

**ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON TRIBAL AFFAIRS**

March 10, 2020

8:05 a.m.

MEMBERS PRESENT

Representative Tiffany Zulkosky, Chair
Representative Bryce Edgmon, Vice Chair
Representative John Lincoln
Representative Chuck Kopp
Representative Dan Ortiz
Representative Sarah Vance

MEMBERS ABSENT

Representative Dave Talerico

COMMITTEE CALENDAR

HOUSE BILL NO. 287

"An Act requiring background investigations of village public safety officer applicants by the Department of Public Safety; relating to the village public safety officer program; and providing for an effective date."

- MOVED CSHB 287 (TRB) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 287

SHORT TITLE: VILLAGE PUBLIC SAFETY OFFICER GRANTS

SPONSOR(S): REPRESENTATIVE(S) KOPP

02/24/20	(H)	READ THE FIRST TIME - REFERRALS
02/24/20	(H)	TRB, JUD, FIN
02/26/20	(H)	JUD AT 1:00 PM GRUENBERG 120
02/26/20	(H)	<Bill Hearing Canceled>
03/03/20	(H)	TRB AT 8:00 AM DAVIS 106
03/03/20	(H)	Heard & Held
03/03/20	(H)	MINUTE (TRB)
03/05/20	(H)	TRB AT 8:00 AM DAVIS 106
03/05/20	(H)	Heard & Held
03/05/20	(H)	MINUTE (TRB)
03/10/20	(H)	TRB AT 8:00 AM DAVIS 106

WITNESS REGISTER

REPRESENTATIVE CHUCK KOPP
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, introduced changes made to HB 287.

KEN TRUITT, Staff
Representative Chuck Kopp
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced changes made to HB 287 on behalf of Representative Chuck Kopp, prime sponsor.

JACKIE PATA, Second Vice President
Central Council Tlingit & Haida Indian Tribes of Alaska
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 287.

ALEX CLEGHORN, Legal Director
Alaska Native Justice Center
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 287.

DEAN LOPEZ, VPSO Program Manager
Bristol Bay Native Association
Dillingham, Alaska

POSITION STATEMENT: Testified in support of HB 287.

MELANIE BAHNKE, President/CEO
Kawerak, Inc.
Nome, Alaska

POSITION STATEMENT: Testified in support of HB 287.

KENDRA KLOSTER, Executive Director
Native Peoples Action
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 287.

MARTHA KASSOCK, Program Administrator
Association of Village Council Presidents
Bethel, Alaska

POSITION STATEMENT: Testified during the hearing on HB 287.

KELSEY WALLACE, Communications Director
Native Peoples Action
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 287.

TIFFANY SIMMONS, Division Director
Tribal Development
Tanana Chiefs Conference
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 287.

CHRIS HATCH, VPSO Coordinator
Copper River Native Association
Tazlina, Alaska

POSITION STATEMENT: Testified in support of HB 287.

JOEL JACKSON
Organized Village of Kake
Kake, Alaska

POSITION STATEMENT: Testified in support of HB 287.

WILL MAYO, Executive Director
Alaska Tribal Unity
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 287.

ELIZABETH MEDICINE CROW, President/CEO
First Alaskans Institute
Kake, Alaska

POSITION STATEMENT: Expressed appreciation for the substantive changes proposed under HB 287.

ACTION NARRATIVE

[8:05:49 AM](#)

CHAIR TIFFANY ZULKOSKY called the House Special Committee on Tribal Affairs meeting to order at 8:05 a.m. Representatives Edgmon, Lincoln, Kopp, Ortiz, Vance, and Zulkosky were present at the call to order.

HB 287-VILLAGE PUBLIC SAFETY OFFICER GRANTS

[8:06:29 AM](#)

CHAIR ZULKOSKY announced that the only order of business would be HOUSE BILL NO. 287, "An Act requiring background investigations of village public safety officer applicants by the Department of Public Safety; relating to the village public safety officer program; and providing for an effective date."

