

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

January 26, 2022

2:25 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."

- MOVED CSHB 183 (JUD) OUT OF COMMITTEE

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) STA REFERRAL REMOVED
01/21/22 (H) BILL REPRINTED
01/21/22 (H) JUD AT 1:00 PM GRUENBERG 120
01/21/22 (H) Heard & Held
01/21/22 (H) MINUTE(JUD)
01/26/22 (H) JUD AT 1:30 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
01/21/22 (H) Heard & Held
01/21/22 (H) MINUTE(JUD)
01/26/22 (H) JUD AT 1:30 PM GRUENBERG 120

WITNESS REGISTER

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

POSITION STATEMENT: On behalf of the prime sponsor, Representative Claman, presented a summary of changes on HB 183, Version G.

KELLY GOODE, Deputy Commissioner
Department of Corrections
Anchorage, Alaska

POSITION STATEMENT: Answered questions on HB 183, Version G.

REPRESENTATIVE ANDY JOSEPHSON

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, answered questions during the hearing on HB 51.

ACTION NARRATIVE

[2:25:40 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 2:25 p.m. Representatives Kurka, Drummond, Snyder, Kreiss-Tomkins, and Claman were present at the call to order. Representatives Vance and Eastman arrived as the meeting was in progress.

HB 183-CRIMINAL JUSTICE DATA ANALYSIS COMMISSION

[2:26:18 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."

[2:26:51 PM](#)

LIZZIE KUBITZ, Staff, Representative Matt Claman, Alaska State Legislature, on behalf of the prime sponsor, Representative Claman, presented the summary of changes for HB 183, Version G. She read from a prepared statement [copy included in the committee packet], which read as follows [original punctuation provided]:

Before we begin, I would like to provide further clarification related to the prior hearing's discussion about duty to design and implement a project for the purposes of studying risk factors related to criminal activity. This is not a new responsibility. In 2017, in passing SB 54, the

Legislature asked the Commission to design a project to study the risk factors associated with criminal activity. The goal of this project was to provide information to the Legislature to inform "the Legislature's policy and funding decisions related to primary crime prevention, and improving primary crime prevention strategies in the state." With the sunset of the Alaska Criminal Justice Commission on July 1, 2021, the commission no longer has this responsibility. This responsibility now falls to the Alaska Judicial Council under AS 22.20.220.

House Bill 183 returns that duty to the Alaska Criminal Justice Data Analysis Commission—as seen in Section 6 of Version G. Should the Alaska Criminal Justice Data Analysis Commission sunset on June 30, 2029, House Bill 183 ensures that the Alaska Judicial Council will again take up that responsibility—as seen in Section 2 of Version G.

Now, moving on to the work draft CS. Per request of the advisor, Version G:

- Accounts for the sunset and termination of the Alaska Criminal Justice Commission and related statutory changes and enacts the Alaska Criminal Justice Data Analysis Commission based on the prior Alaska Criminal Justice Commission statutes.

One other related and requested change is also included in Version G:

- Sec. 4 is changed to specify that the victims' rights advocate on the commission to be designated by the Alaska Network on Domestic Violence and Sexual Assault after consultation with its member and partner organizations.

[2:29:40 PM](#)

REPRESENTATIVE SNYDER moved to adopt the proposed committee substitute (CS) for HB 183, labeled, 32-LS0645\G, Radford, 1/22/22 ("Version G"). There being no objection, Version G was before the committee.

CHAIR CLAMAN requested that Ms. Goode explain the attached fiscal note.

[2:31:13 PM](#)

KELLY GOODE, Deputy Commissioner, Department of Corrections (DOC), provided information on Version G. She explained that

the proposed [reforms] to the commission may require more data to be analyzed by the department; however, the additional work would not likely result in additional cost. She suggested that a revised fiscal note may be forthcoming and cautioned the committee that any proposed increase in work beyond the scope of Version G would result in additional cost.

[2:32:44 PM](#)

REPRESENTATIVE EASTMAN expressed the belief that it had been a stated goal to remove politics from the commission. He expressed his concern over the exclusion of public input via the governor's appointment of members. He stated that victims' rights are an important part of the criminal justice system and pointed out that victims of crimes other than domestic violence and sexual assault exist. He questioned the rationale for not including representatives of other victim groups.

[2:36:05 PM](#)

REPRESENTATIVE KURKA expressed his concern for the previous commission and criticized the recommendations it had put forth to develop SB 91. He stated that no remedy has been offered.

