

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

January 21, 2022

1:01 p.m.

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Liz Snyder, Vice Chair
Representative Harriet Drummond
Representative Jonathan Kreiss-Tomkins
Representative David Eastman
Representative Christopher Kurka
Representative Sarah Vance

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 183

"An Act renaming the Alaska Criminal Justice Commission the Alaska Criminal Justice Data Analysis Commission; relating to the membership of the Alaska Criminal Justice Data Analysis Commission; relating to the powers and duties of the Alaska Criminal Justice Data Analysis Commission; extending the termination date of the Alaska Criminal Justice Data Analysis Commission; relating to the duties of the Judicial Council; providing for an effective date by amending the effective date of secs. 41 and 73, ch. 1, 4SSLA 2017; and providing for an effective date by repealing the effective date of sec. 74, ch. 1, 4SSLA 2017."

- HEARD & HELD

HOUSE BILL NO. 51

"An Act relating to aggravating factors considered at sentencing."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 183

SHORT TITLE: CRIMINAL JUSTICE DATA ANALYSIS COMMISSION

SPONSOR(S): REPRESENTATIVE(S) CLAMAN

04/21/21 (H) READ THE FIRST TIME - REFERRALS
 04/21/21 (H) JUD, STA, FIN
 05/14/21 (H) JUD AT 1:00 PM GRUENBERG 120
 05/14/21 (H) Heard & Held
 05/14/21 (H) MINUTE(JUD)
 05/15/21 (H) JUD AT 1:00 PM GRUENBERG 120
 05/15/21 (H) -- MEETING CANCELED --
 01/21/22 (H) JUD AT 1:00 PM GRUENBERG 120

BILL: HB 51

SHORT TITLE: AGGRAVATING FACTORS AT SENTENCING

SPONSOR(s): REPRESENTATIVE(s) JOSEPHSON

02/18/21 (H) PREFILE RELEASED 1/8/21
 02/18/21 (H) READ THE FIRST TIME - REFERRALS
 02/18/21 (H) STA, JUD
 04/24/21 (H) STA AT 3:00 PM GRUENBERG 120
 04/24/21 (H) -- MEETING CANCELED --
 05/05/21 (H) STA REFERRAL MOVED TO AFTER JUD
 05/05/21 (H) BILL REPRINTED
 01/21/22 (H) JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

LIZZIE KUBITZ, Staff
 Representative Matt Claman
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Presented HB 183 on behalf of
 Representative Claman, prime sponsor.

SUSANNE DIPIETRO, Executive Director
 Alaska Judicial Council
 Alaska Court System
 Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 183.

BRENDA STANFILL, Executive Director
 Alaska Network on Domestic Violence and Sexual Assault
 Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 183.

KRIS CURTIS, Legislative Auditor
 Legislative Audit Division
 Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 183.

ALEX CLEGHORN, Legal and Policy Director
Alaskan Native Justice Center
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 183.

STEVE WILLIAMS, Chief Executive Officer
Alaska Mental Health Trust Authority
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 183.

REPRESENTATIVE ANDY JOSEPHSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, introduced HB 51.

MAX KOHN, Staff
Representative Andy Josephson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 51 on behalf of Representative Josephson, prime sponsor.

TAMMIE WILLIS
No address provided

POSITION STATEMENT: Testified during the hearing on HB 51.

ALEXANDER MORIARTY
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 51.

ROBIN DERN, Board Member
Anti-Defamation League, Pacific Northwest Region
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 51.

ACTION NARRATIVE

[1:01:04 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 12:35 p.m. Representatives Drummond, Snyder, Kreiss-Tomkins, and Claman were present at the call to order. Representatives Vance, Eastman, and Kurka arrived as the meeting was in progress.

