

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

February 11, 2020

3:32 p.m.

MEMBERS PRESENT

Senator Joshua Revak, Chair
Senator John Coghill, Vice Chair
Senator Scott Kawasaki

MEMBERS ABSENT

Senator Mia Costello
Senator David Wilson

OTHER LEGISLATORS PRESENT

Senator Lora Reinbold

COMMITTEE CALENDAR

SENATE BILL NO. 166

"An Act amending the authority of pretrial services officers to file charges, make a warrantless arrest, or request the court to issue a warrant for arrest for escape in the third degree; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 167

"An Act providing for an aggravating factor at sentencing for contractors, volunteers, and employees of the Department of Corrections; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 162

"An Act relating to names on state-issued identification."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 166

SHORT TITLE: AUTHORITY OF PRETRIAL SERVICES OFFICERS

SPONSOR(s) : RULES BY REQUEST OF THE GOVERNOR

01/27/20 (S) READ THE FIRST TIME - REFERRALS
01/27/20 (S) STA, JUD
02/11/20 (S) STA AT 3:30 PM BUTROVICH 205

BILL: SB 167

SHORT TITLE: AGGRAVATING FACTOR: CORRECTIONS OFFICER
SPONSOR(s) : RULES BY REQUEST OF THE GOVERNOR

01/27/20 (S) READ THE FIRST TIME - REFERRALS
01/27/20 (S) STA
02/11/20 (S) STA AT 3:30 PM BUTROVICH 205

BILL: SB 162

SHORT TITLE: FORM OF NAME ON DRIVER'S LICENSE/ID
SPONSOR(s) : COSTELLO

01/24/20 (S) READ THE FIRST TIME - REFERRALS
01/24/20 (S) STA
02/11/20 (S) STA AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

JENNIFER WINKELMAN, Acting Deputy Commissioner
Department of Corrections
Juneau, Alaska

POSITION STATEMENT: Introduced SB 166 and SB 167 on behalf of the administration.

KELLY HOWELL, Special Assistant and Legislative Liaison
Department of Corrections
Juneau, Alaska

POSITION STATEMENT: Delivered the sectional analysis for SB 166 and SB 167.

TOM WRIGHT, Staff
Senator Mia Costello
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced SB 162 on behalf of the sponsor.

JOANNE OLSEN, Interim Director
Division of Motor Vehicles
Department of Administration
Anchorage, Alaska

POSITION STATEMENT: Answered questions related to SB 162.

JENNA WAMSGANZ, Deputy Director
Division of Motor Vehicles
Department of Administration (DOA)
Anchorage, Alaska

POSITION STATEMENT: Answered questions related to SB 162.

ACTION NARRATIVE

[3:32:13 PM](#)

CHAIR JOSHUA REVAK called the Senate State Affairs Standing Committee meeting to order at 3:32 p.m. Present at the call to order were Senators Kawasaki, Coghill, and Chair Revak. He noted that Senator Reinbold was in attendance.

SB 166-AUTHORITY OF PRETRIAL SERVICES OFFICERS

[3:33:25 PM](#)

CHAIR REVAK announced the consideration of SENATE BILL NO. 166, "An Act amending the authority of pretrial services officers to file charges, make a warrantless arrest, or request the court to issue a warrant for arrest for escape in the third degree; and providing for an effective date."

He invited Ms. Winkelman to present the bill.

[3:34:21 PM](#)

JENNIFER WINKELMAN, Acting Deputy Commissioner, Department of Corrections, Juneau, Alaska, introduced SB 166 reading from the following prepared statement:

Good afternoon Mr. Chairman and members of the Senate State Affairs Committee. For the record, my name is Jennifer Winkelman, Acting Deputy Commissioner for the Department of Corrections.

Here with me today are Kelly Howell, Special Assistant/Legislative Liaison for the Department of Corrections, who will provide a sectional analysis of the bill, and Kaci Schroeder, Assistant Attorney General with the Department of Law, who is available to answer any legal questions associated with the bill.

