

**ALASKA STATE LEGISLATURE
JOINT MEETING
SENATE JUDICIARY STANDING COMMITTEE
SENATE STATE AFFAIRS STANDING COMMITTEE**

January 29, 2019

3:02 p.m.

MEMBERS PRESENT

SENATE JUDICIARY

Senator Shelley Hughes, Chair
Senator Lora Reinbold, Vice Chair
Senator Mike Shower
Senator Peter Micciche
Senator Jesse Kiehl

SENATE STATE AFFAIRS

Senator Mike Shower, Chair
Senator John Coghill, Vice Chair
Senator Lora Reinbold
Senator Peter Micciche
Senator Scott Kawasaki

MEMBERS ABSENT

SENATE JUDICIARY

All members present

SENATE STATE AFFAIRS

All members present

OTHER LEGISLATORS PRESENT

Senator Chris Birch
Representative David Eastman

COMMITTEE CALENDAR

CONFIRMATION HEARING(S) :

Attorney General of the State of Alaska
Kevin Clarkson - Anchorage

- CONFIRMATION ADVANCED

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

KEVIN CLARKSON, Attorney General Designee
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the position of Alaska Attorney General.

ALYSON CURREY, Representative
Planned Parenthood
Juneau, Alaska

POSITION STATEMENT: Testified in opposition to the confirmation of Kevin Clarkson as Alaska Attorney General.

BESSE ODAM, representing herself
Anchorage, Alaska

POSITION STATEMENT: Testified during the confirmation hearing for Kevin Clarkson as Alaska Attorney General.

JERRY ALDERMAN, representing himself
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to the appointment of Kevin Clarkson as Alaska Attorney General.

DIANE PENDERGRAST, representing herself
Anchorage, Alaska

POSITION STATEMENT Testified in opposition to the confirmation of Kevin Clarkson as Alaska Attorney General.

ZHENIA C. PETERSON, representing self
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to the confirmation of Kevin Clarkson as Alaska Attorney General.

JEFF FELDMAN, Attorney; Professor
University of Washington Law School
Seattle, Alaska

POSITION STATEMENT: Testified in support of the confirmation of Kevin Clarkson as Alaska Attorney General.

JOHN THORSNESS, Attorney
Anchorage, Alaska

POSITION STATEMENT: Testified in support of the confirmation of Kevin Clarkson as Alaska Attorney General.

VALANNE GLOOSCHENKO, representing self
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to the confirmation of Kevin Clarkson as Alaska Attorney General.

MATT PETERSON, Attorney
Anchorage, Alaska

POSITION STATEMENT: Testified in support of the confirmation of Kevin Clarkson as Alaska Attorney General.

DEBORAH TENNYSON, representing herself
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to the appointment of Kevin Clarkson as Alaska Attorney General.

LOREN LEMAN, Professional Engineer, representing himself
Anchorage, Alaska

POSITION STATEMENT: Testified in support of the confirmation of Kevin Clarkson as Alaska Attorney General.

ROBIN BRENA, Attorney; Owner
Brena Bell, & Clarkson
Anchorage, Alaska

POSITION STATEMENT: Testified in support of the confirmation of Kevin Clarkson as Alaska Attorney General.

MIKE GERAGHTY, representing himself
Anchorage, Alaska

POSITION STATEMENT: Testified in support of the confirmation of Kevin Clarkson as Alaska Attorney General.

ERIC SANDERS, Attorney
Anchorage, Alaska

POSITION STATEMENT: Testified favorably for the confirmation of Kevin Clarkson as Alaska Attorney General.

ROBIN SMITH, representing herself
Anchorage, Alaska

POSITION STATEMENT: Testified in support of the confirmation of Kevin Clarkson as Alaska Attorney General.

MIKE COONS, President

Greater Alaska Chapter of the Association of Mature American Citizens

Palmer, Alaska

POSITION STATEMENT: Testified in support of the confirmation of Kevin Clarkson as Alaska Attorney General.

JUDY ELEDGE, representing herself

Anchorage, Alaska

POSITION STATEMENT: Testified in support of the confirmation of Kevin Clarkson as Alaska Attorney General.

ACTION NARRATIVE

[3:02:35 PM](#)

CHAIR SHELLEY HUGHES called the joint meeting of the Senate Judiciary Standing Committee and the Senate State Affairs Standing Committee to order at 3:02 p.m. Present at the call to order were Senators Kiehl, Micciche, Reinbold, Shower, and Chair Hughes from the Senate Judiciary Standing Committee and Senators Coghill, Micciche, Kawasaki, Reinbold and Chair Shower from the Senate State Affairs Committee.

CONFIRMATION HEARING

Attorney General, State of Alaska

[3:03:44 PM](#)

CHAIR HUGHES stated that the business before the committee would be the confirmation hearing for Kevin Clarkson as Attorney General, State of Alaska. She provided the website to submit written comments to senate.judiciary@akleg.gov.

[3:04:45 PM](#)

KEVIN CLARKSON, Attorney General Designee, Department of Law, State of Alaska provided his personal history. He was born and raised in Oregon where he attended law school. He speaks Spanish and his father was a state policeman. He is married and has four children, two children who reside in Alaska, and two children who reside in the Lower 48. One of his children serves in the military.