HB 183-CRIMINAL JUSTICE DATA ANALYSIS COMMISSION

[1:01:44 PM](#)

CHAIR CLAMAN announced that the first order of business would be HOUSE BILL NO. 183, "An Act renaming the Alaska Criminal Justice Commission the Alaska Criminal Justice Data Analysis Commission; relating to the membership of the Alaska Criminal Justice Data Analysis Commission; relating to the powers and duties of the Alaska Criminal Justice Data Analysis Commission; extending the termination date of the Alaska Criminal Justice Data Analysis Commission; relating to the duties of the Judicial Council; providing for an effective date by amending the effective date of secs. 41 and 73, ch. 1, 4SSLA 2017; and providing for an effective date by repealing the effective date of sec. 74, ch. 1, 4SSLA 2017."

CHAIR CLAMAN, as prime sponsor, stated that the bill would require a modification to reflect the 2021 sunset date of the Alaska Criminal Justice Commission. He spoke about a committee substitute, labeled "32-LS0645\I, Radford, 1/21/22," and stated that there would be an additional committee substitute forthcoming.

[1:02:53 PM](#)

LIZZIE KUBITZ, Staff to Representative Matt Claman, Alaska State Legislature, on behalf of Representative Claman, prime sponsor, offered information regarding the aforementioned committee substitute to HB 183 [which was never moved for adoption as a working document]. She stated that the committee substitute before the committee reflected the changes to the termination date of the Alaska Criminal Justice Commission (ACJC) and related statutory changes and would enact the Alaska Criminal Justice Data Analysis Commission (ACJDAC). She explained that Section 4 had been changed to specify that the victims' rights advocate member of the commission be designated by the Alaska Network on Domestic Violence and Sexual Assault (ANDVSA).

CHAIR CLAMAN recommended against adopting the committee substitute due to a forthcoming, updated committee substitute.

[1:05:22 PM](#)

REPRESENTATIVE EASTMAN asked the rationale for capitalizing some references to the term "commission" and not to others within the

title and body of the bill and whether it would permit there to exist multiple commissions.

CHAIR CLAMAN answered that it was likely a matter of drafting style, and the intent was not to create more than one commission.

REPRESENTATIVE EASTMAN referred to page 3 on line 22 referencing the member from the Department of Law. He noted that the Deputy Attorney General would be the designee, rather than the Attorney General, and asked whether that could create conflict [within the Department of Law.]

CHAIR CLAMAN answered that the change in the member designation had been made at the suggestion of the ACJC as the deputy is the position directly engaged in criminal prosecutions. He stated that there had been no precedent of a conflict [within the Department of Law.]

REPRESENTATIVE EASTMAN asked whether it had been considered the effects of the retirement of the head of the ACJC and his successor maintaining a differing viewpoint.

CHAIR CLAMAN answered that it had not been a point of discussion.

[1:09:09 PM](#)

REPRESENTATIVE VANCE referred to Section 6, on page 10, line 22 and asked for information about the project described to study risk factors.

CHAIR CLAMAN answered that the issue of risk factors had become prevalent and had been included at the recommendation of the ACJC to develop a working definition of "risk factor."

REPRESENTATIVE VANCE stated her understanding of examining data and asked how the project referenced in Section 6 would differ from the data analysis already taking place.

[1:11:08 PM](#)

SUSANNE DIPIETRO, Executive Director, Alaska Judicial Council, answered that the risk assessment study has been a practice of the ACJC and referred to a report on the Alaska Judicial Commission's website that depicts data analyses including charts with methodology and findings.

REPRESENTATIVE VANCE asked whether the reference to a "project" in Section 6 would be akin to what Ms. DiPietro had just described.

MS. DIPIETRO confirmed that it was.

REPRESENTATIVE EASTMAN referred to language in Section 4, on page 4, regarding the appointment of a victims' rights advocate. He noted that current practice would be appointment by the governor and asked whether the proposed bill would designate ANDVSA as the appointing authority. He asked what the rationale was to designate ANDVSA and not the governor as the appointing authority.

CHAIR CLAMAN restated that the recommendation had been made by ACJC and had been made to include an individual engaged in working with victims' rights. He added that the appointment would be made after consultation with ANDVSA's members and partner organizations. He deferred to Ms. Stanfill to offer additional information.

