

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

April 4, 2018

2:04 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 HEARING(S)

Lieutenant Governor Successor
Commissioner Valerie Davidson - Juneau

- CONFIRMATION ADVANCED

State Commission for Human Rights
Megan Mackiernan - Nome
Freddie Olin IV - Anchorage

- CONFIRMATIONS ADVANCED

Public Defender
Quinlan Steiner - Anchorage

- CONFIRMATION ADVANCED

Violent Crimes Compensation Board
Jeffrey Stubblefield - Eagle River

-SCHEDULED BUT NOT HEARD

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 AND HELD

SENATE JOINT RESOLUTION NO. 14

Proposing an amendment to the Constitution of the State of Alaska relating to notice and consent before termination of a minor's pregnancy.

- BILL HEARING CANCELED

SPONSOR SUBSTITUTE FOR HOUSE JOINT RESOLUTION NO. 21

Urging the federal government to respect the authority of the state to regulate marijuana use, production, and distribution and to honor previous federal guidance on marijuana policy; and urging the federal government to reconsider its listing of marijuana as a schedule I controlled substance.

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

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)
03/28/18	(S)	Heard & Held
03/28/18	(S)	MINUTE(JUD)
04/02/18	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/02/18	(S)	Heard & Held
04/02/18	(S)	MINUTE(JUD)

WITNESS REGISTER

MEGAN MACKIERNAN, PA, Appointee
State Commission on Human Rights
Nome, Alaska

POSITION STATEMENT: Testified as appointee to the State Commission on Human Rights.

COMMISSIONER VALERIE DAVIDSON, Appointee
Lieutenant Governor Successor
Juneau, Alaska

POSITION STATEMENT: Testified as appointee to the position of
Lieutenant Governor Successor.

QUINLAN STEINER, Appointee
Public Defender
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the position of
Public Defender of the State of Alaska.

FREDDIE OLIN IV, Appointee
State Commission for Human Rights
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the State
Commission on Human Rights.

ACTION NARRATIVE

[2:04:00 PM](#)

CHAIR JOHN COGHILL called the Senate Judiciary Standing
Committee meeting to order at 2:04 p.m. Present at the call to
order were Senators Wielechowski, Shower, Costello, Kelly, and
Chair Coghill.

CONFIRMATION HEARING(S)
Lieutenant Governor Successor
State Commission for Human Rights
Public Defender

[2:04:49 PM](#)

CHAIR COGHILL announced the first order of business would be
confirmation hearings of governor appointees.

He asked Commissioner Valerie Davidson to tell the committee
about her expectation as appointee to the position of lieutenant
governor successor.

[2:05:26 PM](#)

COMMISSIONER VALERIE DAVIDSON, Appointee, Lieutenant Governor
Successor, Juneau, Alaska, said it was her honor and privilege
to be nominated as lieutenant governor successor. She explained
that appointing a lieutenant governor successor was a statutory

requirement and a matter of hoping for the best and planning for the worst. If something should happen to the lieutenant governor, the successor would assume the role.

She reviewed her personal history and educational and professional achievements and reiterated that the appointment is a contingency plan. She offered her understanding that the lieutenant governor's largest responsibility is to supervise the director of the division of elections who is responsible for ensuring a fair election process and that every Alaskan has the opportunity to vote. Before an election, the division hires about 3,000 employees. The division is also responsible for publishing regulations and the online public notice system, commissioning notaries public, and is sometimes called upon to authenticate state official signatures on official documents for foreign countries. Although it's not a statutory requirement, the division publishes small booklets of the Alaska Constitution.

[2:10:37 PM](#)

SENATOR WIELECHOWSKI asked her thoughts on ways to increase voter turnout in the state. He also asked how she might address the larger issues facing the state like crime and the budget.

COMMISSIONER DAVIDSON said she believes that Alaska as a state could do more to educate young people about this responsibility and every Alaskan should take on the challenge and of encouraging young people of their right and responsibility to vote. It's a misperception that it's just one person or one division or one agency's responsibility to do that, she said. "The more we can encourage young people to do that on a personal level, the better off we are."

Regarding priorities, she said Alaska is experiencing tight financial times, but it has faced tough times before. When people have the opportunity to be heard, they generally arrive at good decisions. She cited the example several years ago when the legislature passed Senate Bill 74. The Medicaid Reform bill was a bipartisan effort that included tough conversations and a good outcome. Problems arise when people feel they don't have the opportunity to be heard. Alaska has what it takes to solve that problem. The challenge is to keep talking to each other and work through the issues.

[2:15:33 PM](#)

CHAIR COGHILL thanked Commissioner Davidson and advised her name would be forwarded.

He asked Quinlan Steiner to tell the committee about his past service as the public defender and if he was willing to continue to serve.