[Before the committee, adopted as a working document on 3/5/20, was the proposed committee substitute (CS) for HB 287, Version 31-LS1486\G, Radford, 3/3/20 ("Version G").]

8:06:50 AM

CHAIR ZULKOSKY announced that she would entertain a motion to adopt an amendment by the sponsor of HB 287.

8:07:06 AM

REPRESENTATIVE EDGMON moved to adopt Amendment 1 to Version G, which read as follows:

Page 4, line 31:
Delete "and"

Page 5, line 1, following "officer":
Insert "; and
(4) maintain insurance, independently or with the assistance of the Department of Public Safety, that includes coverage for premiums as follows:
(A) workers' compensation insurance as required under AS 23.30;
(B) comprehensive general liability insurance, including professional practice insurance for police with
(i) a limit not less than \$1,000,000; and
(ii) the state, including an officer, employee, or agent of the state, listed as an additional named insured"

Page 7, following line 26:
Insert a new subparagraph to read:
"(B) of a sex offense as defined in AS 12.63.100;"

Reletter the following subparagraphs accordingly.

Page 7, line 27, following "(A)":
Insert "or (B)"

Page 7, line 28, following "conviction":
Insert "and the Department of Public Safety grants a waiver allowing the individual to access the criminal justice information system"

Page 7, line 30, following "conviction":

Insert "and the Department of Public Safety grants a waiver allowing the individual to access the criminal justice information system"

Page 8, line 2:

Delete "three"

Insert "two"

Page 8, line 13:

Delete "use"

Insert "possession"

Page 9, lines 6 - 7:

Delete "commerce, community, and economic development"

Insert "public safety"

Page 9, line 9:

Delete "department"

Insert "Department of Public Safety"

Page 9, lines 16 - 19:

Delete "the commissioner shall submit the fingerprints and fees to the Department of Public Safety for a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400"

Insert "the Department of Public Safety shall conduct a criminal justice information and national criminal history record check under AS 12.62"

Page 9, lines 24 - 25:

Delete "Department of Commerce, Community, and Economic Development, the Department of Public Safety,"

Insert "Department of Public Safety"

Page 9, lines 27 - 28:

Delete "Department of Commerce, Community, and Economic Development,"

Page 10, following line 13:

Insert a new sub-subparagraph to read:

"(v) domestic violence and sexual assault prevention and response procedures; and"

Page 10, lines 14 - 16:

Delete all material and insert:

"(B) 176 hours of instruction in
(i) emergency trauma technician training;
(ii) search and rescue training;
(iii) rural fire protection specialist
training."

Page 13, line 15, following the first occurrence of
"officer":

Insert "who is certified under AS 18.65.684"

Page 13, line 20:

Delete "management"

Insert "coordination"

Page 13, lines 28 - 29:

Delete "state, a municipality, or a village"

Insert "state or municipality"

Page 13, line 29, following "violation":

Insert "if the certified village public safety
officer has completed training in that field of
violation enforcement"

Page 14, line 10:

Delete "2,000"

Insert "2,500"

[8:07:16 AM](#)

CHAIR ZULKOSKY objected, for the purpose of discussion.

[8:07:24 AM](#)

REPRESENTATIVE CHUCK KOPP, Legislator, Alaska State Legislature, as prime sponsor of HB 287, offered that Amendment 1 was a response to written comments from the Department of Public Safety (DPS) regarding an earlier version of HB 287, as well as a result of speaking with grantees of the current Village Public Safety Officer (VPSO) program. He stated that the first change made was to put back into HB 287 the requirement to maintain a liability insurance policy. He explained, "It is the requirement of the state to provide public safety, but we were requiring the grantees to fund the liability policy, and that is an unfunded mandate; we want to recognize that as an unfunded

mandate." He said the grantees expressed that "the price structure that they're getting is a good bargain," which makes it easier for them to manage the program and partner with DPS. Further the grantees expressed they felt that DPS had worked hard to make the policy affordable. With grantee consensus, the requirement would, under Amendment 1, be put back in HB 287.