[1:14:56 PM](#)

BRENDA STANFILL, Executive Director, Alaska Network on Domestic Violence and Sexual Assault, explained that ANDVSA is a membership organization that represents domestic violence and sexual assault programs throughout Alaska and may support victims of other types of crimes. She answered the question posed by Representative Eastman by explaining that a process was established to ensure that diverse [victims' advocate] organizations would be represented on the commission. She noted that partner organizations include the Alaska Native Women's Resource Center, Healing Native Hearts, Alaska Legal Services, and the Alaska Native Justice Center. She noted that a formal process had been established to select the representative member.

REPRESENTATIVE EASTMAN asked whether there exists concern on the part of ANDVSA that current or previous governors had not been receptive to concerns expressed by ANDVSA.

MS. STANFILL answered that there had not been any consultation with any groups during the selection of the victims' rights representative on the council in the past.

CHAIR CLAMAN offered that interest had existed in achieving expanded community involvement rather than solely political involvement in selecting the victims' rights member.

REPRESENTATIVE EASTMAN asked for an explanation on the rationale of the selection of members in the past.

MS. STANFILL answered that she had no insight into the rationale applied in the selection of members by governors.

REPRESENTATIVE EASTMAN sought the answer from other individuals present.

CHAIR CLAMAN stated that he had been a long-serving, ex-officio member of the commission and could not offer insight on the process of deciding the appointment by governors but offered that Ms. Stanfill had been a previously appointed member. He explained that Governor Michael Dunleavey had appointed the father of a young girl who had been killed in Kotzebue. He suggested that the latter appointment had suffered a great personal loss; however, discussions had taken place indicating that he may have lacked connection with victims' rights organizations and ANDVSA. He stated his observation that the commission had expressed an interest in victim's organizations being represented.

[1:19:23 PM](#)

REPRESENTATIVE VANCE referred to language on page 4, line 13, that listed the commissioner of the Department of Health and Social Services and asked whether that would be a voting member.

CHAIR CLAMAN confirmed that it would be.

REPRESENTATIVE VANCE asked for an explanation of the rationale for that decision.

CHAIR CLAMAN explained that there had been a period in which the commissioner of the Department of Health and Social Services was a nonvoting member, and that the commission had reached a consensus that that member should have a vote in recognition that the department engaged in services that pertained to issues related to the department's functions.

REPRESENTATIVE EASTMAN asked, if the commissioner would hold a voting seat, then what would be the rationale for the elected

officials listed in Sections 12 and 13 not holding a voting seat.

CHAIR CLAMAN offered that, as recommended by Legislative Legal Services, members of the legislature may later be asked to vote on legislative matters pertaining to certain boards and commissions and are customarily nonvoting members.

REPRESENTATIVE EASTMAN asked for an explanation of the perception he held that the proposed bill would diminish the governor's discretion in favor of ANDVSA.

CHAIR CLAMAN allowed that Representative Eastman's perception was his prerogative and explained that public comments had been sought to address the recommendations made by the Legislative Audit Division to focus on data collection and analysis. He referred to "item 15" in the bill and said that the intent was to include an individual with "lived experience" as a convicted person and would be appointed in consultation with the Attorney General's office's designee. He stated his belief that the changes were made to encourage further public engagement with the commission.

REPRESENTATIVE KURKA expressed his concern that HB 183 would expand a pattern of naming specific private organizations in statute that may not have accountability to the public.

CHAIR CLAMAN answered that most of the groups were listed in the existing statute and included members appointed by the court system, the Alaska Native Justice Center, and the Alaska Mental Health Trust Authority (AMHTA.) He stated that the only change would be for the peace officer representative member to be appointed by the Alaska Association of Chiefs of Police and the victims' advocate representative member to be appointed by ANDVSA.

REPRESENTATIVE KURKA reiterated that the points made by Chair Claman were his concern as previously expressed and asked whether that matter should be addressed in a separate bill.

CHAIR CLAMAN stated that the commission would likely suggest that matter as a policy decision.

[1:26:19 PM](#)

REPRESENTATIVE VANCE stated that there existed several fiscal notes and asked for a broad explanation of what would be anticipated in regard to them.