2:16:40 PM

QUINLAN STEINER, Appointee, Public Defender, Anchorage, Alaska, said he just completed his third four-year term as public defender and was willing to serve a fourth term. He shared that he was inspired to attend law school to become a public defender. When he was first hired as public defender, his plan was to increase the effectiveness of the agency in terms of recruiting, structure, and supervision to ensure that cases were handled efficiently and effectively. More recently he has shifted efforts to exploit technology and collaborative opportunities with the Department of Law and other agencies to ensure that things are handled as efficiently and effectively as possible. He related that he was currently working on a holistic defense initiative. Through grants and volunteers the agency seeks to help clients access services and address barriers outside their specific legal cases. The idea is to help them avoid future contact with the criminal justice system. Through grant funding the agency is seeking to develop data to show that this is not only effective but also cost-effective to the state. Anecdotally, the success has been great, he said.

SENATOR WIELECHOWSKI asked if Alaska has enough public defenders.

MR. STEINER said not at this time. Calculations based on the standards set by the American Bar Association show that a substantial increase is needed to get the agency to the area where it is not ethically required to work an excess of 90 hours per week. Studies from out of state indicate that the Alaska Public Defender Agency is currently over its maximum case load. The 1998 study by Alaska's Legislative Audit Division needs to be updated. Dramatic increases are projected this year and those numbers need to come down.

SENATOR WIELECHOWSKI asked if the State of Alaska was at risk of violating the constitution by not having enough public defenders.

MR. STEINER said yes, if the projections he calculated for this year and next year are accurate and additional resources don't materialize. The agency would be in the situation where it would be required to attempt to refuse appointments. If the agency has

too many cases to do the required tasks, it would be forced to try and refuse cases. The courts may agree and allow the agency out of those cases and the state would then likely be required to engage private lawyers. The courts could also conclude that the agency must deal with the cases with existing resources. The consequences of that would be substantial increases in delays and costs associated with the errors that would occur.

CHAIR COGHILL asked if that was a function of budget or a function of finding personnel to do the work.

MR. STEINER said it was largely a function of budget. Budget requests to both the House and Senate are in process and would help alleviate the immediate concern for this year. The agency has access to very good candidates coming out of law school and off clerkships. He said their model is to hire new lawyers and train them to be able to handle high-level cases.

[2:22:42 PM](#)

SENATOR WIELECHOWSKI asked if he believes that Senate Bill 91 was working or needed changes.

MR. STEINER said there was no data indicating one way or the other that the initiatives are achieving the expected goal of reductions in recidivism, but what needs to be more robust is access to the various rehabilitative treatment services and vocational and educational programs. A bill that passed last year smoothed some of the initiatives and a bill introduced this year is a measured response to the concerns about out of state convictions.

[2:24:54 PM](#)

SENATOR WIELECHOWSKI asked if he would agree that crime has increased in the state and if he would attribute that to Senate Bill 91 or other factors.

MR. STEINER said crime started increasing throughout the state for several years before Senate Bill 91 and criminal justice reform passed. He said the limited data he's seen does not suggest that criminal justice reform exacerbated that increase. In fact, immediately after Senate Bill 91 passed, most of the crime indicators went down. Vehicle theft was an exception. He stated that while the overall criminal caseloads went down for a couple of years, the complexity of the cases increased and so did the workload. What happened this year was that the caseload jumped off the chart in the first two quarters. That is expected

to continue for the rest of the year and into next year if resources are added to increase prosecutions and investigations.

2:28:00 PM

CHAIR COGHILL thanked Mr. Steiner and advised that his name would be forwarded.

He asked Megan Mackiernan to tell the committee about herself and her experience with the Human Rights Commission.

2:28:48 PM

MEGAN MACKIERNAN, PA, Appointee, State Commission on Human Rights, Nome, Alaska, stated that she was a physician assistant in Nome and had been working with the Human Rights Commission for the past six months. She was excited about the work the commission is doing.

CHAIR COGHILL asked how many meetings she had attended.

MS. MACKIERNAN replied two meetings.

CHAIR COGHILL asked her to talk about her first look at the gender issue that came before the commission.

MS. MACKIERNAN said the commission looked at the issue from a statutory perspective, debated the issue, and decided to withhold a decision pending the relevant legislation that had been introduced.

CHAIR COGHILL asked if she had prior involvement with the issue.

MS. MACKIERNAN said no, but she was involved in several discrimination issues in Nome.

SENATOR KELLY asked if she would support Alaska law regardless of her personal position on any issue.

MS. MACKIERNAN answered yes.

SENATOR SHOWER asked her thoughts on China's human rights record and the generic oppression of its people regarding freedom of speech and other rights.