[8:10:01 AM](#)

REPRESENTATIVE KOPP moved on to the part of Amendment 1 that would make changes to page 7, line 27, of Version G. He said this would clarify that all sex offense convictions would disqualify someone to serve as a VPSO. Some other felonies, he related, were no longer felonies in current statute, as crimes such as possession have been changed to misdemeanor possession if the offense had been the perpetrator's first, 10 years or more had passed, and DPS had granted a waiver.

[8:12:03 AM](#)

KEN TRUITT, Staff, Representative Chuck Kopp, Alaska State Legislature, on behalf of Representative Kopp, prime sponsor of HB 287, told the committee the section on qualifications was to create more flexibility for the grantee organizations, most of which were federally recognized tribes already compacted with the federal government and which, through sophisticated programs, brought in and managed a great deal of federal money. For most of the grantee organizations, Mr. Truitt added, the VPSO program was the smallest grant program they ran and yet also one of the most difficult to manage due to impediments in regulation. Mr. Truitt reiterated that hiring someone "with a background" was not a mandate; it would, however, make more candidates available for consideration.

[8:13:18 AM](#)

REPRESENTATIVE KOPP reminded the committee that the VPSO program served the "toughest" communities in Alaska, and that recruitment and retention were a problem. He said that control needed to be provided during the hiring process, and the VPSO work group had to ensure statute did not contain any elements that made it even tougher for VPSOs to do their jobs. He related another change under Amendment 1 mirrored DPS VPSO regulation in that a misdemeanor crime of domestic violence may be waived after 10 years. Representative Kopp addressed another change that would be made under Amendment 1: The total number of DUI offenses a VPSO would be allowed would be two, not three.

[8:16:09 AM](#)

MR. TRUITT informed the committee that DPS requested the colloquialism "use" be changed regarding controlled substances to instead use "the statutory term of the possession statutes". The next three changes dealt with the background investigation statutes. Combining DPS and the Department of Commerce, Community & Economic Development (DCCED) meant that several lingering references to the latter needed to be removed from HB 287 for the purpose of concision. On page 9, line 9, it was able to be seen from the context that the function therein was one of DPS, and therefore references to DCCED were removed.

REPRESENTATIVE KOPP reiterated that DPS was the lead agency with background associations and DCCED was associated with grants management.

[8:19:19 AM](#)

MR. TRUITT informed the committee of a change that was made to HB 287 regarding the addition of domestic violence and sexual assault prevention response procedures into VPSO training requirements. In addition, since the training hours could change over time, the specific training hours were removed so as not to bind DPS or DCCED.

REPRESENTATIVE KOPP explained that the 40-hour blocks for emergency trauma technician (ETT), search and rescue, and rural fire protection training could vary in hours, so rather than work with a total number of 120, since the number might actually be closer to 176, the latter number had been decided by grantee consensus.

MR. TRUITT informed the committee that according to current regulation, a VPSO may be hired before the officer completes his/her law enforcement training, and since there were many additional functions aside from law enforcement, it is possible for a VPSO to indeed be working before having received law enforcement training.

[8:22:44 AM](#)

REPRESENTATIVE KOPP added that the time between date of hire and the time one became a VPSO, the regulatory framework of 24 months, would stay the same.

MR. TRUITT informed the committee that the next change pertained to management of search and rescue operations being primarily a state function, not a local, municipal, or village function, so the language was changed to "coordination" to more accurately reflect the role performed in search and rescue missions. Mr. Truitt also let the committee know that another "village" reference had been taken out.

[8:26:20 AM](#)

REPRESENTATIVE KOPP clarified that VPSOs may enforce the criminal laws of the state or municipality, they may enforce the statutes or ordinances of the state or municipality punishable as a violation. He stressed that the above could be enforced if the certified VPSO had completed training. Regarding traffic enforcement, where there were a lot of miles between villages, VPSOs who had gone through training would be eligible to enforce traffic laws.