MS. DIPIETRO explained that the Alaska Judicial Council staff was concurrently serving as staff to the commission and appropriation had been made for those functions. She stated her determination that the proposed commission would be adequately staffed with current or possibly fewer resources as evidenced by the elimination of one staff member in the negative fiscal note.

REPRESENTATIVE VANCE asked for further clarification of the fiscal notes.

MS. DIPIETRO answered that the council had provided only one of the fiscal notes that was before the committee.

REPRESENTATIVE VANCE asked what the total budget impact would be, considering all of the fiscal notes.

CHAIR CLAMAN postulated that a forthcoming committee substitute should include a comprehensive, updated fiscal note. He stated that the Department of Public Safety (DPS) has a designated data analysis staff member, and he did not anticipate any increase would be necessary.

[1:30:34 PM](#)

REPRESENTATIVE EASTMAN asked whether the other body had a member similarly active to that of Chair Claman's involvement in the commission.

CHAIR CLAMAN answered that it had, and it was currently held by Senator Lora Reinbold.

[1:31:12 PM](#)

KRIS CURTIS, Legislative Auditor, Legislative Audit Division, introduced herself for the record.

CHAIR CLAMAN offered his understanding that the Legislative Audit Division had recommended to continue the data collection and analysis functions of the commission and to remove the function of the commission making recommendations and asked Ms. Curtis to explain the recommendations and offer additional background on the rationale for those recommendations.

MS. CURTIS stated that the division had determined during its audit that the commission was very active and well-run, meeting deadlines for the completion of studies and providing recommendations for comprehensive criminal justice reform. She stated that the recommendations offered by the commission had been the basis if the "ill-fated" Senate Bill 91 [during the Thirtieth Alaska State Legislature] and additional recommendations had been sought from the commission for proposed amendments to Senate Bill 91. She stated that it had been observed that the changes that were adopted to Senate Bill 91 in 2018 had not been based on the commission's recommendations. She stated that it had been determined that the commission was not effective in making such recommendations and that it should be terminated. She stated that it had been revealed that there was concern that the data collection and analysis duties of the commission would still be necessary.

REPRESENTATIVE SNYDER asked the Alaska Native Justice Center (ANJC) to explain how the commission makes a difference for the people represented by the center.

[1:34:34 PM](#)

ALEX CLEGHORN, Legal and Policy Director, Alaskan Native Justice Center, answered that the commission fills data collection and analysis functions that ANJC is unable to conduct itself. He suggested that the Alaska Native member of the commission provides representation of rural and Native area residents.

REPRESENTATIVE SNYDER asked whether ANJC represented victims, defendants, or both.

MR. CLEGHORN answered that ANJC is unique in that it represents both because those individuals are typically represented by separate agencies.

REPRESENTATIVE SNYDER asked whether the commission was involved in the victim listening sessions conducted by ANJC and how it incorporates input from those sessions.

MR. CLEGHORN answered that the listening sessions were summarized in the ANJC annual reports which the commission may take into consideration. He stated that the commission having access to the experiences captured during the listening sessions brings those lived experiences to a broader audience.

REPRESENTATIVE SNYDER requested a representative from AMHTA explain who its beneficiaries are and how its interests relate to the commission.

1:39:02 PM

STEVE WILLIAMS, Chief Executive Officer, Alaska Mental Health Trust Authority, answered that AMHTA beneficiaries consist of individuals experiencing mental health issues including substance abuse disorders, intellectual development disabilities, Alzheimer and dementia patients, and individuals with traumatic brain injuries. He stated that 40 percent of those incarcerated annually are such beneficiaries. He stated that the beneficiaries consist of both offenders and victims, and AMHTA involvement on the commission brings their perspective to the commission.

REPRESENTATIVE SNYDER asked how long Mr. Williams had served on the commission and asked him to offer his opinion on the importance of maintaining the data collection and analysis functions of the commission.

MR. WILLIAMS answered that he had been a commissioner for more than five years and had been engaged with the commission since its inception. He offered that the value of the commission was self-explanatory based on its membership, which is representation of all parties involved in the criminal justice system, including law enforcement, corrections, the judiciary, public defenders, the Department of Law, victims, and convicted individuals with lived experience. He suggested that that diversity contributed to the identification of ways in which the system could be improved.

