CHAIR COGHILL found no questions and thanked Mr. Gordon for his service.

SENATOR WIELECHOWSKI disclosed that he is a member of the bar association.

CHAIR COGHILL stated that the appointment would be forwarded to the full body.

[1:54:36 PM](#)

CHAIR COGHILL asked Ms. Possenti to tell the committee about her interest in serving on the State Board of Parole.

[1:54:58 PM](#)

SARAH POSSENTI, Nominee, State Board of Parole, Fairbanks, Alaska, said that if confirmed this will be her third term on the board. Prior to being on the board, she was a probation and parole officer in the field and institutions for about 13 years. She specialized in supervising sex offenders and working with folks who had substance abuse issues. She has been vice chair of the board for 4-5 years. She is willing to serve another term and believes her institutional knowledge is important. She feels strongly about the things the board does regarding reentry services and trying to help former inmates become productive members of the community.

[1:56:58 PM](#)

CHAIR COSTELLO thanked Ms. Possenti for her work and agreed that an historical perspective is important.

SENATOR SHOWER asked where the parole board might be failing in terms of releasing folks who should not be released and if there were things the board could do better.

MS. POSSENTI said she believes there is a need for more programs and reentry services so people who appear before the board are in a better place to be considered for discretionary parole.

SENATOR SHOWER asked her to list three things that would help in that effort.

MS. POSSENTI said there are needs for more substance abuse treatment in the institutions, better halfway houses in

communities, and more services to help people transition from prison to halfway houses to employment.

CHAIR COGHILL shared that next week the committee would consider a bill that looks at the prison industry and giving some flexibility to the commissioner to procure housing for people who are released from prison. It will be different than the traditional halfway house.

MS. POSSENTI said halfway houses serve an important purpose but the existing model could be improved. She noted that the inmates at the Point Mackenzie Correctional Farm gain valuable work and vocational skills.

CHAIR COGHILL commented that the Point Mackenzie farm and the youth military academy foster feelings of mutual respect. He thanked Ms. Possenti for her service and advised that her name would be forwarded to the full body.

[2:03:41 PM](#)

CHAIR COGHILL stated that in accordance with AS 39.05.080, the Senate Judiciary Standing Committee reviewed the following and recommends the appointments be forwarded to a joint session for consideration: Board of Governors of the Alaska Bar - William Gordon of Salsha; and the State Board of Parole - Sarah Possenti.

SB 202-NATIVE CORP. LIABILITY FOR CONTAMINATION

[2:04:11 PM](#)

CHAIR COGHILL announced the consideration of SB 202 and noted this was the second hearing.

[2:04:37 PM](#)

SENATOR LYMAN HOFFMAN, Alaska State Legislature, Juneau, Alaska, sponsor of SB 202, stated that the legislation provides relief from liability from damages related to contaminated lands that were conveyed to Alaska Native corporations through the Alaska Native Claims Settlement Act (ANCSA) if the contamination is proved to have occurred prior to conveyance. He said Ms. Boario will provide answers to the questions that were raised during the previous hearing.

[2:06:23 PM](#)

MARIDON BOARIO, Staff Senator Lyman Hoffman, Alaska State Legislature, Juneau, Alaska, said several questions were raised during the previous hearing relating to the scope of the

contamination, the contaminants involved, and the entity that tracks that information. She reached out to the Bureau of Land Management and the Alaska Department of Environmental Conservation who maintain detailed websites of the location of the various sites and a list of the contaminants that have been identified. She sent those links to members' staff along with a map. A few of the contaminants that have been identified are arsenic, lead, unexploded ordinance, PCBs, solvents, and petroleum products.

To the question about whether the state is responsible for costs related to the cleanup of the contamination, he said the answer is no unless the state is found to be the responsible party pre-conveyance. She checked with the Alaska Native Village Corporation Association and DEC and neither could think of any land in that category. Most of the land that was transferred through ANCSA was federal. She also noted that there were no lawsuits related to the transfer of ANCSA. To the question about whether passage of the bill makes it more likely for a Native corporation to get funding, the answer is yes. Federal funds are available to Native corporations if they are relieved of liability. Passing the bill would show state support for that.