[3:08:59 PM](#)

ATTORNEY GENERAL DESIGNEE CLARKSON turned to his work experience. He first worked for the Perkins Coie law firm and has worked for only two law firms during his career. He felt this demonstrates his loyalty. He has handled a wide variety and array of legal issues with about 10 percent of his practice related to controversial matters in his 34 years of practice.

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ATTORNEY GENERAL DESIGNEE CLARKSON said he has represented clients ranging from individuals to Native corporations and legislators. He has also represented the Alaska Bar Association and has presented cases before federal and state courts throughout Alaska, from Southeast communities to Barrow. He has litigated cases related to tax issues, employment matters, commercial entities, construction issues, professional liability, business dissolutions and partnerships, as well as cases related to oil and gas matters. He has handled complex criminal cases, including racketeering.

ATTORNEY GENERAL DESIGNEE CLARKSON said he did not seek out this position and instead the governor came to his home during which time Governor Dunleavy outlined his goals and positions on issues, including his vision on law enforcement.

3:15:25 PM

CHAIR HUGHES asked him to explain the Department of Law's (DOL) mission per AS 44.23.020 and his priorities. She asked him to address his sense of the public's perception on various criminal cases that had not been prosecuted in the past few years.

ATTORNEY GENERAL DESIGNEE CLARKSON stated that he views the Department of Law (DOL) as a fine-tuned, well running machine. He said he did not believe the attorney general's job is to revamp the department but to step alongside the department's talented civil and criminal attorneys and make sure they have the tools and resources to do their jobs well. He said by statute the attorney general's duties are to serve as a legal advisor to the governor and other state officers, to represent the state in civil actions and to defend and prosecute actions to collect revenue. He reiterated his view that the attorney general serves as the primary legal counsel for the governor, who is the state's chief executive officer. He understands the duties and challenges of performing that function. With respect to criminal cases that need to be prosecuted, he opined that some of the issues may be addressed in the governor's crime package that was recently rolled out. He related his understanding that public dissatisfaction on the resolution of

certain cases exists. He specifically mentioned [an Anchorage criminal] case involving Justin Schneider [related to felony kidnapping and sexual assault] as one. He reiterated that some of these issues will be addressed with the governor's proposed crime package.

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CHAIR HUGHES acknowledged his vast experience in the legal field. She noted an absence of a criminal law background. She asked him to assure the public that despite his concentration on civil cases the department will handle criminal cases in a way that is much needed.

ATTORNEY GENERAL DESIGNEE CLARKSON answered that he could give her that assurance. He said that in his legal experience every case is new. He understood the job will be challenging. However, the DOL has a talented legal team and his job is not to step in and prosecute cases. Although he has not worked as a prosecutor, which he acknowledged would be good experience to have, he did not believe it is a defining credential for the attorney general. He suggested that many other attorneys general have been in this same position. He recapped his belief that his job as attorney general is to function as a manager, to ensure that the department prosecutes cases and to provide adequate funding for prosecutors.

3:20:15 PM

SENATOR KIEHL turned to the governor's crime package and related that many of his constituents expressed concern about the opioid crisis. He said the Board of Pharmacy has recently advised pharmacists who are required to fill opioid prescriptions. While manufacturers are trying to ratchet down their supplies, many pharmacists find themselves in a difficult position, caught between addressing the opioid crisis yet still functioning as health care providers. He asked him for his thoughts on this conflict.

ATTORNEY GENERAL DESIGNEE CLARKSON acknowledged tension between legitimate medical opioid uses and the pain relief these drugs give patients, as well as the need to be conscious of potential addictions. He emphasized the need to hold opioid manufacturers accountable. He mentioned a recent lawsuit was filed against one. He summarized that it is a balance between making sure drugs are available for legitimate uses yet holding manufacturers responsible for the opioid epidemic they have foisted upon us and making sure Alaska is compensated for costs incurred because of the epidemic.

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REPRESENTATIVE EASTMAN joined the meeting.

SENATOR KAWASAKI thanked Mr. Clarkson for meeting with him. He turned to his experience, recalling that he views the attorney general position as being a manager and that he will prosecute the cases that need to be prosecuted. He asked for further clarification on what that decision tree would look like for him as the manager deciding which cases to prosecute.

ATTORNEY GENERAL DESIGNEE CLARKSON answered that due to the DOL's criminal division structure, most decisions will not filter up to the attorney general. He described the process. The district attorney decides first, but some cases may filter up to the director John Skidmore, and some cases may filter up to the deputy attorney general, Rob Henderson. He envisioned he would prioritize cases and make decisions on significant policy calls. The criminal division will always prioritize cases by prosecuting violent crime over other crimes and felonies over misdemeanors, he said.

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REPRESENTATIVE KAWASAKI asked for further clarification on the decision chain. He related a scenario in which the attorney general might find himself in a circumstance where he would like a prosecutor to pursue a case. He asked for clarification on when he would intervene in such a case with overwhelming evidence that may have been overlooked.