1:43:18 PM

REPRESENTATIVE EASTMAN asked whether individuals who may elect a designee would participate regularly or whether the designee would be the only participant.

CHAIR CLAMAN suggested that [meeting] minutes could be consulted to confirm exactly who had participated. He stated his observation that the most frequently designated member had been that of the Attorney General's seat and the ex-officio member from DHSS and that designees were somewhat rare otherwise.

MS. DIPIETRO agreed with Chair Claman's suggestion regarding the participation of members compared with that of designees.

REPRESENTATIVE EASTMAN asked what the rationale had been to continue the commission within the purview of the governor's office.

CHAIR CLAMAN suggested that each commission must exist in one of the three branches of government and may not have been well suited to belong within either the court or the legislature.

MS. DIPIETRO agreed with Chair Claman's suggestion and staffing considerations were made at the time of the commission's inception.

[1:47:54 PM](#)

CHAIR CLAMAN recalled Representative Vance's question regarding fiscal notes and suggested that logic would dictate that there would not occur an increase in cost due to a decrease of [commission] function.

REPRESENTATIVE VANCE referred to page 4 which listed the powers and duties of the commission that would permit the commission to contract for data collection and analysis and asked from what source, possibly including from the recidivism reduction fund, any contractual funds would be obtained.

CHAIR CLAMAN stated that the contracts were not paid by the Department of Corrections. He asked Ms. DiPietro about how contracts are paid and the parties in them.

MS. DIPIETRO answered that the council had not contracted data analysis services. She added that the Alaska Justice Information Center had provided data analysis services and that no payment had been paid for those services.

CHAIR CLAMAN added that the Alaska Justice Information Center was part of the University of Alaska, Anchorage (UAA) and, in response to a follow up question from Representative Vance, confirmed that its work would be funded by UAA.

REPRESENTATIVE VANCE stated that the commission needed more data and asked for additional explanation of the flow of source data.

CHAIR CLAMAN stated that HB 183 would not increase the level of data collection and analysis and postulated that, should the legislature request additional analysis and reporting, the commission would likely request additional resources.

[1:51:55 PM](#)

REPRESENTATIVE VANCE asked whether the changes proposed in HB 183 would include more rural representation.

CHAIR CLAMAN answered that the represented members on the commission were separate from the data collected, and the analysis function would have more diverse representation, should HB 183 pass.

MS. DIPIETRO added that the amount of data that the commission collects would be the same and the analysis would be the same, although more could be requested. She added that technical staff will receive and analyze data and provide reports and the commissioners then examine the data to develop questions revealed by the data.

[1:55:00 PM](#)

CHAIR CLAMAN announced that HB 183 was held over.

HB 51-AGGRAVATING FACTORS AT SENTENCING

[1:55:55 PM](#)

CHAIR CLAMAN announced that the final order of business would be HOUSE BILL NO. 51, "An Act relating to aggravating factors considered at sentencing."

[1:56:16 PM](#)

REPRESENTATIVE ANDY JOSEPHSON, Alaska State Legislature, as prime sponsor, introduced HB 51. He explained that the bill would add "sexual orientation" and "gender identity" to the list of aggravators found in sentencing code under AS 12.55.155(c)(22). The existing aggravators in the list are "race", "creed", and "religion". He stated that he believed the bill to be necessary following the events of December 2019, during which a woman had been assaulted and the perpetrator had never been found. He characterized the circumstances of the assault as alarming and that on November 14, 2019, Ms. Tammy Willis had discovered a note left on her windshield threatening her identifying her as a person of same-sex orientation. Eight days later, a rock had been thrown through her vehicle's windshield. On December 9, she had been assaulted with a knife and sustained serious injury. He explained that it had been