CHAIR CLAMAN, in response to the concern expressed by Representative Eastman, stated that the inclusion of the Alaska Network on Domestic Violence and Sexual Assault on the commission represents other member groups and victims of other crimes. He stated that Alaska has a "horrific" problem with sexual assault and domestic violence, especially in rural areas. In response to the concern expressed by Representative Kurka, he stated that the removal of the commission's duty to provide these recommendations led to Senate Bill 91. He continued that SB 91 had been in response to the findings of the auditor. He expressed the opinion that the proposed reforms to the commission would address these concerns.

[2:38:03 PM](#)

REPRESENTATIVE SNYDER moved to report HB 183, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 183(JUD) was reported from the House Judiciary Standing Committee.

[2:38:17 PM](#)

HB 51-AGGRAVATING FACTORS AT SENTENCING

[2:38:28 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." He stated that Legislative Legal Services has permission to make any technical or conforming changes to the bill.

The committee took an at-ease from 2:41 to 2:43 p.m.

[2:43:27 PM](#)

REPRESENTATIVE EASTMAN expressed the intention to offer amendments to HB 51 before the committee in a different order. He cited the Mason's Manual of Legislative Procedure, Sections 397, 155, and 156, which dictate the order and timing in which amendments could be considered.

[2:46:14 PM](#)

CHAIR CLAMAN offered background regarding the practice of considering amendments in the House Judiciary Standing Committee.

REPRESENTATIVE EASTMAN acknowledged the practice of the committee.

CHAIR CLAMAN stated that no request for a particular order of consideration of amendments had been made.

[2:48:49 PM](#)

REPRESENTATIVE KREISS-TOMKINS expressed that the amendments bore sequential order assigned by Legislative Legal Services.

CHAIR CLAMAN confirmed Representative Kreiss-Tomkins's observation as correct.

[2:49:55 PM](#)

REPRESENTATIVE EASTMAN requested to move Amendment 7 to HB 51.

CHAIR CLAMAN offered that Representative Eastman could move or withdraw Amendments 1-6.

[2:50:38 PM](#)

REPRESENTATIVE EASTMAN moved to appeal the ruling of the chair regarding the order in which amendments could be considered.

A roll call vote was taken. Representatives Drummond, Snyder, Kreiss-Tomkins, and Claman voted in favor of upholding the ruling of the Chair. Representatives Kurka, Vance, and Eastman voted against it. Therefore, the ruling of the Chair was upheld by a vote of 4-3.

[2:51:39 PM](#)

REPRESENTATIVE EASTMAN moved Amendment 1 to HB 51, labeled, 32-LS0325\A.1, Radford, 1/24/22, which read as follows:

Page 1, line 3, through page 6, line 12:

Delete all material and insert:

"* Section 1. AS 12.55.155(c)(22) is repealed."

Page 6, line 15:

Delete "AS 12.55.155(c), as amended by sec. 1 of this Act,"

Insert "The repeal of AS 12.55.155(c)(22) by sec. 1 of this Act"

REPRESENTATIVE KREISS-TOMKINS objected.

REPRESENTATIVE EASTMAN explained that Amendment 1 would repeal Section 1.

[2:53:04 PM](#)

REPRESENTATIVE ANDY JOSEPHSON, Alaska State Legislature, as prime sponsor of HB 51, expressed strong opposition to the proposed amendment. He stated that, if adopted, a scenario could occur in which an individual could intentionally hurt another who was disabled, or because of the individual's faith, with impunity. He stated that only three other states have similar legislation.

REPRESENTATIVE KURKA asked whether the bill proposed aggravating factors which could increase sentencing of certain crimes, and he asked how the crimes described by Representative Josephson would be committed with impunity.

REPRESENTATIVE JOSEPHSON answered that a person could target one of the listed cohorts openly and transparently, and a judge

would be obligated to give the presumptive sentence, unless there exist other aggravators.

REPRESENTATIVE EASTMAN asked whether the proposed bill would not criminalize new conduct.

REPRESENTATIVE JOSEPHSON answered that he had previously testified that HB 51 would not criminalize new conduct.

REPRESENTATIVE EASTMAN expressed the belief that "locking people up for longer" is not necessarily a solution, and the amendment supports this. He withdrew Amendment 1.

[2:56:23 PM](#)

REPRESENTATIVE EASTMAN moved Amendment 2 to HB 51, labeled, 32-LS0325\A.2, Radford, 1/24/22, which read as follows:

Page 4, line 7:

Delete "or national origin"

Insert "[OR] national origin, or political affiliation; in this paragraph, "political affiliation" includes belonging to a political party, endorsing a political party, or attending a political event"

REPRESENTATIVE SNYDER objected.