Thank you for the opportunity to appear before you today to introduce Senate Bill 166, an Act amending

the authority of pretrial services officers to file charges, make a warrantless arrest, or request the court to issue a warrant for arrest for escape in the third degree, and providing for an effective date.

Under current law, pretrial services officers may only arrest, file criminal charges, or request a warrant when a person violates a condition of pretrial release under AS 11.56.757 or fails to appear for a court hearing under AS 11.56.730.

Under HB 49 one commits the crime of escape in the third degree if, while on release the person removes, tampers with, or disables electronic monitoring equipment or without prior authorization leaves one's residence or other place designated by a judicial officer as a condition of release.

Because pretrial officers are unable to arrest, file charges, or request warrants for this offense, they must notify law enforcement or a prosecutor who must then gather the information from the pretrial services officer in order to file charges or request a warrant.

Aside from violations of conditions of release and failure to appear, pretrial officers do not have arrest authority for Title 11 offenses. Pretrial services officers draw their arrest authority from Title 33.

By amending Title 33, Senate Bill 166 grants pretrial services officers the authority to affect an arrest on an individual they are responsible for supervising. This will streamline the criminal justice process in regard to these cases.

We appreciate the opportunity to present Senate Bill 166 today and request your prompt and favorable action on this bill.

Thank you.

[3:36:41 PM](#)

KELLY HOWELL, Special Assistant and Legislative Liaison, Department of Corrections, Juneau, Alaska, read the following sectional analysis for SB 166.

Section 1: Amends AS 33.07.030, duties of pretrial officers. Current subsection (g) establishes discretionary actions that may be taken by a pretrial services officer including establishing circumstances when a pretrial services officer may make an arrest or request the court to issue a warrant. This amendment would add escape in the third degree (AS 11.56.320) as an offense that permits a pretrial services officer to file a complaint with the court seeking arrest or issuance of a warrant.

Section 2: Establishes an immediate effective date.

MS. HOWELL noted that two zero fiscal notes are attached to the legislation.

[3:37:37 PM](#)

SENATOR COGHILL asked for an explanation of AS 11.56.320.

MS. WINKELMAN replied it is escape in the third degree.

SENATOR KAWASAKI asked for a description of escape in the third degree.

MS. WINKELMAN read the statute:

Sec. 11.56.320. Escape in the third degree.

(a) One commits the crime of escape in the third degree if one

(1) removes oneself from official detention during any lawful movement or activity incident to confinement within a correctional facility for a misdemeanor;

(2) violates AS 11.56.335 or 11.56.340 and leaves or attempts to leave the state;

(3) while under official detention for a misdemeanor,

(A) removes, tampers with, or disables the electronic monitoring equipment; or

(B) without prior authorization, leaves one's residence or other place designated by the commissioner of corrections or the commissioner of health and social services for service by electronic monitoring; or

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MS. WINKELMAN explained that subsection (a)(4) relating to electronic monitoring is the important provision for SB 166. AS 12.30 relates to release while on pretrial service supervision.

(4) while on release under AS 12.30,
(A) removes, tampers with, or disables the electronic monitoring equipment; or

(B) without prior authorization, leaves one's residence or other place designated by a judicial officer as a condition of release.

SENATOR KAWASAKI asked her to read the last citation under AS 12.30.

MS. WINKELMAN read, "without prior authorization, leaves one's residence or other place designated by a judicial officer as a condition of release."

SENATOR KAWASAKI posed a hypothetical situation of a person at NorthStar Center in Fairbanks who is on work release but does not return to the center after work. He asked if that would qualify.

MS. WINKELMAN clarified that the provision was specifically for individuals who are placed on pretrial services as a condition of bail. She deferred to Ms. Schroeder to discuss escape from a halfway house.

SENATOR COGHILL asked what the most common problems have been.

