

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

January 27, 2020

1:49 p.m.

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Chuck Kopp
Representative Louise Stutes
Representative Gabrielle LeDoux
Representative Laddie Shaw
Representative David Eastman

MEMBERS ABSENT

Representative Harriet Drummond

COMMITTEE CALENDAR

HOUSE BILL NO. 142

"An Act relating to Alaska Native organizations; relating to the village public safety officer program; and relating to the Alaska temporary assistance program."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 142

SHORT TITLE: NATIVE ORGANIZATIONS TANF PROGRAM

SPONSOR(S): REPRESENTATIVE(S) KREISS-TOMKINS

04/22/19	(H)	READ THE FIRST TIME - REFERRALS
04/22/19	(H)	TRB, JUD
04/30/19	(H)	TRB AT 8:00 AM CAPITOL 106
04/30/19	(H)	Heard & Held
04/30/19	(H)	MINUTE(TRB)
05/02/19	(H)	TRB AT 8:00 AM CAPITOL 106
05/02/19	(H)	Moved HB 142 Out of Committee
05/02/19	(H)	MINUTE(TRB)
05/03/19	(H)	TRB RPT 4DP 2NR
05/03/19	(H)	DP: LINCOLN, ORTIZ, EDGMON, ZULKOSKY
05/03/19	(H)	NR: VANCE, TALERICO
05/08/19	(H)	JUD AT 1:00 PM GRUENBERG 120
05/08/19	(H)	-- MEETING CANCELED --
05/10/19	(H)	JUD AT 1:00 PM GRUENBERG 120

05/10/19 (H) Heard & Held
05/10/19 (H) MINUTE (JUD)
01/27/20 (H) JUD AT 1:30 PM GRUENBERG 120

WITNESS REGISTER

ERIN HARRINGTON, Staff
Representative Jonathon Kreiss-Tomkins
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of Representative Kreiss-Tomkins, prime sponsor, explained the changes from HB 142 that would be made by a proposed committee substitute.

KENDRI CESAR, Outside Counsel
Central Council Tlingit & Haida Indian Tribes of Alaska
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 142.

ACTION NARRATIVE

[1:49:37 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 1:49 p.m. Representatives LeDoux, Shaw, Kopp, and Claman were present at the call to order. Representatives Stutes and Eastman arrived as the meeting was in progress.

HB 142-NATIVE ORGANIZATIONS TANF PROGRAM

[Contains discussion of HB 42.]

[1:50:23 PM](#)

CHAIR CLAMAN announced that the only order of business would be HOUSE BILL NO. 142, "An Act relating to Alaska Native organizations; relating to the village public safety officer program; and relating to the Alaska temporary assistance program."

[1:50:47 PM](#)

ERIN HARRINGTON, Staff, Representative Jonathon Kreiss-Tomkins, Alaska State Legislature, explained the changes from HB 142 that would be made by a proposed committee substitute. She explained

that the first four sections of HB 142 address the Village Public Safety Officer (VPSO) program and were "rolled into the crime omnibus that was passed last year." She said that left only Section 5 in the bill, which addresses administration of the Temporary Assistance for Needy Families (TANF) by Alaska Native organizations. The remaining language is what makes up the proposed committee substitute (CS), [Version 31-LS0535\G, Marx, 1/23/20, included in the committee packet].

[1:52:55 PM](#)

MS. HARRINGTON stated that the proposed CS would repeal AS 47.27.070(c), which read as follows:

(c) Notwithstanding other provisions of this section, the department may coordinate with an Alaskan Native organization under (a) of this section only if, for purposes of this chapter, the Alaska Native organization incorporates a nonprofit entity under state law and the nonprofit entity is active and in good standing, as determined by the Department of Commerce, Community, and Economic Development.

MS. HARRINGTON said the language in [subsection](a), [paragraph](10) clearly shows the intent is to allow Central Council Tlingit & Haida Indian Tribes of Alaska ("Tlingit & Haida") to administer TANF; however, [subsection] (c) prohibits Tlingit & Haida from doing so, because Tlingit & Haida is a tribe rather than a regional nonprofit, such as Tanana Chiefs Conference and Kodiak Area Native Association. She noted that [subsection] (a), in particular, is modeled on federal legislation that was passed in 1996. She relayed that although the Department of Law (DOL) and the Department of Health and Social Services (DHSS) would not be testifying on HB 142, she had spoken with representatives from both departments, who helped to find a solution to the problem of [subsection] (c). That solution, to repeal AS 47.27.070(c), is what the proposed committee substitute would do.

[1:56:06 PM](#)

CHAIR CLAMAN offered his understanding that the four aforementioned sections that would be removed under the proposed CS were enacted in law under HB 49.

[1:56:22 PM](#)

REPRESENTATIVE KOPP moved that the House Judiciary Standing Committee adopt the proposed committee substitute (CS) for HB 142, Version 31-LS0535\G, Marx, 1/23/20, as a work draft. There being no objection, Version G was before the committee.

[1:56:55 PM](#)

REPRESENTATIVE LEDOUX questioned who identified the problem that Version G would address.