ATTORNEY GENERAL DESIGNEE CLARKSON answered that if a district attorney or deputy director in the criminal division decided not to pursue a significant case, he would try to find out the reason. If he disagreed with the decision, he might overrule it. With respect to sexual assaults, he emphasized that he made it clear to Deputy Attorney General Rob Henderson, and Criminal Division Director John Skidmore his desire to be involved in cases that they decided not to prosecute or in plea bargain cases that did not provide full punishment.

REPRESENTATIVE KAWASAKI asked whether this is a new policy by the administration or if this is the typical process taken by other administrations.

ATTORNEY GENERAL DESIGNEE CLARKSON said he was unsure of department policies made by other attorneys general or if this is a new decision. He opined this decision seems like the right

one. He emphasized that public concern stems from significant cases that were not pursued so he wants to be certain he is engaged before similar decisions are made, yet he does not plan to insert himself in every case. He cannot micromanage the state's prosecutors; however, he expressed an interest in being involved in significant cases, especially involving sexual assault.

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SENATOR MICCICHE said that he is pro-life, supports parental rights involving consent, and the Kenai Peninsula Borough's case on its invocation policy. However, he also represents people who do not support those things. He opined that he represents them fairly. He asked Mr. Clarkson how he would reassure Alaskans who do not share his personal views that he will make fair decisions on legal matters not based on his own personal philosophy.

ATTORNEY GENERAL DESIGNEE CLARKSON said that it is not the attorney general's job to bring any personal views to the job. Everyone has personal views and it is not a secret that he is pro-life, he said. His job as attorney general is to respect the law, which he does, and to advise the governor, departments, and sometimes the legislature on the law, he said. The law in Alaska [related to abortion] is based on a 1997 Valley Hospital decision that concluded that the right to an abortion is protected by the Alaska Constitution under its privacy provision. He said it does not matter if he likes the law or what he wants the law to read, that once the court rules it becomes law, unless the court decides to change it. Still, attorneys advise clients on the law and he has participated in cases during the time Alaska's [abortion] law was developed, advocating for his clients. He said has a deep respect for the judiciary and for the rule of law.

3:29:30 PM

SENATOR REINBOLD offered her belief that his confirmation is one of the most important in the state. Alaska experienced high crime statistics and problems with sexual assault, domestic violence and drug problems prior to passage of Senate Bill 91. She offered her belief that passage of two bills, Senate Bill 64, which related to bail, and Senate Bill 91, the crime bill, has contributed to increased crime due to lowered penalties. She listed other factors, including the recession, the opioid epidemic, and the legalization of marijuana in Alaska and many other things that have also contributed to increased crime. She said that Alaska is considered to be the most dangerous state in the nation according to some statistics. She found the Uniform

Crime [Reporting] Statistics (UCR) to be "absolutely alarming." She said the sole responsibility falls on the state to prosecute crime since Alaskans cannot do so themselves. Many people do not believe the emphasis is on victim justice, rather that it is on criminal justice. She recalled crime statistics on cases reported in a legislative hearing that a significant number of criminal cases are dismissed, such that 43 percent of misdemeanors and 37 percent of felonies are dismissed. She asked why so many cases are dismissed.

ATTORNEY GENERAL DESIGNEE CLARKSON responded she was reporting historical statistics that predate his tenure. He offered his belief that some cases are dismissed by prosecutorial discretion and misdemeanors consist of a whole range of crimes. Other cases are disposed of due to the lack of evidence necessary to prove them. He acknowledged that while resources can be scarce, the governor's emphasis and priority is public safety so he believes some problems may be alleviated as a result.

[3:32:16 PM](#)

SENATOR REINBOLD said she asked to serve on the Senate Finance subcommittee for the DOL to follow through and find out why this is happening. She related people in her district identified their number priority is to feel safe in their schools, shopping malls and homes. She asked him to identify the team that will bring public safety back so Alaskans will feel safe.

ATTORNEY GENERAL DESIGNEE CLARKSON said first and foremost the "buck stops here." The attorney general is responsible to make sure that prosecutors perform well, and to ensure that crimes are prosecuted timely, he said. He expressed confidence in the Department of Law and that his staff will follow his direction. He understands the governor's priorities and is fully in line with the governor's priority to provide public safety. He grew up in a law enforcement family, so he understands that perspective. He assured her he will be the guy that will make sure those things will happen.

[3:34:13 PM](#)

CHAIR SHOWER, speaking on behalf of someone who chose to remain anonymous, asked in cases with overwhelming evidence of a felony crime, if he will prosecute all offenders of crimes committed before his appointment that are within the statute of limitations. He explained that he did not wish to get into the specifics, but broad changes to criminal law occurred in the last few years that could be viewed as soft on crime and some crimes were not prosecuted.

ATTORNEY GENERAL DESIGNEE CLARKSON answered yes. He said he understands the question is if cases had overwhelming evidence of a felony crime that they should be prosecuted. While he recognized that each case and situation is different, he assured him he would do so given sufficient resources. He said he has only been attorney general designee for two months. He recognized that the DOL must prioritize its scarce resources, so he was unsure of how that would play out. He explained how the criminal division prioritizes its cases, that violent crimes have priority over other crimes, and felonies have priority over misdemeanors.