MS. WINKELMAN replied SB 166 will streamline the process when somebody tampers with or deactivates their electronic monitoring device. Should the bill pass, the pretrial service officer would make an arrest for violating conditions of release and then put the paperwork forward for the Court System to review. Under the current process, the pretrial service officer arrests the individual for violating conditions of release and flags sentences in the complaint that state what the behavior was so the prosecutor can screen for escape in the third degree. She reminded the members that House Bill 49 made tampering with or deactivating an electronic monitoring device the crime of escape in the third degree but pretrial service officers only have arresting authority for violating conditions of release.

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SENATOR COGHILL commented that the assumption must be that the individual is already under supervision, which is why the arrest may be warrantless. "If this goes into law, it would be much easier because of the assumption of their conditions?"

MS. WINKELMAN replied it is not necessarily because the arrest may be warrantless. The pretrial service officer will still file the complaint for violating conditions of release. It is because of the threshold of escape in the third degree and the fact that the officers do not have that arresting authority. Currently, officers arrest for violating conditions of release and either the prosecution or local law enforcement must screen the complaint for escape in the third degree, which adds an additional step.

SENATOR COGHILL said it is that HB 49 increased the penalty so a warrant is required.

MS. WINKELMAN explained that HB 49 made tampering with or deactivating an electronic monitoring device while under pretrial release a crime of escape in the third degree.

SENATOR REVAK asked how often and in what regions this occurs.

MS. WINKELMAN replied that a quick poll of three locations since House Bill 49 became effective showed there were 13 cases in Juneau and Fairbanks and 23 cases in Anchorage. By comparison, there were about 33 of these cases in Anchorage the 6 months prior to the effective date.

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SENATOR REVAK opened public testimony on SB 166. Finding none, he closed public testimony saying he would open it again when the bill was scheduled in the future. He noted that SB 166 has two zero fiscal notes.

SB 166 was held in committee for future consideration.

SB 167-AGGRAVATING FACTOR: CORRECTIONS OFFICER

[3:45:40 PM](#)

CHAIR REVAK announced the consideration of SENATE BILL NO. 167, "An Act providing for an aggravating factor at sentencing for contractors, volunteers, and employees of the Department of Corrections; and providing for an effective date."

He invited Ms. Winkelman to present the bill.

3:46:01 PM

JENNIFER WINKELMAN, Acting Deputy Commissioner, Department of Corrections, Juneau, Alaska, introduced SB 167, reading from the following prepared statement:

Good afternoon Mr. Chairman and members of the Senate State Affairs Committee. For the record, my name is Jennifer Winkelman, Acting Deputy Commissioner for the Department of Corrections.

Here with me today are Kelly Howell, Special Assistant/Legislative Liaison for the Department of Corrections, who will provide a sectional analysis of the bill, and Kaci Schroeder, Assistant Attorney General with the Department of Law, who is available to answer any legal questions associated with the bill.

Thank you for the opportunity to appear before you today to introduce Senate Bill 167, an Act providing for an aggravating factor at sentencing for contractors, volunteers, and employees of the Department of Corrections, and providing for an effective date.

Promoting the safety and security of our correctional facilities is the utmost priority of the Department of Corrections.

Senate Bill 167 establishes an aggravator at sentencing for persons convicted of promoting contraband in the first degree if, at the time of the offense, the person was under contract, a volunteer, or an employee of the Department of Corrections and the offense was committed in the course of the persons contractual, volunteer, or employment duties.

Contractors, volunteers, and employees of the Department of Corrections are granted special access within our facilities to assist them in the performance of their duties. This access bestows a high level of trust that is paramount to supporting and maintaining a safe and secure environment within our facilities.

The safety and security of our correctional facilities is seriously compromised when contraband is brought inside the walls. When a contractor, volunteer, or employee of the department violates that trust by using their access to bring contraband into our facilities, an enhanced penalty should apply.