suggested that the attack had been the response to Ms. Willis's organization of a "Pride in the Park" event in Kenai or Soldotna in spring 2020. He said that a town hall event had been attended by over 200 individuals in Kenai and Soldotna to compel the city councils to include sexual orientation and gender identity in aggravating factors in criminal code. He said that both councils had voted in favor of House Bill 198, an earlier version of HB 51. He stated that the late Representative Gary Knopp had aided in the drafting of House Bill 198. He stated that HB 51 would designate crimes targeted against this population would be aggravated. He offered that hate crimes are predicated on community condemnation, retribution, and symbolic statements. He indicated that reaction to a crime committed against the general public, that did not target a specific group, did not elicit an anxiety that exists among victims of specifically targeted groups. He recalled a U. S. Supreme Court Case, Wisconsin v. Mitchell, in 1993, pertaining to aggravating factors to include hate crimes. He said that Chief Justice Rehnquist had ruled that the statutes [in question] were lawful and that they did not violate equal protections.

[2:03:27 PM](#)

REPRESENTATIVE JOSEPHSON read from the opinion issued, that "bias motivated crimes are more likely to provoke retaliatory crimes, inflict distinct emotional harms on their victims, and incite community unrest." He stated that the aggravating factors would apply only to felonies and that notice seeking the aggravator to the court is required. He stated that aggravators are considered by a jury and must be decided unanimously unless the defendant waived the jury's unanimous verdict.

[2:07:23 PM](#)

MAX KOHN, Staff, Representative Andy Josephson, Alaska State Legislature, presented a PowerPoint presentation [hard copy included in the committee packet] entitled, "HB 51 PowerPoint Presentation 1.21.2022.pdf," and he explained aggravating factors as listed in 12.55.155(c). He read from slide 4, which lists the reasoning for including aggravating factors in the sentencing phase of a criminal prosecution. Slide 4 read as follows [original punctuation provided]:

- Motive and details matter.
- As with all laws, these factors reflect societal attitudes.

- In instances where aggravators are relevant, the defendant has already been convicted and the details of the crime are broadly considered abhorrent or aberrant.
- When a sentence is imposed beyond the presumptive range, it can be seen as an indication that the motive was particularly egregious or that the defendant demonstrated a disregard for societal norms beyond what might be expected for a 'typical' crime of that type.
- The impact of an assault motivated by hate towards a group has larger repercussions than even the initial terrible impact on the individual.

MR. KOHN explained that there is one change to the statute in question, and he read from slide 6 an excerpt from the sectional analysis, which read as follows [original punctuation provided]:

- AS 12.55.155(c)(22) currently allows a sentencing court to impose additional sentencing if "the defendant knowingly directed the conduct constituting the offense at a victim because of that person's race, sex, color, creed, physical or mental disability, ancestry, or national origin"
- HB 51 adds "sexual orientation or gender identity" to this list.

[2:10:51 PM](#)

MR. KOHN drew attention to slide 7, which contained graphs based on the Federal Bureau of Investigation (FBI) data on anti-gender identity and anti-sexual orientation hate crimes during 2015-2019, and he noted that the data reflected actual crimes that had occurred. He stated that the data demonstrates that the problem is getting worse at the national level. He next drew attention to slide 8, which shows a map on which lighter blue states are states that only include laws addressing sexual orientation and that the darker blue states are states that have laws addressing both sexual orientation and gender identity. He pointed out that the State of Wyoming, like Alaska, has no laws addressing hate crimes committed towards sexual orientation or gender identity. He suggested that there exist negative impacts in states that do not have such laws, and he read a press quote from slide 9, which read as follows [original punctuation provided]:

Anti-LGBTQ bigotry ran rampant in Wyoming last year. In addition to isolated incidents of violence and discrimination, several communities broke out in dispute over LGBTQ representation in public spaces.

MR. KOHN stated that the business community in Wyoming was advocating for laws against hate crimes. He then read the quote from slide 9, attributed to Chris Brown, Wyoming Lodging and Restaurant Association Lobbyist, which read as follows [original punctuation provided]:

Protecting the LGBTQ+ community under a hate crime statute "sends a message that bias-motivated crimes are taken seriously."

MR. KOHN next drew attention to slide 10 of the presentation, which provides an example of criminal justice reform from across the nation, specifically legislation that had been passed recently by the State of Georgia. Slide 10 read as follows [original punctuation provided]:

Georgia passed HB 426 in 2020 with wide bipartisan support.