SENATOR SHOWER offered his belief that the budget battle will be contentious, but the governor's priorities are public safety so increased funding may go towards public safety even as the state works to reduce government spending. He asked whether he has sufficient resources to do his job and if not, what resources does he think he needs and areas to prioritize so he can do the job he is being tasked to do.

ATTORNEY GENERAL DESIGNEE CLARKSON answered yes; however, when he reviewed the budget cuts the criminal division has suffered over the last four years, he thought the DOL has some ground to catch up. He cautioned that he does not wish to get ahead of the governor since he will be rolling out his budget bills soon. He offered his willingness to hold further discussions at that time when he has more information.

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CHAIR HUGHES said some states have an elected attorney general, that some concern has been expressed that attorneys general in past administrations have acted as an attorney solely to the governor. While Alaska Statutes [AS 44.23.020] outline the attorney general's duty to serve as the legal advisor for the governor and other state officers, the statutes also indicate other duties, including responsiveness to the legislature, a duty to act in the public interest when participating as a party in a matter that comes before the Regulatory Commission of Alaska and to prosecute crimes, which infers an additional duty to the public at large. She asked him to discuss how he views his role and the balance between serving the public and representing the governor.

ATTORNEY GENERAL DESIGNEE CLARKSON replied that the attorney general's client is the State of Alaska and the office of the governor, not the governor personally, and through Alaska's

elected representatives the people of Alaska. The delegates to Alaska's Constitutional Convention overwhelmingly rejected establishing an attorney general by [Alaska's] Constitution, which was thoroughly debated, he said. The delegates saw how constitutions were structured and attorneys general were created. They chose a structure in which the attorney general is not created by the [Alaska Constitution] but left it for later legislatures to decide, so statutes create the attorney general. He referred to Article III, Section 24 of the Alaska Constitution, "Each principal department shall be under the supervision of the governor," which includes the DOL. He offered his belief that this means, like any other commissioner, he is appointed by the governor, confirmed by the legislature, and serves at the pleasure of the governor. He opined that the delegates to Alaska's Constitutional Convention wanted a strong executive branch and placed strong executive power in the office of the governor. He offered his belief delegates may have reacted to what they viewed as a weak territorial governor. He said delegate, [George} McLaughlin was vehemently opposed to an independently-elected attorney general. He quoted him as saying, "I am violently opposed to the election of the attorney general. I don't think the election of him accomplishes any purpose. You are putting a diverse and possibly a discordant element into the executive branch. It isn't necessary." He said delegates did not want an attorney general who was so independent that the person would create discord within the executive branch.

ATTORNEY GENERAL DESIGNEE CLARKSON stated that the attorney general's job is to advise the governor and the office of the governor on the law, so the governor can make policy decisions. His job is to provide the governor with his best legal advice, not to put a stop to the governor or the legislature if either decides to run ultra vires of what the constitution requires since that is the role of the judiciary, he said.

3:41:51 PM

CHAIR HUGHES said a number of federal lands cases are pending, that the attorney general can pursue these cases to different degrees, so to speak to his plans for the cases.

ATTORNEY GENERAL DESIGNEE CLARKSON said the DOL is anxiously awaiting a U.S. Supreme Court decision in the Sturgeon [v. Frost] case, which will provide insight going forward. He suggested that it would be premature to outline a plan prior to the ruling; however, that decision will impact issues related to how land and resources are managed and controlled, Indian Country, and whether ANSCA [Alaska Native Claims Settlement Act]

extinguished [rights]. Once issued the state will review the decision with the ultimate goal being to protect Alaska's best interests and Alaska's sovereignty. He emphasized that Alaska's statehood compact is important.

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CHAIR HUGHES suggested that after the ruling, perhaps the matter could come before the committee.

3:43:23 PM

SENATOR MICCICHE asked for the status of the Hope Center litigation, related to [a faith-based non-profit that operates as] the Downtown Soup Kitchen.

ATTORNEY GENERAL DESIGNEE CLARKSON described the case, stating that he was the attorney representing the Downtown Soup Kitchen, a shelter that provides charitable services to abused homeless women in Anchorage, including food, showers and other services. A complaint was filed against the Downtown Soup Kitchen by the Anchorage Equal Rights Commission, accusing the shelter of discriminating against a person [by denying shelter services to a transgender woman]. He said the person initially was turned away because the person was inebriated and had a facial cut. Using personal funds, the executive director gave the person cab fare to the hospital for treatment. The next day the person arrived several hours before the shelter opened at 5:45 p.m. He opined there was no discrimination in violation of the law, that the case is still ongoing, but he is no longer the attorney involved in the case.

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SENATOR MICCICHE noted his legal background and law practice involved cases in nearly every area of law except statutory and criminal law. He asked him to explain to Alaskans how he would close that gap with his absence of criminal law experience.

ATTORNEY GENERAL DESIGNEE CLARKSON answered that he litigated six civil cases under the federal Racketeer Influenced and Corrupt Organizations Act, commonly referred to as the RICO Act. The RICO Act creates civil and criminal liability for individuals who conduct the appearance of enterprise through a pattern of racketeering activities, that a pattern of racketeering requires two acts of racketeering within two years, for crimes including mail, wire and banking fraud, bribery, extortion, and other crimes such as murder and arson. The RICO Act was designed to address organized crime due the way these individuals conduct their affairs. Although these cases were

civil cases, they involved proving criminal offenses. He does have some degree of experience involving criminal offenses and gained familiarity with the process necessary to prosecute criminal cases. He shared that when he encounters something new, he studies and learns it, which is what he has been doing for 34 years, he said.