[1:57:22 PM](#)

MS. HARRINGTON deferred to representatives from Tlingit & Haida.

[1:58:18 PM](#)

KENDRI CESAR, Outside Counsel, Central Council Tlingit & Haida Indian Tribes of Alaska, explained that Tlingit & Haida receives grants from the State of Alaska and works with DHSS. She said presently Tlingit & Haida is at the end of a three-year grant. The issue came to light for the first time at the beginning of that grant application period. She said that is when Tlingit & Haida worked with DOL to pursue "a statutory fix in the three years of this grant period." In response to a follow-up question from Representative LeDoux, she confirmed that the departments have no position on the issue, although they assisted in bringing the issue to light and finding a solution.

[1:59:49 PM](#)

REPRESENTATIVE KOPP ascertained that Tlingit & Haida was formed in 1936. He offered his understanding that "the state was not recognizing tribes at that time as formal governments"; that is why the nonprofits were created. He asked whether the changes made regarding the VPSO program were similar to the change being discussed that would allow Tlingit & Haida [to manage TANF.]

[2:01:51 PM](#)

MS. CESAR responded that there is a similarity, even though "the statutory issue was a little bit different." She said the crux of the issue is that Tlingit & Haida has never been a nonprofit but is a regional tribe. She said the regional approach to delivery of services in Southeast Alaska is different, in that Southeast Alaska Regional Health Consortium (SEARHC), the tribal health organization, is focused on health care services, while Tlingit & Haida, Southeast, focuses on social services and the

VPSO program. She said this is unique to Southeast Alaska. She echoed Ms. Harrington's remark that federal statute authorizes numerous tribal health organizations and Tlingit & Haida.

[2:02:41 PM](#)

REPRESENTATIVE KOPP summarized that the problematic language, which would be repealed under Version G, is the reference to a nonprofit entity. He noted that Ms. Cesar had pointed out that Tlingit & Haida has been running [TANF] for decades as a tribe.

[2:03:12 PM](#)

CHAIR CLAMAN questioned whether Tlingit & Haida would risk losing state funding for some of its programs if this statutory change is not made.

[2:03:23 PM](#)

MS. CESAR surmised that Tlingit & Haida would work with "the department" for another solution, but she does not know what that solution would be.

[2:03:38 PM](#)

CHAIR CLAMAN questioned whether if another entity came along and offered programs, then the legislature would have to change the statute again.

[2:04:39 PM](#)

MS. CESAR responded that federal law allows Lower 48 tribes to operate TANF, and there is a special rule in Alaska allowing regional tribal health organizations and Tlingit & Haida to run the program. She surmised that [the federal law] does not currently open the door for other organizations to run the program; therefore, a federal statutory fix may be required if another entity was interested in running the program.

[2:05:17 PM](#)

CHAIR CLAMAN concluded that since it would be federal law that would need to be changed, there is no point in giving the option "for somebody else to come in" [under Alaska statute]. He added, "And then we'll have enough time to wake up and do whatever the feds did."

[2:05:49 PM](#)

MS. CESAR responded, "Yes."

[2:05:59 PM](#)

REPRESENTATIVE EASTMAN asked whether the intent is to "open that door so that some other organization in the future can walk through it."

[2:06:05 PM](#)

MS. CESAR answered no. She clarified that [Version G] simply would remove a requirement from state statute that was not in federal law to allow Tlingit & Haida to continue to "carry out the [TANF] program."

[2:06:16 PM](#)

REPRESENTATIVE STUTES questioned whether there is something that would preclude Tlingit & Haida from forming its own nonprofit to fit into the existing category.

[2:06:30 PM](#)

MS. CESAR answered that Tlingit & Haida has never operated as a nonprofit corporation, and to do so would add "another layer of bureaucracy, significant time and expense, and change to the structure, without actually adding value to services." She added, "That is something that we discussed with the department early on when this issue was identified and why we agreed that a statutory fix was necessary."

[2:06:57 PM](#)

REPRESENTATIVE LEDOUX said she would like to hear from DOL as to the process of identifying a problem, working with Tlingit & Haida to solve the problem, and then not taking a position regarding the solution.

[2:07:26 PM](#)

MS. CESAR offered her understanding that DOL had not been available for today's meeting, but may be available on Wednesday.

[2:07:35 PM](#)

CHAIR CLAMAN questioned who, from DOL, might likely be available to come before the committee on Wednesday.

[2:07:46 PM](#)

MS. HARRINGTON offered her understanding that the person from DOL would be Stacie Kraly, who was involved on this issue and works on matters relating to health and social services.

[2:08:31 PM](#)

REPRESENTATIVE LEDOUX requested that whoever comes before the committee from the department be equipped to answer her question.

[2:08:42 PM](#)

MS. HARRINGTON said she and Ms. Kraly had a conversation "about this very thing, this morning," but she stated she does not want to "characterize their position." She told Representative LeDoux that she would ensure someone from DOL was prepared to answer her question.

[2:09:32 PM](#)

CHAIR CLAMAN announced that HB 142 was held over.

[2:10:30 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:10 p.m.