[2:09:14 PM](#)

CHAIR COGHILL found no further questions or proposed amendments and solicited a motion.

[2:09:36 PM](#)

SENATOR COSTELLO moved to report SB 202, version A, from committee with individual recommendations and attached fiscal note(s).

[2:09:51 PM](#)

CHAIR COGHILL announced that without objection, SB 202 moved from the Senate Judiciary Standing Committee.

[2:10:00 PM](#)

At ease

SB 184-ACCESS TO MARIJUANA CONVICTION RECORDS

[2:13:20 PM](#)

CHAIR COGHILL reconvened the meeting and announced the consideration of SB 184. He noted the proposed committee substitute (CS).

[2:13:54 PM](#)

SENATOR COSTELLO moved to adopt the work draft CS for SB 184, version 30-LS1282\N, as the working document.

[2:14:02 PM](#)

CHAIR COGHILL objected for an explanation of the changes.

[2:14:35 PM](#)

JORDAN SHILLING, Staff Senator John Coghill, Alaska State Legislature, Juneau, Alaska, advised that SB 184 has been significantly narrowed in scope. It reduces costs to agencies while maintaining the core aspects. He reviewed the following changes:

- The ban the box provision was removed.
- The requirement that the Department of Public Safety go through each manual record in their APSIN database and remove eligible individuals was removed. Those individuals instead would apply and, on a case-by-case basis DPS will approve or deny their removal from APSIN. This is the provision that drove the fiscal note.
- The CS retains the provision that removes the convictions for eligible individuals from CourtView.

CHAIR COGHILL asked the sponsor to provide his thoughts on the CS.

[2:15:59 PM](#)

SENATOR TOM BEGICH, Alaska State Legislature, Juneau, Alaska, said he supports the committee substitute. He related that he had a good conversation with Senators Coghill and Shower about the ban the box concept and the fact that some of the elements are under consideration by the Department of Administration (DOA). If it requires legislation he will pursue that in future years. What the bill tries to do is provide people with opportunities for redemption and moving forward with their lives. Conversations with his staff, the chair's staff, and DPS resolved the issue of DPS going through 11,000 records. The CS gets to the same point as the original version in a far more simplified way. He encouraged the committee's support.

[2:17:08 PM](#)

CHAIR COGHILL offered his understanding that the bill doesn't just pull the relevant cases from CourtView. It places a block on the file unless there is a reason to access it.

SENATOR BEGICH said that's correct.

CHAIR COGHILL asked Ms. Meade to comment on the language related to CourtView.

[2:18:07 PM](#)

NANCY MEADE, General Counsel, Administrative Staff, Office of the Administrative Director, Alaska Court System, Anchorage, Alaska, said Section 3 makes these court records entirely confidential. They will be treated like a child in need of aid (CINA) case or a juvenile case. These are not open to the public in any manner and are not posted on CourtView.

CHAIR COGHILL asked if the information in those files would be open to a lawyer's search.

MS. MEADE said law enforcement attorneys have access to confidential cases and judges know there are confidential cases, but the information is not available to the general public.

CHAIR COGHILL asked if it would be fairly easy for the court to flag these cases.

MS. MEADE said it isn't necessarily easy to identify the cases because the marijuana statutes have changed over the years, but she has high confidence the court will be able to comply. Responding to a further question, she said the court can do this without fiscal impact.

CHAIR COGHILL found no further questions. He removed his objection and version N was adopted.

[2:21:56 PM](#)

SENATOR COSTELLO moved to report the CS for SB 184, version N, from committee with individual recommendations and attached fiscal note(s).

[2:22:13 PM](#)

CHAIR COGHILL announced that without objection CSSB 184(JUD) moved from the Senate Judiciary Standing Committee.

