

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

March 22, 2019

1:35 p.m.

**MEMBERS PRESENT**

Representative Matt Claman, Chair  
Representative Gabrielle LeDoux, Vice Chair  
Representative Chuck Kopp  
Representative Adam Wool  
Representative David Eastman

**MEMBERS ABSENT**

Representative Louise Stutes  
Representative Laddie Shaw

**COMMITTEE CALENDAR**

CONFIRMATION HEARING: SELECT COMMITTEE ON LEGISLATIVE ETHICS

- HEARD

HOUSE BILL NO. 49

"An Act relating to criminal law and procedure; relating to controlled substances; relating to probation; relating to sentencing; relating to reports of involuntary commitment; amending Rule 6, Alaska Rules of Criminal Procedure; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 49

SHORT TITLE: CRIMES; SENTENCING; MENT. ILLNESS; EVIDENCE

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/20/19	(H)	READ THE FIRST TIME - REFERRALS
02/20/19	(H)	JUD, FIN
03/22/19	(H)	JUD AT 1:30 PM GRUENBERG 120

**WITNESS REGISTER**

H. CONNER THOMAS  
Nome, Alaska

**POSITION STATEMENT:** Testified during his confirmation hearing.

**ACTION NARRATIVE**

[1:35:30 PM](#)

**CHAIR MATT CLAMAN** called the House Judiciary Standing Committee meeting to order at 1:35 p.m. Representatives LeDoux, Wool, Kopp, and Claman were present at the call to order. Representative Eastman arrived as the meeting was in progress.

**Confirmation Hearing: Select Committee on Legislative Ethics**

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CHAIR CLAMAN announced that the first order of business would be a confirmation hearing for Chief Justice Joel H. Bolger's appointment to a public seat on the Select Committee of Legislative Ethics, H. Conner Thomas.

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CHAIR CLAMAN opened public testimony on Mr. Thomas's appointment.

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H. CONNER THOMAS, said he has lived in Nome, where he practices law, for 40 years. He said he has served on the Select Committee on Legislative Ethics since 1999 and would like to serve another term. He said he has enjoyed his time on the committee and believes it to be important work.

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REPRESENTATIVE EASTMAN asked for Mr. Thomas's opinion on the ideal mix of lawyers and non-lawyers on the committee.

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MR. THOMAS said it was important to have a mix though he could not offer a formula for the ideal mix. He praised the broader perspective brought to the debate by the committee's non-lawyer members. He said he felt the current mix - two attorneys and three non-attorneys - is good.

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REPRESENTATIVE EASTMAN asked about changes over Mr. Thomas's tenure in the speed at which complaints are handled by the committee. He asked Mr. Thomas's opinion on the matter and whether he felt the process should be sped up or slowed down.

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CHAIR CLAMAN noted Mr. Thomas need not answer any questions about potential statutory changes.

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MR. THOMAS said there have been times when the committee has been slower than it should be. He attributed this slowness to staffing issues. He said there was at least one full legislative session during which the committee was not full, which he said made it difficult to comply with the committee's statutory requirements. He added it can periodically be difficult for the committee to assemble because some members are legislators. He noted that in-person meetings are required to deliberate complaints. He said he did not recommend any particular changes.

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REPRESENTATIVE EASTMAN referenced Chief Justice Bolger's letter of appointment in which the Chief Justice noted that no one applied last year to serve on the committee as an alternate public member. He asked why the committee is finding it difficult to fill that vacancy.

CHAIR CLAMAN said he would not allow that question. He said Mr. Thomas is not involved in the advertising of the open position.

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CHAIR CLAMAN closed public testimony on Mr. Thomas's appointment.

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REPRESENTATIVE KOPP thanked Mr. Thomas for his long commitment to Nome, to Alaska Legal Services, and to the Select Committee on Legislative Ethics.

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REPRESENTATIVE EASTMAN commented that it is fortunate Mr. Thomas has long been willing to serve in this position. He suggested inquiring about what encourages Mr. Thomas to serve so as to glean information about why it has proven difficult to attract applicants for the empty position.