60 out of 100 Republicans in the State House supported the bill along with 26 out of 34 Republicans in the State Senate. That's a total of 64% of Georgia Republicans.

Georgia's HB 426 includes Race, Color, Religion, National Origin, Sex, Sexual Orientation, Gender, Mental Disability, or Physical Disability.

MR. KOHN concluded the presentation by recalling the story that Representative Josephson had recounted from 2019 and stated that the crime that had been committed had negatively affected a larger community.

[2:15:00 PM](#)

TAMMIE WILLIS testified in support of HB 51 and stated that she had been the victim in the crime that Representative Josephson had detailed in earlier testimony. She began her testimony by noting that the murder of Matthew Shepard had taken place in Wyoming, which has no hate crime laws, and the case had garnered national attention. She stated that she had worked with others to establish the Kenai Peninsula College (KPC) Alliance that evolved to the Soldotna Pride in the Park in June 2019, which had grown to over 200 participants. She stated that because of

the size of the event, a community planning event had been organized, following which, the crimes against her commenced. She detailed the violent assault against her. She stated that she had reported each incident to the police and some evidence had been gathered. She stated that she had publicly shared her experiences and had been met with "a wall of hate," including threats. She stated that the threats against her continue, and she had quit her job and moved from her home to escape the threats.

[2:18:56 PM](#)

MS. WILLIS stated that she had started an organization called Queers and Allies to create safe spaces and to provide education and advocacy. She shared with the committee that she had encountered recurring stories, during her advocacy work, involving harassment, bullying, violence, fear, sexual abuse, and homelessness among the lesbian, gay, bisexual, transexual, and queer (LGBTQ) community. She stated that an advocate in Fairbanks and an advocate in Anchorage had been assaulted and remain anonymous out of fear. She stated that HB 51 would support change to criminal justice in Alaska to protect these citizens.

CHAIR CLAMAN asked Ms. Willis to provide her written testimony.

[2:23:05 PM](#)

REPRESENTATIVE KREISS-TOMKINS asked whether the assailant against Ms. Willis had been identified and taken into custody.

MS. WILLIS answered that he had not. She stated that many problems occurred during her case. For example, evidence had been lost or not examined in a timely manner and witnesses had not been interviewed in a timely manner. The FBI was eventually involved in the case.

[2:24:47 PM](#)

CHAIR CLAMN opened public testimony on HB 51.

[2:25:33 PM](#)

ALEXANDER MORIARTY testified in support of HB 51. He thanked the bill sponsor. He offered that aggravating factors for hate crimes were necessary based on the evidence in the slides presented earlier and that the protections would be put in place

for some of the most vulnerable members of society. He stated that everyone's life should be protected equally.

[2:28:42 PM](#)

ROBIN DERN, Board Member, Anti-Defamation League, Pacific Northwest Region, testified in support of HB 51. She stated that according to a 2019 FBI hate crimes report, 11 hate crimes had occurred in Alaska, the highest ever. She added that in 2020, 7,759 hate crimes had been documented across the country, and 1 of 6 were motivated by the victim's actual or perceived sexual orientation or gender identity. She stated that the statistics were not representative of the actual incidence of these crimes due to victims' reluctance to come forward and that law enforcement may not be equipped to deal with the crimes when they are brought forward. She urged the passage of HB 51.

CHAIR CLAMAN asked Ms. Dern to provide her written testimony.

[2:32:29 PM](#)

CHAIR CLAMAN, after ascertaining that there was no one else who wished to testify, closed public testimony on HB 51.

REPRESENTATIVE EASTMAN asked what possible minimum and maximum sentences would apply to the crimes.

REPRESENTATIVE JOSEPHSON explained that a B felony would result in a sentence of 0-10 years and an A felony would result in a sentence of 0-20 years. He offered an example wherein a presumptive sentence on a B felony conviction would be 4 years, that a judge may elect for a sentence of up to 10 years but only with a finding that the felon was the worst in his/her class. He said that a judge may, at his/her discretion, increase a sentence.