[8:27:44 AM](#)

MR. TRUITT informed the committee that the last change addressed population shifts that might occur, and therefore not limiting grantees to only 2,000.

[8:28:38 AM](#)

REPRESENTATIVE ORTIZ asked Representative Kopp to summarize the overall intent of the changes and from where they originated.

[8:28:57 AM](#)

REPRESENTATIVE KOPP replied that the overall intent was to clearly define the duties of VPSOs, the sponsors, and the work group, as well as to clarify the operations of the grantees, since they were the ones who orchestrated the VPSO program. The work group had taken into consideration suggestions from DPS, making it clear that no one with any felony sex offense conviction could be employed as a VPSO, and had ensured that the definitions were such that they provided for the best balance of flexibility.

[8:30:10 AM](#)

REPRESENTATIVE ORTIZ confirmed that DPS still oversaw VPSOs, and that DCCED ran the money.

[8:31:45 AM](#)

REPRESENTATIVE VANCE asked who made the final hiring decision and how that process worked.

[8:31:58 AM](#)

REPRESENTATIVE KOPP replied that the final hiring process was a collaborative one in response to VPSO solicitation. If the grantee organization, the final hiring authority, agreed to hire a person, then he/she would begin the background investigation, which involved DPS. If there were a disqualifying offense for something that happened to be a misdemeanor today, a waiver would be sought. The final hire was still the grantee organization, he added, but DPS must agree.

[8:33:27 AM](#)

REPRESENTATIVE VANCE asked whether there were a "glide path" to go from VPSO to trooper, because she surmised it would be advantageous to have troopers in rural areas since they had more training.

[8:34:27 AM](#)

REPRESENTATIVE KOPP replied that VPSOs could move on to becoming troopers. He said he knew some personally who have done so. He pointed out VPSOs do have as much training as troopers; they are employed through grantee organizations instead of through the state. He imparted that VPSOs are underpaid and underrecognized for the work that they do, which circles back to the recruitment and retention issue. More flexibility in funding for VPSOs is the main thrust behind HB 287, he reiterated. Raising the status of a VPSO would also be helpful so that young people would aspire to become one. Finally, he added that some communities do not want a trooper to come in but instead rather would have their local VPSOs supported.

[8:38:35 AM](#)

CHAIR ZULKOSKY removed her objection to the motion to adopt Amendment 1. There being no further objection, Amendment 1 was adopted.

[8:38:53 AM](#)

The committee took an at-ease from 8:38 a.m. to 8:39 a.m.

8:39:30 AM

CHAIR ZULKOSKY opened public testimony on HB 287.

8:39:59 AM

JACKIE PATA, Second Vice President, Central Council Tlingit & Haida Indian Tribes of Alaska, imparted to the committee that flexibility to reprogram funding was especially helpful to "boat and plane" communities. She added that localization of public safety services was a favorable aspect of HB 287. She added that the proposed legislation would provide opportunities for communities to become more engaged in the consultation process and participate in the government-to-government relationship.

8:42:25 AM

ALEX CLEGHORN, Legal Director, Alaska Native Justice Center, said that the Alaska Native Justice Center (ANJC) was very supportive of tribes building their own infrastructure for public safety. He informed the committee that the VPSO program was designed to provide public safety in rural Alaska and that, in preparation for his testimony, he learned that rural Alaska had the worst record for public safety anywhere in Alaska. Mr. Cleghorn said the program was expected to deliver services outside the existing statutes, and administering the program has been a challenge because the statutes have not been clear. He also informed the committee that VPSO involvement in sexual assault cases increased the likelihood for prosecution.

8:44:35 AM

DEAN LOPEZ, VPSO Program Manager, Bristol Bay Native Association, testified in support of HB 287 and told the committee that Bristol Bay Native Association appreciated the work that had been done.