Promoting contraband in the first degree is a class C felony that carries a sentence of zero to two years. By adding an additional aggravator under AS 12.55.155(c), Senate Bill 167 would allow a court to impose a lengthier sentence on contractors, volunteers, or employees who are convicted of this offense.

We appreciate the opportunity to present Senate Bill 167 today and request your prompt and favorable action on this bill.

Thank you.

[3:48:31 PM](#)

KELLY HOWELL, Special Assistant and Legislative Liaison, Department of Corrections, Juneau, Alaska, read the following sectional analysis for SB 167:

Section 1: Adds a new paragraph to AS 12.55.155(c) relating to factors that shall be considered by the sentencing court if proven and that may allow imposition of a sentence above the statutory presumptive range (aggravating factors). The new factor would be conviction of an offense under AS 11.56.375 (promoting contraband in the first degree) if the person, at the time of the conviction, was an employee, volunteer, or under contract with the Department of Corrections.

Section 2: Establishes that the factor added in section 1 applies to offenses committed on or after the effective date of the act.

Section 3: Establishes an effective date of July 1, 2020.

She noted that there are three zero fiscal notes attached to SB 167.

[3:49:59 PM](#)

SENATOR COGHILL asked how many times someone has been charged under AS 11.56.375, promoting contraband in the first degree.

MS. WINKELMAN said she assumes he is asking about the Department of Corrections employees.

SENATOR COGHILL replied he would like to know the total and then how many are correctional employees.

MS. WINKELMAN said DOC is currently houses about 41 promoting contraband cases statewide, most of which are attached to another case. According to the DOC human resources office, less than 5 cases involving a DOC employee, contractor, or volunteer have gone to prosecution since 2012. She added that this snapshot shows that the bill would affect a small number of cases.

SENATOR COGHILL asked, for that cohort, what the difference is between those charged and those convicted.

MS. WINKELMAN replied she did not have that number.

SENATOR COGHILL said he would like that information to understand whether the aggravator has any impact.

[3:52:43 PM](#)

SENATOR REVAK said he would also like to know what type of contraband was moved in those five cases. He added that his assumption is that 5 people could move quite a lot of contraband before they got caught.

SENATOR COGHILL asked what types of contraband account for the highest volume.

MS. WINKELMAN responded that a person commits the crime of promoting contraband in the first degree if the contraband is a deadly weapon, a defensive weapon, an article that is intended by the defendant to be used as a means of facilitating escape, or a controlled substance.

SENATOR COGHILL asked if most of the cases that resulted in successful prosecution involved contraband to promote escape or drug use.

MS. WINKELMAN replied she would follow up with the specifics.

SENATOR COGHILL said he would appreciate that information because anecdotal evidence indicates that drugs get into the facilities far too often

SENATOR REVAK asked Ms. Winkelman to submit the information to the committee.

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CHAIR REVAK reconvened the meeting and opened public testimony on SB 167. Seeing none, he said he would keep it open, but testimony could also be submitted to ssta@akleg.gov. He noted there were three zero fiscal notes attached to SB 167.

SENATOR REVAK held SB 167 in committee for future consideration.

SB 162-FORM OF NAME ON DRIVER'S LICENSE/ID

[3:56:37 PM](#)

CHAIR REVAK announced the consideration of SENATE BILL NO. 162, "An Act relating to names on state-issued identification."

[3:56:49 PM](#)

TOM WRIGHT, Staff, Senator Mia Costello, Alaska State Legislature, Juneau, Alaska, introduced SB 162 on behalf of the sponsor, paraphrasing the following sponsor statement:

Senate Bill 162 directs the Division of Motor Vehicles to include numeric characters when issuing either an identification card or driver's license when the individual's name includes numerals.

This bill was introduced in response to a concern about state identification cards from the Division of Motor Vehicles for individuals whose name contains numerals.

He said he is aware of one instance in which the Division of Motor Vehicles said that numerals in a name would have to be spelled out. The parents of the child declined because the numeral in the child's name was there for a specific reason. They asked the state to honor what was on the birth certificate but DMV said they could not do that because of federal regulations and Real ID requirements.