REPRESENTATIVE EASTMAN expressed concern that individuals are not able to freely express political affiliations and beliefs without retaliation. He suggested that political affiliation should be listed as a class protected against hate crimes.

REPRESENTATIVE KURKA referred to previous testimony by Ms. Willis as a victim, during the House Judiciary Standing Committee meeting on January 21, 2022. He questioned whether the victim's political activism had been the basis of the attack.

REPRESENTATIVE JOSEPHSON explained that three separate violent attacks had occurred against Ms. Willis. He expressed disagreement with the suggestion that the crimes were politically motivated. He expressed the opinion that the attacks were a result of her planning the Pride in the Park event.

REPRESENTATIVE KURKA expressed disagreement with Representative Josephson's characterization of the crime being motivated by the victim's sexual orientation, rather than the potential for political motivation.

[3:00:39 PM](#)

REPRESENTATIVE VANCE asked whether a crime could be committed against individuals who did not identify as a member of the lesbian, gay, bisexual, and transexual (LGBT) community, but who had participated in advocacy and events on behalf of that community. She asked whether there exists data regarding such individuals.

REPRESENTATIVE JOSEPHSON expressed the understanding that the crime committed against Ms. Willis had been motivated by her sexual orientation. He argued that had she identified as straight, she may not have suffered the attack. He stated that the law would not consider whether an individual was a member of the LGBT community, only that the perpetrator thought that the individual was.

REPRESENTATIVE VANCE asked whether Representative Josephson was familiar with any crime committed against someone based on the perception of the victim's sexual orientation.

REPRESENTATIVE JOSEPHSON commented that, if there is evidence the defendant had knowledge of the victim being sympathetic to the civil rights of an LGBT member, but the victim is not a member of the LGBT community, then it would not be categorized as a hate crime under the proposed bill. He added that other aggravating factors could be found to exist.

[3:04:00 PM](#)

CHAIR CLAMAN offered that social activists are not necessarily representing any political party, but rather a perspective on a social issue.

REPRESENTATIVE KURKA moved Conceptual Amendment 1 to Amendment 2, such that, beginning on line 4, following each reference to the word "party" insert the words "or ideology" before the comma.

REPRESENTATIVE EASTMAN asked whether the conceptual amendment would imply an endorsement of an individual's political ideology.

REPRESENTATIVE KURKA revised Conceptual Amendment 1 to Amendment 2, such that, beginning on line 5 following "solely", the second reference to the word "party" and insert the words "or ideology" before the comma.

REPRESENTATIVE SNYDER objected to Conceptual Amendment 1 to Amendment 2.

REPRESENTATIVE JOSEPHSON stated that, to his knowledge, the only state that has legislation protecting political ideology is Iowa. He postulated that the lack of other existing legislation like this exists because there is no evidence of a problem.

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CHAIR CLAMAN cautioned that the language endorsing "a political party or ideology" could be interpreted by the court as vague or ambiguous, and this could lead to enforcement issues.

REPRESENTATIVE KURKA shared a personal story of discrimination he experienced because of his participation in a political rally.

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A roll call vote was taken. Representatives Eastman, Kurka, and Vance voted in favor of Conceptual Amendment 1 to Amendment 2. Representatives Drummond, Snyder, Kreiss-Tomkins, and Claman voted against it. Therefore, Conceptual Amendment 1 to Amendment 2 failed by a vote of 3-4.

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REPRESENTATIVE KURKA expressed his support for Amendment 2.

REPRESENTATIVE KREISS-TOMKINS suggested that the experience shared by Representative Kurka had not been an experience of a violent crime, and he expressed his dismay at the comparison of the two experiences being discussed as similar.

REPRESENTATIVE SNYDER concurred.

CHAIR CLAMAN expressed opposition to Amendment 2.

REPRESENTATIVE EASTMAN expressed his dismay at the lack of data supporting the existence of political violence. He suggested that it remains to be an important matter.

[3:17:02 PM](#)

A roll call vote was taken. Representatives Eastman, Kurka, and Vance voted in favor of Amendment 2. Representatives Kreiss-Tomkins, Drummond, Snyder, and Claman voted against it. Therefore, Amendment 2 failed by a vote of 3-4.

[HB 51 was held over.]

[3:18:59 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:19 p.m.