3:47:12 PM

SENATOR KIEHL recalled that early in the previous administration, the state lost cases related to tribal court authority. He said that Alaska is unique in its tribal law. He recalled him stating this area of law is still evolving. He asked for an assessment of opportunities and potential risks of expanding tribal sovereignty and tribal courts in Alaska.

ATTORNEY GENERAL DESIGNEE CLARKSON replied that in some ways tribal sovereignty and tribal courts are separate issues. The Alaska Supreme Court (ASC) has already recognized that tribes have inherent authority to govern disputes involving children and tribes have the right in Alaska to be involved in family law, including child support and child custody. He said it is efficient for the state to engage tribal communities directly in prosecuting criminal cases. Civil diversion agreements are efficient, effective, and important programs that the state should continue to use in these criminal cases; however, the state must protect the state's interests by ensuring civil diversion agreements contain adequate waivers of sovereign immunity.

3:49:07 PM

SENATOR KIEHL related his understanding of Mr. Clarkson's involvement with the Alliance Defending Freedom (ADF), that he has made complimentary statements about them and their work. He said his constituents have expressed concerned about this, since this organization supported criminal penalties for homosexuality in the U.S. and abroad and defended state-sanctioned sterilization of transgendered people. He asked him to describe his level of continued involvement and commitment to those issues and that group.

ATTORNEY GENERAL DESIGNEE CLARKSON acknowledged he worked with and served on committees for the ADF. He was not aware of the organization's support of criminal penalties for any lifestyle choices an individual might make or any support for sterilization. He said he would be shocked if it were true. He characterized the ADF as a charitable non-profit organization and public interest law firm that provides legal representation

to protect religious liberty, rights-of-conscience, defend pro-life litigation and present the pro-life viewpoint to the courts. He characterized it as a fine organization. He said he previously served on the ADF's grant committee to raise funds for volunteer lawyers. He recalled the ADF worked alongside the ACLU [American Civil Liberties Union] to protect a Juneau student's free speech rights, in the "Bong Hits 4 Jesus" case. He emphasized protecting free speech rights for all students, not just in that case, since school districts could squelch student's free speech anytime it is inconsistent with its educational mission. He emphasized that he and the ADF firmly believe in free speech.

[3:52:32 PM](#)

SENATOR KIEHL specifically asked for his position on the two aforementioned issues.

ATTORNEY GENERAL DESIGNEE CLARKSON said he would not support the two issues.

[3:52:54 PM](#)

CHAIR HUGHES suggested some confusion with the Alliance Defending Freedom stems from the Southern Poverty Law Center, who condemned the ADF as a hate group; however, last November the Washington Post reported it was an inappropriate assignment to the group. She said the ADF is a group that protects what it believes are liberties.

[3:53:23 PM](#)

SENATOR KAWASAKI referred to Mr. Clarkson's resume, that in 1998, he assisted the legislature in drafting the marriage amendment, arranged testimony, and represented the legislature on legal matters. In 2005, he worked as an intervener and as counsel in the Defense of Marriage Coalition, the Oregon Circuit Court and the Oregon Supreme Court on various same-sex marriage constitutional issues. In 2007, under ACLU v. State, he represented Catholic University of America on a marriage law project to defend the state's employment benefits program, which did not provide benefits to employees who were in a same-sex marriage. He asked how he would counsel the governor if a bill curtailed those activities. Alaska has strong protections for abortion, he said. He further asked how he would counsel the governor or the legislature if either wanted to limit access to this medical procedure in Alaska.

ATTORNEY GENERAL DESIGNEE CLARKSON said he will advise the governor on current law. Each of the cases he mentioned were

formative in developing Alaska's law, he said. In 1998, one state, either Vermont or Massachusetts, recognized same-sex marriage, but eventually 38 states, including Alaska passed amendments to protect marriage as being between one man and one woman. He said, "The law is the law." The U.S. Supreme Court's Obergefell decision is the law of the land. That is what he would advise the governor on marriage and abortion, he said. He previously worked on parental consent, parental notice, and public funding litigation. He recapped that he respects that law and his advice as attorney general to the governor or the legislature will reflect current law and not his personal views on these issues.

3:56:39 PM

CHAIR SHOWER asked if he had plans to push back on federal government overreach since the state has burdensome regulations in its land management plans.

ATTORNEY GENERAL DESIGNEE CLARKSON said it is important to protect Alaska's sovereignty from overreaching by the federal government regardless of the agency, recalling that the Environmental Protection Agency raised air quality issues in Fairbanks. However, the state must evaluate each case individually.

CHAIR SHOWER related his understanding that attorneys must argue positions for their clients. He said Mr. Clarkson has made clear his intent to follow the law, regardless of his personal positions or ideology. He understood that despite his legal work on behalf of clients and his personal positions on social issues, he has every intent to follow the law, that he will advise the governor and govern his department in accordance with current law. He asked him if that is true.