[2:22:31 PM](#)

At ease

SB 150-PRETRIAL RELEASE; NON-AK CRIM HISTORY

[2:24:20 PM](#)

CHAIR COGHILL reconvened the meeting and announced the consideration of SB 150. He noted the proposed committee

substitute (CS), the four proposed amendments, and the individuals waiting to give public testimony. He asked Senator Wielechowski to summarize the amendments so both the public and the Department of Law will know what will be discussed.

[2:26:11 PM](#)

SENATOR WIELECHOWSKI said he tried to tailor the amendments to the bill and the pretrial and bail concerns he's hearing in the community.

Amendment 1 deletes the requirement for mandatory release when a person is arrested for a misdemeanor and is deemed a moderate risk. An individual may still be released on their own recognizance, but the judge has discretion.

Amendment 2 is in response to situations where a person commits a crime, is released on mandatory OR, commits another crime, and is again released on mandatory OR. The Department of Law testified that this is happening. The amendment says if a person commits a crime while out on OR, they are no longer eligible for mandatory OR. This gives discretion back to the judge.

Amendment 3 clarifies that judicial officers have the ability to require an individual to complete a sobriety program while on release. It also adds a box to the release form that clarifies whether or not the person eligible for release is required to enter a sobriety program.

Amendment 4 defines electronic monitoring to mean active realtime global positioning system (GPS) monitoring. The DOC testified it had this capability, but it isn't always used. He said his research indicates this is generally more effective in eliminating abuse of electronic monitoring.

[2:28:55 PM](#)

CHAIR COGHILL asked each individual to limit their public testimony to two minutes.

[2:29:51 PM](#)

BRADLEY MILLER, representing self, Eagle River, Alaska, said SB 150 is moving in the right direction, but it's still just a band aid for the failures of SB 91. He suggested the honorable thing would be to repeal that legislation and start over.

[2:31:22 PM](#)

TAMMY WELLS, representing self, Anchorage, Alaska, said she has worked in the legal system for the past 20 years. She grew up in

Mountain View and since the passage of Senate Bill 91, she has never been more fearful. She agreed with the previous testifier that repealing Senate Bill 91 is a real move in the right direction. That legislation is responsible for the dramatic increase in crime throughout the state. Recidivism is a problem because there are not enough programs within the prison system to get people off drugs and to teach new skills so they can successfully reintegrate into society. Neither are there enough mentorship programs. The best bet is to start over and address the underlying problems that are causing people to commit crimes in the first place.

CHAIR COGHILL said written testimony is welcome.

[2:34:00 PM](#)

LARRY DISEBROW, representing self, Eagle River, Alaska, said SB 150 won't really help. Senate Bill 91 needs to be repealed and replaced with a bill that addresses the crime problems in Alaska.

[2:35:13 PM](#)

BONNIE LILLEY, representing self, Anchorage, Alaska, said she lives alone in the Muldoon area and it has a lot of crime. She stated that notice of public testimony needs to be advertised better. When she called the person, who answered the phone didn't know if public testimony would be taken. It's a problem to leave the public out of the process when they are being incredibly affected by rampant crime. She didn't like Senate Bill 91 when she first saw it and her assessment was spot on. The treatment aspect isn't in effect and there are no repercussions for committing crimes. She questioned how pretrial officers can assess risk when out-of-state criminal history isn't considered. She approves of the improvements the bill seeks to address but doesn't believe it will help unless treatment in jail is mandatory. Other states that have implemented similar criminal justice legislation have required treatment programs. She urged the committee to focus on stronger changes so people can sleep at night.

CHAIR COGHILL said we're trying to make sure the public is noticed.

[2:40:11 PM](#)

LESLIE DISBROW, representing self, Eagle River, Alaska, stated that SB 150 doesn't go far enough to adequately address the problems with crime in the state. She doesn't feel safe going to the store in Eagle River The current catch and release system is

completely unacceptable. The only fix is to completely repeal Senate Bill 91 and work to solve the issues facing the state. Cars are being stolen, robberies are going on, and people are shoplifting like crazy. Nothing can be done about this because the police and judges' hands are tied. Scrap Senate Bill 91 and start over.