REPRESENTATIVE EASTMAN asked whether a sentence would be from 0-20 years.

REPRESENTATIVE JOSEPHSON answered no, such as in a case where the victim was murdered, the sentence would be more than 20 years.

REPRESENTATIVE EASTMAN asked the definition of "creed".

REPRESENTATIVE JOSEPHSON answered that "creed" is defined under AS 12.55.185 as it is listed under AS 12.55.155. He proffered

that the terms "color" and "physical or mental disability" are not defined, but courts operate with those terms regularly. He postulated that "creed" likely pertains to one's religion; however, "creed" does not pertain to HB 51.

CHAIR CLAMAN offered that "creed" is existing law.

REPRESENTATIVE EASTMAN explained his reason for asking was to determine that "creed" would not already capture the inclusion of the protected class in HB 51.

REPRESENTATIVE JOSEPHSON stated that no such indication [that it would] had been offered by counsel [in Legislative Legal Services].

REPRESENTATIVE EASTMAN asked whether HB 51 would criminalize any new behavior.

REPRESENTATIVE JOSEPHSON answered that it would not.

REPRESENTATIVE EASTMAN asked for additional information on the increase in the crimes as presented in the PowerPoint and asked why the crimes are not decreasing when laws are being passed to protect against them.

[2:38:01 PM](#)

REPRESENTATIVE JOSEPHSON stated that he held his own beliefs for the reasons for the increase in these types of crimes.

REPRESENTATIVE EASTMAN suggested that the bill is modest and asked whether solely increasing sentencing would be sufficient to solve the problem and if any other tools would be sought.

REPRESENTATIVE JOSEPHSON answered that tools which may be sought to solve the problem would be universal pre-[kindergarten] and support for young parents, which are expensive to implement. He noted that a scholar, Dr. Gurstenfeld, had conducted extensive research and had found that the symbolic expression of noting the conduct as unacceptable in the larger society has value.

REPRESENTATIVE EASTMAN stated that he was persuaded that crimes motivated by hate should be minimized and questioned the limited language and questioned not including those who may not be members of a group.

REPRESENTATIVE JOSEPHSON recalled his earlier testimony that hate crimes are targeted against a particular cohort with shared traits and recalled the opinion of Chief Justice Rehnquist.

[2:43:26 PM](#)

CHAIR CLAMAN recalled Representative Eastman's earlier question regarding sentencing under AS 12.55.125 and answered that the first offense of a B felony would be 1-3 years, a second B felony would be 3-7 years, and the third or greater offense would be 7-10 years. He stated that, unless a jury finds an aggravating factor in a first B felony offense, the judge would be barred from imposing more than a 3-year sentence.

REPRESENTATIVE DRUMMOND asked the rationale for including the term sexual "identity" as compared to gender or sex.

MR. KOHN answered that the FBI data had reflected that from 2015 to 2019, of the instances of gender-based crimes committed, crimes predicated on gender alone comprised only one-third of those crimes.

REPRESENTATIVE JOSEPHSON added that when counsel had been consulted regarding sex compared with gender identity, he/she had concluded the following: "If you would like to guarantee that a sentencing aggravator can be applied in cases where conduct is knowingly directed at a victim because of that person's sexual orientation or transgender status, I recommend amending the statute to specifically include such language."

[2:48:43 PM](#)

REPRESENTATIVE EASTMAN asked whether the word "or" would be necessary, grammatically.

MR. KOHN offered to pose the question to the drafter of the statute, Ms. Radford, and follow up with the committee.

REPRESENTATIVE EASTMAN recalled earlier testimony by Representative Josephson regarding additional tools such as universal pre-K and asked how effective the proposed change to the statute would be.

REPRESENTATIVE JOSEPHSON cautioned against any implication of diminished importance of the bill but offered that it would result in incremental progress in the law. He acknowledge the

need exists for government protection and that all Americans do not need protections in the same way.

2:51:33 PM

CHAIR CLAMAN announced that HB 51 was held over.

2:52:05 PM

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:52 p.m.