ATTORNEY GENERAL DESIGNEE CLARKSON said yes, that is true. He clarified that the issues for parental consent, parental notice, and abortion were not decided until his cases were litigated. In 1997-1998, he was asked to represent the Alaska legislature to defend the parental consent act that the legislature passed. In fact, the legislature overrode a veto to do so, which demonstrates the overwhelming support in the legislature for parental consent, that about 40 states also supported parental involvement at the time. As an attorney, his job was to defend his client and their interest, and the legislature was well within the bounds of constitutional law to pass parental consent legislation. By 1998, the U.S. Supreme Court ruled in nine separate cases that parental consent laws were fully

constitutional and permissible, with only a handful of states ruling them unconstitutional. He did not think it would be fair to claim the position he litigated on behalf of the state and the legislature before the ASC was out of kilter with the sentiment in the rest of U.S. He lost that case in a 3-2 decision. He said the ruling stands.

He said the parental consent act was stuck down, according to the ASC, because it found a parental notice law would be less burdensome, but an equally effective way of advancing the state's compelling interests to protect the health of minors. The ASC expressly said that the [Alaska] Constitution permits a statutory scheme to advise and notify parents to allow them to participate in their daughter's decision making with respect to abortion and pregnancy. That constitutes the legal perspective. It is up to the legislature and the people to decide whether to support or pass another initiative. He said the previous initiative passed by 60 percent. He assured members that his advice to the governor, the legislature, and departments will be consistent with current law and not his personal view.

[4:03:22 PM](#)

SENATOR MICCICHE asked for clarification on the status of the discrimination complaint, recalling a separate case was filed against him.

ATTORNEY GENERAL DESIGNEE CLARKSON said that case was dismissed. He explained that when he represented the Hope Center in the discrimination case, he was merely representing his client, when filing a response asserting there had been no discrimination. When a reporter asked him to comment on the case, he provided the legal response and subsequently a newspaper wrote an article based on the legal filing. The Anchorage Equal Rights Commission (AERC) initially accused him of committing an act of discrimination because he expressed his client's position in ongoing litigation, but the claim was subsequently dismissed.

[4:05:28 PM](#)

CHAIR HUGHES opened public testimony for the confirmation hearing of Kevin Clarkson as attorney general, State of Alaska.

[4:06:09 PM](#)

ALISON CURRY, Planned Parenthood, stated her opposition to Mr. Clarkson serving as attorney general because the organization does not trust that he is qualified to uphold Alaska's Constitution. She said that Alaskans deserve an attorney general

who will advocate for the constitutional rights of all people and not elevate one group's rights over all others.

During his legal career, he has elevated religious freedoms above other basic human rights and needs. He has consistently shown a disregard for the reproductive and sexual health of Alaskans. He spearheaded unsuccessful lawsuits that support laws to roll back the right to privacy for some Alaskans, that anti-abortion laws were correctly deemed as unconstitutional by the ASC. He also opposed equal rights for the LGBTQ {Lesbian, Gay, Bisexual, Transgender, Queer} community, by supporting an amendment to Alaska Constitution to ban same sex marriage. She noted that he received the lowest rating among his colleagues when applying for a vacant seat to the ASC. She urged the committee to reject his nomination.

4:08:23 PM

BESSE ODAM, representing herself, stated that the job of attorney general is no doubt a tough one, that issues must be thought through, unbiased and just for all. She questioned whether the appointee would be able to do so on tough issues because he has been a partisan lawyer, representing anti-abortion and anti-LGBTQ clients. She encouraged the committee to research his record and reconsider this appointment.

4:09:54 PM

JERRY ALDERMAN, representing himself, said it was clear to him that the appointee's ideology is to the right and those views are fine in the private sector. He expressed concern that ideology should not be part of the decision-making process or policy process in the public sector. He said that decisions should be based on facts, objectivity, sound reasoning and expertise. He offered his belief that his ideology guides his decisions. He asked members to reconsider this appointment.

4:11:43 PM

DIANE PENDERGRAST, representing herself, testified in opposition to the appointment of Kevin Clarkson as attorney general. She expressed concern that the attorney general designee could not be impartial on issues related to reproductive rights and Planned Parenthood, which are needed in Alaska. She urged members not to support the appointment.

4:13:52 PM

CHAIR HUGHES said testimony can be submitted in writing to senate.judiciary@akleg.gov.

4:14:09 PM

ZHENIA C. PETERSON, representing herself, testified in opposition to Kevin Clarkson as attorney general. She expressed concern about his ideology and cases he represented in opposition of same sex marriage, bias against LGBTQ, and against reproductive rights. She said access to health care is central to her livelihood. She expressed concern that he will not look out for the best interests of Alaska and will forward his own personal agenda. She asked members to vote against his nomination.