[2:42:04 PM](#)

CLIFF COOK, Eagle River Community Patrol, Eagle River, Alaska, said he started the community patrol in November 2017 because of the increase in crime in Eagle River by repeat offenders. These folks are arrested and the police have to release them. A lot of people blame Senate Bill 91 and he agrees. A lot of people blame drug addiction and he agrees. Anchorage also has a lot of homeless and runaways. What these people all have in common is they are desperate and unafraid. He agreed that starting over is the right first step to get crime under control.

CHAIR COGHILL said he would defend some areas of Senate Bill 91 but it's reasonable to poke holes in it in other areas. It's a combination of how to prosecute, the plea bargaining, the bail schedule, and accountability in pretrial.

[2:45:07 PM](#)

BRITTNEY NUXALL, representing self, Anchorage, Alaska, she has the same complaints as others about crime, but she wanted to highlight the suffering her family has gone through as a result of Senate Bill 91. She described two family members who have 14 probation violations between them. She maintained that pretrial services does not hold them or others accountable. She said these people aren't suffering but their children are. One family member was incarcerated, received treatment, and the family was reunited. She attributed this largely to pushing by the family, not the court, or pretrial services. Alaska says it doesn't leave children behind, but it does. This is clear when one looks at the number of children in foster care. She urged the committee to repeal Senate Bill 91 and start over.

[2:48:36 PM](#)

AMY DEMBOSKI, representing self, Chugiak, Alaska, said the Anchorage Assembly has taken no less than five hours of public testimony on Senate Bill 91, Senate Bill 54, crime in general, and criminal justice reform. In the last year and a half, she has held two town hall meetings on crime in her district. Nearly 200 people testified and just 10 people supported the direction the legislature has chosen to go. The rest were overwhelmingly

opposed to the criminal justice reforms implemented by the legislature.

She said her testimony on SB 150 is very simple. It is logical to use out-of-state criminal histories but the pre-assessment tool is fundamentally flawed. Removing discretion from judges to remove criminals from the state and keep the public safe is counter to the role judges traditionally play in the criminal justice system. She stated support for the amendments Senator Wielechowski described, particularly Amendment 1.

MS. DEMBOSKI said she appreciates Senator Coghill looking at the criminal justice system in Alaska, but she believes that Senate Bill 91 has contributed significantly to the explosion of crime in the state. She shared that some police officers have pulled her aside and said they are not allowed to speak out about the legislation publicly, but they want to see it repealed. She noted that today's hearing was publicly noticed but nowhere did it say that public testimony would be taken. She expressed hope that Senator Costello's bill to repeal Senate Bill 91 gets a full and fair public hearing with adequate public notice.

[2:52:43 PM](#)

LYNETTE CLARK, representing self, Fox, Alaska, said SB 150 is nothing but a band aid on the crime wave in Alaska when a tourniquet is needed. She believes Senate Bill 91 is the core of the problem. Public testimony on that legislation foretold future problems. There are a lot of reasons for the crime wave including drugs, unemployment, and debt. In her small village the worries are about heroin addicts, crack addiction, "methheads," stolen trucks, and home break-ins. In this economy it's difficult for people to replace the things they've lost. The solution is to repeal Senate Bill 91 and then employ a different tactic to protect Alaskans.

CHAIR COGHILL said that in Senate Bill 91 victims got more access and input. The penalties were increased for both drug dealing and murder, so repealing the bill entirely would be a step backward in those areas. He acknowledged that improvements could be made in the areas of pretrial and arrests.

CHAIR COGHILL said the CS and the amendments would be brought forward on Monday.

[2:58:04 PM](#)

CHAIR COGHILL held SB 150 in committee with public testimony open.

2:58:06 PM

There being no further business to come before the committee, Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 2:58 p.m.