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CHAIR CLAMAN recognized Mr. Thomas's willingness to serve for two decades on the committee. He acknowledged that Mr. Thomas has been renominated by multiple chief justices.

[1:46:28 PM](#)

REPRESENTATIVE LEDOUX thanked Mr. Thomas for his twenty years on the committee.

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REPRESENTATIVE LEDOUX reminded members that signing the reports regarding appointments to boards and commissions in no way reflects individual members' approval or disapproval of the appointees, and that the nominations are merely forwarded to the full legislature for confirmation or rejection.

- CONFIRMATION(S) ADVANCED

**HB 49-CRIMES; SENTENCING; MENT. ILLNESS; EVIDENCE**

[1:47:34 PM](#)

CHAIR CLAMAN announced that the final order of business would be HOUSE BILL NO. 49 "An Act relating to criminal law and procedure; relating to controlled substances; relating to probation; relating to sentencing; relating to reports of involuntary commitment; amending Rule 6, Alaska Rules of Criminal Procedure; and providing for an effective date."

CHAIR CLAMAN read from the following prepared statement [original punctuation provided].

Before we take up HB 49, I'd like to share my concerns about two topics:

First, I was troubled to learn that yesterday, Governor Dunleavy refused to fill an Alaska Superior

Court vacancy in Palmer as required by the Alaska Constitution and state law. Article IV, Section 5 of the Alaska Constitution states: "The governor shall fill any vacancy in an office of supreme court justice or superior court judge by appointing one of two or more persons nominated by the judicial council." Alaska Statute 22.15.170. requires the Governor to select a judge from that list within 45 days.

The oath that I take to serve in this office requires that I swear to uphold "the Constitution of the United States and the Constitution of the State of Alaska." The Governor took the same oath to serve as Governor. The authors of Alaska's Constitution believed that it was important to have judges who were honest, fair, impartial, intelligent, experienced in applying the law, and committed to following the rule of law. To achieve this, framers of our Constitution established a merit selection system for choosing judges and a retention election system for retaining them. Merit selection ensures that the Council has conducted an apolitical evaluation of the applicant's professional qualifications and every judge is among the most qualified for that position.

By refusing to select from the list of qualified candidates nominated by the Judicial Council, the Governor is failing to uphold the Alaska Constitution. The Governor's inaction is unprecedented in Alaska history. Both Gov. Hickel and Gov. Murkowski were sometimes unhappy with nominations from the Judicial Council. But each time, despite their dissatisfaction with the choices before them, they respected the Rule of Law by appointing a judge within 45 days, as required by law. Governor Dunleavy has failed to follow the Rule of Law.

Second, I am troubled by the news of travel restrictions placed on Quinlan Steiner, the Public Defender. We recently learned at a House State Affairs Committee hearing, that the Department of Administration forwarded Mr. Steiner's travel request to the Governor's office and the Governor's Chief of Staff denied all travel for the remainder of the legislative session.

There appears to be no precedent in Alaska history in which the Governor authorized prosecutors to travel to Juneau to testify on crime bills, but refused the same courtesy and privilege to the Public Defender.

Having the perspective of both the Department of Law and the Public Defender when reviewing any bills related to public safety is crucial. And my experience in the capitol has shown me, again and again, that [appearing in person] is an advantage.

CHAIR CLAMAN interjected and said, "I am reminded of a very experienced prosecutor who once said to me that one of the best parts about the American system of justice is almost everyone who is convicted is guilty, and that's a part of having a two-sided perspective."

CHAIR CLAMAN continued reading from his prepared statement [original punctuation provided]:

Because I am firmly committed to a fair and open process with a level field, we will continue our hearing on House Bill 49 on Monday.

Moving forward, all Anchorage-based staff with the Administration providing testimony on any public safety bills will only be heard telephonically until the Governor's office decides to approve the Public Defender's travel [to Juneau].

[HB 49 was held over.]

[1:51:36 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 1:51 p.m.