4:15:49 PM

JEFF FELDMAN, Attorney, Professor, University of Washington Law School, stated that he has been a practicing attorney for 43 years, and has served as president of the Alaska Bar Association for 13 years and as a member and chair of the Alaska Commission on Judicial Conduct. He has known Mr. Clarkson for 25 years but has primarily encountered him as an opponent. He said he was often on opposite sides of high-profile cases related to reproductive freedom, ballot initiatives, and redistricting. While he does not agree with him on issues, he admires him and counts him as a valued friend and colleague, as well as a thoughtful, and competent lawyer. He generates extremely well-written and well thought out legal work and his oral advocacy is superb. He cares deeply about the rule of law and the tenets of the judiciary. He found him to treat members of the legal community with respect and he participates in pro bono and public interest matters. He acknowledged previous testifiers' concerns. He has taught constitutional courses for other lawyers with Mr. Clarkson and found him to present his positions in a balanced and fair-minded way. He anticipated he would do the same as the attorney general. In closing, he said he believes Mr. Clarkson is an excellent nominee.

4:19:22 PM

JOHN THORSNESS, Attorney, said he is a lifelong Alaskan, that he has been a lawyer for 35 years and has known Mr. Clarkson for about 30 years. He has worked with him and against him on legal cases. He said, "He is one of the finest men I know." He commended his fairness, work ethic, and his unfailingly polite demeanor to everyone in the legal community. He demonstrates deep humility, he said. He found him to be a credit to the legal community, his family, himself and predicted he will be a superb attorney general. He thanked members for the opportunity to endorse this nomination.

4:20:49 PM

VALANNE GLOOSCHENKO, representing self, said that when Mr. Clarkson applied for a position on the Alaska Supreme Court, he only scored 2.7 of 5 out of all attorneys who felt he would not be able to uphold the Alaska Constitution if he were appointed to the ASC. She felt that score indicates he is not qualified to be attorney general. She pointed out that he was involved in an issue to bar qualified sex educators from Alaska's public schools despite overwhelming support.

4:22:28 PM

At-ease.

4:22:39 PM

CHAIR HUGHES reconvened the meeting.

4:23:17 PM

MATT PETERSON, representing self, said he is an attorney and he has known Mr. Clarkson for 10-15 years. He has been involved in a number of cases as co-counsel or opposing attorneys. He currently works as a mediator and has observed his interactions with his clients. He characterized his experience as broad, that he is highly competent in assessing facts, the legal structure, and he exercises good judgment when applying the law. He is very professional and would be an excellent leader at the DOL. He strongly supported him for attorney general due to his background, judgment and ethics.

4:25:19 PM

DEBORAH TENNYSON, representing self, stated she is testifying against the confirmation of Mr. Clarkson as attorney general. She expressed concern for his apparent mission to use his profession to fight for his particular view on religious freedom in Alaska. She said his active involvement as an ally attorney for the Alliance Defending Freedom group in support of their obsession in fighting women's reproductive rights and the freedom of Alaskans to love and marry people of their choice is pretty disturbing. That group finds him to be a leading luminary in the fight for religious freedom in Alaska. She did not think an attorney general should come to the position with a personal history of volunteering with any group that attacks the rights of citizens. She offered her belief that his appointment would be terribly divisive and hurt all of Alaska. She urged members to vote against the appointment.

4:27:02 PM

LOREN LEMAN, representing himself, as a lifelong Alaskan, former legislator and Lt. Governor, stated his support for Mr. Clarkson

as attorney general. He said he appreciated Mr. Feldman's testimony and that he has great respect for him even though he does not agree with him on some issues. His support demonstrates respect for the law and the manner in how one conducts himself can cross the political spectrum. He offered his belief that Governor Dunleavy made a very good choice in pursuing Mr. Clarkson to serve Alaska. He has known him for 30 years and during the past 24 years he has worked as legal counsel supporting and representing Alaska on issues, including parental consent, marriage, and on a ballot initiative on parental involvement, which are some of the most important issues he faced during the 18 years in elected office. He has found him to be fair, thorough, thoughtful and smart. He respects the constitution and the law. He conducts himself with dignity and is humble. He encouraged members to report from committee with a "do confirm" recommendation.

4:29:56 PM

ROBIN BRENA, Attorney; Owner, Brena Bell, & Clarkson, stated his support for Mr. Clarkson as attorney general. He has known him for decades and has worked with him for 24 years. No one is more familiar with him as an attorney, the quality of his work, or his integrity than him. He said he is a good friend. He said Mr. Clarkson is an excellent attorney and has respect for the law. Last year he was awarded the distinguished service award from the Alaska Bar Association for volunteering his time on ethics matters. He said he is a good family man, father and son. He said Alaska would be lucky to have him enter public service as attorney general. He remarked that he and Mr. Clarkson have debated many issues, that he conducts himself with respect during the dialogue on them. He said it is clear he respects the law and other people's opinions.

4:32:01 PM

MIKE GERAGHTY stated he is an attorney who has practiced law in Alaska for over forty years. Between 2012-14, he served as attorney general in Alaska. He commends the governor for his appointment of Mr. Kevin Clarkson as attorney general. He said he usually was on opposite sides of cases, but their relationship was professional and without malice. Besides being an excellent attorney, he called him "a straight shooter." He reserves that term for people like Mr. Clarkson who are direct, honest, and humble. He brings substantial experience, ability, and professionalism to the position and respects the law. He said he understands Mr. Clarkson has strong personal convictions that he has pursued over the years. He said many people have convictions, but few invest the time and effort to actively

support those convictions. He admires that he defends his principles and beliefs, which he finds is a virtue not a vice. He acknowledged that they do not necessarily share the same convictions and beliefs. However, when he takes that oath of office, he feels confident Mr. Clarkson will put those personal convictions aside and do his utmost to uphold the laws of the state and Alaska's Constitution because he will take an oath to do so. He said he endorses his candidacy in the strongest terms and without qualifications.