MR. WRIGHT summarized that the sponsor introduced SB 162 in response to concerns about state ID cards for individuals whose names contain numerals.

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SENATOR COGHILL pointed out that while the bill addresses state ID cards, individuals would still need to comply with the federal REAL ID Act.

MR. WRIGHT replied he was not familiar with the REAL ID Act but he imagines that would be true.

CHAIR REVAK advised that representatives from DMV were online to answer questions.

MR. WRIGHT said he cannot argue with the indeterminate fiscal note because changing the system would not be easy. However, he believes it is important to honor the names that parents put on their kids' birth certificates.

[4:00:28 PM](#)

SENATOR COGHILL asked the DMV representative whether the driver's license and the identification card are one or two records.

[4:01:20 PM](#)

JOANNE OLSEN, Interim Director, Division of Motor Vehicles, Department of Administration, Anchorage, Alaska, replied they are one and the same record.

SENATOR COGHILL asked, should this bill pass, if it would comply with the Real ID Act.

[4:02:02 PM](#)

MR. WRIGHT directed attention to the November 27, 2019 Legislative Legal Services opinion in the packets. He read the following:

With regard to the name placed by the DMV on the face of the driver's license or identification card, DHS is proposing to adopt the ICAO [International Civil Aviation Organization] 9303 standard. The ICAO 9303 standard requires Roman alphabet characters, allows a total of 39 characters on the face of the driver's license or identification card, and provides standards for truncation of longer names.

Numeric characters should not be written in the name fields of the VIZ [visual inspection zone]; however, where the use of numeric characters is a legal naming convention in the issuing State, these should be represented in Roman numerals. Any prefixes, suffixes or Roman numerals shall be entered in the secondary field.

4:03:32 PM

JENNA WAMSGANZ, Deputy Director, Division of Motor Vehicles, Department of Administration (DOA), Anchorage, Alaska, said she agrees with the legal opinion that Mr. Wright cited. She also pointed out that DMV uses electronic verification systems from Social Security and the US Passport Verifications Service when it issues identification credentials and those agencies do not put numeric characters in a person's name. An inconsistent naming convention could therefore cause verification issues and prevent DMV from issuing an identification credential.

SENATOR COGHILL asked if the default would be to Roman numerals if SB 162 were to pass.

MR. WRIGHT responded that Roman numerals are already the default. He relayed that the parents who requested this change have been adamant that they gave their child the middle name of "10" for a specific reason and it is on the birth certificate. The sponsor is trying to accede to the parent's wishes, he said.

SENATOR COGHILL asked if DMV could comply if SB 162 were to pass.

4:06:16 PM

MS. WAMSGANZ said significant programming changes to the customer management system to allow for numeric changes in the naming field. She reiterated that a number of DMV's internal processes would break since the division would be unable to electronically verify names against other agency databases. Additionally, a number of other state agencies rely on DMV data. She said she is unaware that any of those agencies have the ability to add numeric characters to their naming conventions. She referenced the indeterminate fiscal note and advised that DMV's initial estimate was that the bill would cost the division hundreds of thousands of dollars. She also highlighted that the division is aware of just one customer who has requested the accommodation of a numeric character in their name in the last two years. "We don't believe that this low level of demand supports the

extensive research, resources, and the funds that would be required to implement the proposed change."

SENATOR COGHILL asked if the numeral is on the individual's passport.

MR. WRIGHT replied he did not believe a passport had been issued.

SENATOR COGHILL commented that this seemed to be an uphill battle.

4:08:28 PM

CHAIR REVAK opened public testimony on SB 162, found none, and closed it. He noted the indeterminate fiscal note and stated he would hold the bill in committee.

4:09:29 PM

There being no further business to come before the committee, Chair Revak adjourned the Senate State Affairs Standing Committee meeting at 4:09 p.m.