8:45:53 AM

MELANIE BAHNKE, President/CEO, Kawerak, said that HB 287 was a prime example of what regional equity in budgeting meant. Alaska residents are equal, Ms. Bahnke continued, and state services should be available to Alaskans regardless of where they reside. "Hands have been tied" due to restrictions in statute, she stated, and the ability to direct resources has also been hindered. As some grantees are currently prohibited

from expending resources, even on housing or holding cells, there would be a lot of gratitude for a new direction, she said.

[8:48:28 AM](#)

KENDRA KLOSTER, Executive Director, Native Peoples Action, testified during the hearing on HB 287 as a mother of two showing support for more public safety for future citizens in their homes and communities, both urban and rural. She stated that Alaska was failing with only one in three villages having a VPSO, and she said she was looking forward to improvement under HB 287.

[8:50:51 AM](#)

MARTHA KASSOCK, Program Administrator, Association of Village Council Presidents, said there is a well-documented public safety crisis in rural Alaska, and the VPSO program is an important component that must be supported. She related that tribes feel it is very effective to have VPSOs in the community.

[8:53:38 AM](#)

KELSEY WALLACE, Communications Director, Native Peoples Action, commended the VPSO group as a mother, as communities deserved to have someone to turn to when something happened in the community. Ms. Wallace related a story of her friend's home that was broken into while her friend was home alone. The perpetrator had been very persistent, and Ms. Wallace had called 911, at which time she was told there was no one available. By the time the on-call trooper had been able to come, neighbors had come to Ms. Wallace's friend's aid, even helping her board up her broken window and letting her stay at their house. The main question was what would have happened if the neighbors hadn't been there. Ms. Wallace urged passage of HB 287 for the purpose of safer communities.

[8:57:27 AM](#)

TIFFANY SIMMONS, Division Director, Tribal Development, Tanana Chiefs Conference, testified in support of HB 287. As Ms. Simmons related, due to restrictions placed on them, VPSOs have felt demoralized, and HB 287 would be a step in the right direction in terms of reversing that.

[8:59:02 AM](#)

CHRIS HATCH, VPSO Coordinator, Copper River Native Association, testified in support of HB 287, especially the aspect which would allow for more flexibility, which he said would strengthen the Copper River Native Association immeasurably.

[8:59:50 AM](#)

JOEL JACKSON, Organized Village of Kake, testified in support of HB 287. He said he believed more work needed to be done to recruit VPSOs. He added that police protection needs to be present in all areas.

[9:02:45 AM](#)

WILL MAYO, Executive Director, Alaska Tribal Unity, told the committee Alaska Tribal Unity has appreciated the VPSO program over the years, and HB 287 gave Alaska Tribal Unity a lot of hope. Mr. Mayo echoed others in his voicing of concerns with recruitment and retention due to restrictions with the law. Some changes had been made to try to meet the needs of the villages, he said, but still there were just four VPSOs for 37 recognized tribes. He said flexibility in budgeting would help address both the real need on the ground and the structuring of the program.

[9:06:46 AM](#)

ELIZABETH MEDICINE CROW, President/CEO, First Alaskans Institute, said she wished to recognize all young people who would be served by a "cleaner way" for public safety and law enforcement to operate. Ms. Medicine Crow admitted it had been difficult for the VPSO program to work against insurmountable odds, with almost no funding. She stated that equity was needed in public safety and expressed her appreciation for the substantive changes in HB 287. Ms. Medicine Crow said outcomes in public safety would be better with HB 287.

[9:12:54 AM](#)

CHAIR ZULKOSKY closed public testimony on HB 287.

[9:13:31 AM](#)

REPRESENTATIVE LINCOLN moved to report CSHB 287, Version 31-LS1486\G, Radford, 3/3/20, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

There being no objection, CSHB 287(TRB) was reported out of the House Special Committee on Tribal Affairs.

9:14:20 AM

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Tribal Affairs meeting was adjourned at 9:14 a.m.