[4:34: 33 PM](#)

ERIC SANDERS, Attorney, stated that he has practiced law for 43 years, and is a retired superior court judge, serving for seven years. He has been a trial lawyer, mediator, and arbitrator. He said politically he would identify himself as a liberal. He has known Mr. Clarkson for about 30 years, has worked as opposing counsel in many lawsuits. He said Mr. Clarkson appeared before him. He has mediated and arbitrated cases Mr. Clarkson has been involved in, and he has ruled against him. He has worked with him on complicated lawsuits. He said he finds him to be hard working, diligent, thorough, honest, and very ethical. He has never experienced any bias from him. He respects the law and people, he said. He does not believe Mr. Clarkson's personal views will affect his ability to carry out his duties as attorney general. He discounted the [Alaska Bar Association] polls, noting they are anonymous, and some attorneys might want to punish him because he is not as liberal as some lawyers. He thinks the people testifying today who litigated cases with him provide more meaningful feedback on his appointment. He said he thinks that there would be unanimous support among members of the bar for him as attorney general.

[4:37:19 PM](#)

ROBIN SMITH, representing herself, said she opposes Mr. Clarkson's appointment. She expressed concern over his personal views, which she found to be outside the normal viewpoint of Alaskans and at odds with the Alaska Constitution. She acknowledged he is entitled to his beliefs, but she was deeply concerned about his intolerance to the LGBTQ community, that he has worked to change the non-discrimination law in Anchorage and is opposed to same-sex marriage. She said he has worked to deny Jewish people from giving the invocation at KPB meetings. Alaska has one of the highest rates of sexually-transmitted infections, rape, and sexual assault in the U.S. yet he has worked to restrict sex education and abortion in Alaska. She expressed concern about the appearance of bias since the attorney general must be able to represent all Alaskans. She expressed concern

that the people who do not share his views will not be treated fairly. She urged members to vote against Mr. Clarkson's nomination.

[4:40:13 PM](#)

MIKE COONS, President, Greater Alaska Chapter of the Association of Mature American Citizens, said he fully supports Mr. Clarkson for attorney general. After hearing today's testimony, he is even more supportive of him. He said Article VI of the U.S. Constitution states that no religious test shall ever be required for qualification to any office or public trust under the United States. He said that includes the states. He offered his belief that Alaska needs a person of strength to serve in the position to oversee state and federal lawsuits, and to work with the U.S. attorneys general to prosecute federal felonies and uphold the Alaska Constitution and not special interests. He emphasized that Mr. Clarkson will be the state attorney general Alaskans can be proud of who will uphold the rule of law.

[4:42:26 PM](#)

SENATOR BIRCH joined the meeting.

[4:42:43 PM](#)

JUDY ELEDGE, representing herself, said she has known Mr. Clarkson for many years, and he is a man of integrity. She agreed that he has strong beliefs, just as many people do. She expressed concern that someone who defends religious freedom is deemed unfit to serve. She strongly supports him for attorney general. She said she looks forward to decisions being based on U.S. law and the Alaska Constitution. She offered her belief that he will be able to interpret the law using them.

[4:43:45 PM](#)

CHAIR HUGHES after first ascertaining no one else wished to testify, closed public testimony.

[4:44:27 PM](#)

CHAIR HUGHES stated that this meeting has been informative. She thanked Mr. Clarkson.

[4:45:07 PM](#)

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

Attorney General, State of Alaska

Kevin Clarkson - Anchorage, Alaska

Signing the reports regarding appointments to boards and commissions in no way reflects individual members' approval or disapproval of the appointees; the nominations are merely forwarded to the full legislature for confirmation or rejection.

[4:45:43 PM](#)

CHAIR HUGHES made committee announcements.

[4:46:28 PM](#)

CHAIR SHOWERS made committee announcements.

[4:47:09 PM](#)

ATTORNEY GENERAL DESIGNEE CLARKSON asked to respond to some comments. He stated that Mr. Sanders, a former superior court judge, addressed the Alaska Bar Association survey very well. He explained that about half score him fairly high and the other half scores him fairly low. Those surveys do not reflect him as an attorney. He referred to a Martin Dale Hubble rating that is a peer review rating and he received the highest rating possible on that survey. He acknowledged he has applied for judgeships and once it triggered a vote from the chief justice, who said no. She called him to tell him she felt he needed more experience in family law before holding a seat on the court. He said he did not work against sex education in schools and he was not aware of any work he did that related to sex education in schools.

[4:50:36 PM](#)

There being no further business to come before the committee, Chair Hughes adjourned the joint meeting of the Senate Judiciary Standing Committee and the Senate State Affairs Standing Committee at 4:50 p.m.