MS. MACKIERNAN said she's quite familiar with discrimination in China based on race, tribal affiliation, gender, gender identity, family statutes, and disability. It is a situation of significant concern, but the Human Rights Commission doesn't

have much to say about that other than to advocate for improved human rights conditions for all persons around the world.

CHAIR COGHILL thanked Ms. Mackiernan for being willing to serve on what can be a very difficult commission.

CHAIR COGHILL asked Mr. Olin to tell the committee about himself, his history with the Human Rights Commission, and his interest in serving.

[2:34:02 PM](#)

FREDDIE OLIN IV, Appointee, State Commission for Human Rights, Anchorage, Alaska, said he was appointed in January and participated in the meeting last week. He was part of a group that visited legislative offices and discussed the exclusion of nonprofits under the human rights law. He admitted that his learning curve would be steep.

SENATOR COSTELLO asked what he was studying as a UAF undergraduate.

MR. OLIN replied he was working towards a Bachelor of Arts degree with an emphasis on indigenous organization management that is focused on working with tribal organizations or a Native corporation. He said he hoped to graduate in 2019.

CHAIR COGHILL thanked Mr. Olin for being willing to serve.

[2:36:43 PM](#)

CHAIR COGHILL stated that in accordance with AS 39.05.080, the Judiciary Committee reviewed the following and recommends the appointment be forwarded to a joint session for consideration:

Lieutenant Governor Successor - Valerie Davidson; State Commission for Human Rights - Megan Mackiernan and Freddie Olin IV; and Public Defender - Quinlan Steiner.

This does not reflect an intent by and of the members to vote for or against the confirmation of the individual during any further sessions.

SB 150-PRETRIAL RELEASE; NON-AK CRIM HISTORY

[2:37:28 PM](#)

CHAIR COGHILL announced the consideration of SB 150 and noted that in a previous meeting the department spoke to his proposed amendment on the five-year lookback.

[2:39:22 PM](#)

At ease

[2:42:22 PM](#)

CHAIR COGHILL reconvened the meeting.

[2:42:31 PM](#)

CHAIR COSTELLO moved Amendment 1, work order 30-GS2814\0.6.

AMENDMENT 1

OFFERED IN THE SENATE

TO: CSSB 150(JUD), Draft Version "O"

Page 5, lines 13 - 14:

Delete "within the previous five years"

CHAIR COGHILL objected for discussion purposes.

SENATOR COSTELLO said she appreciates the amendment because it allows the data to be collected and become validated data in the future.

CHAIR COGHILL removed his objection and Amendment 1 was adopted.

[2:43:43 PM](#)

SENATOR WIELECHOWSKI moved Amendment 2, work order 30-GS2814\0.3.

AMENDMENT 2

OFFERED IN THE SENATE

BY SENATOR WIELECHOWSKI

TO: CSSB 150(JUD), Draft Version "O"

Page 3, line 14:

Delete "to moderate"

Insert "[TO MODERATE]"

Page 3, line 17, following "(2)":

Insert "**moderate to**"

SENATOR COGHILL objected.

SENATOR WIELECHOWSKI explained that the amendment deletes the requirement for mandatory release where a person is arrested for a misdemeanor and is deemed by the pretrial assessment tool to be a moderate risk. He pointed out that a person who has multiple failure to appear warrants in the last several years and multiple arrests could still be deemed a moderate risk. He said it's a reasonable approach to say, we're not going to mandate that judges let these people go free. He opined that most prosecutors and judges would agree with this amendment. He said he supports giving people second chances but the people who score high enough to be deemed a moderate risk have already been given multiple chances. He reminded members that the attorney general testified that we're seeing a situation where people are getting arrested and released multiple times.

SENATOR WIELECHOWSKI posited that changes could be made in the future if the Department of Corrections (DOC) develops a more reliable assessment tool, but until that happens a fix is needed.

[2:48:59 PM](#)

CHAIR COGHILL maintained his objection. He pointed out that if somebody violates a condition of release based on mandatory OR, they would automatically not qualify for the mandatory release provision. Their score would be high if they had multiple prior failures to appear. He said the tool may need to be refined but it is working well. The implication that there is no supervision under the mandatory release provision is not true. If a person fails supervision, they never again qualify for mandatory release. He also pointed out that for the first time, people who fail to appear are being caught. That wasn't the case before DOC implemented the pretrial assessment tool.

CHAIR COGHILL asked for a roll call on Amendment 2 to SB 150.

[2:50:22 PM](#)

A roll call vote was taken. Senators Wielechowski, Costello, and Shower voted in favor of Amendment 2 for SB 150 and Senators Kelly and Coghill voted against it. Therefore, Amendment 2 passed by a 3:2 vote.

[2:50:50 PM](#)

CHAIR COGHILL adjourned the Senate Judiciary Standing Committee meeting at 2:50 p.m.