

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

February 23, 2022

1:32 p.m.

MEMBERS PRESENT

Senator Roger Holland, Chair
Senator Shelley Hughes
Senator Robert Myers
Senator Jesse Kiehl

MEMBERS ABSENT

Senator Mike Shower, Vice Chair

COMMITTEE CALENDAR

CONFIRMATION HEARING(S)

Board of Governors of the Alaska Bar
Jedediah Cox - Anchorage

- CONFIRMATION ADVANCED

Board of Parole
Jason Wilson - Juneau

- CONFIRMATION ADVANCED

Alaska Police Standards Council
Jeff Brown - Barrow
Michael Craig - Anchorage

- CONFIRMATION(S) ADVANCED

SENATE BILL NO. 187

"An Act relating to criminal law and procedure; relating to the crime of harassment; relating to the duty to register as a sex offender; amending the definition of 'sex offense'; relating to lifetime revocation of a teaching certificate for certain offenses; relating to the definition of 'domestic violence'; relating to multidisciplinary child protection teams; relating to arrest authority for pretrial services officers and probation officers; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 187

SHORT TITLE: HARASSMENT; SEX OFFENDERS & OFFENSES

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/15/22 (S) READ THE FIRST TIME - REFERRALS
02/15/22 (S) JUD, FIN
02/23/22 (S) JUD AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

JEDEDIAH COX, Appointee
Board of Governors of the Alaska Bar
Alaska Bar Association
Big Lake, Alaska

POSITION STATEMENT: Testified as appointee to the Board of Governors of the Alaska Bar.

JASON WILSON, Appointee
Board of Parole
Department of Corrections
Juneau, Alaska

POSITION STATEMENT: Testified as appointee to the Board of Parole.

JEFF BROWN, Appointee
Alaska Police Standards Council
Department of Public Safety
Barrow, Alaska

POSITION STATEMENT: Testified as appointee to the Alaska Police Standards Council.

MICHAEL CRAIG, Appointee
Alaska Police Standards Council
Department of Public Safety
Juneau, Alaska

POSITION STATEMENT: Testified as appointee to the Alaska Police Standards Council.

JOHN SKIDMORE, Deputy Attorney General
Office of the Attorney General
Criminal Division
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Presented SB 187 on behalf of the administration.

KACI SCHROEDER, Assistant Attorney General
Legal Services Section
Criminal Division
Department of Law
Juneau, Alaska

POSITION STATEMENT: Presented the sectional analysis for SB 187 on behalf of the administration.

ACTION NARRATIVE

[1:32:24 PM](#)

CHAIR ROGER HOLLAND called the Senate Judiciary Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Myers, Hughes, Kiehl, and Chair Holland.

CONFIRMATION HEARING(S)

Board of Governors of the Alaska Bar

Board of Parole

Alaska Police Standards Council

[1:32:59 PM](#)

CHAIR HOLLAND announced the consideration of Governor Appointees to boards and commissions.

CHAIR HOLLAND asked Mr. Jebediah Cox, appointee to the Board of Governors of the Alaska Bar, to provide his background.

[1:34:54 PM](#)

JEDEDIAH COX, Appointee, Board of Governors of the Alaska Bar, Alaska Bar Association, Big Lake, Alaska, via Teams, provided his background. He stated that he served one term as a public member and was seeking to serve a second term on the Board of Governors. The Alaska Bar Association bought its building on K Street during his first term. This brought in rental funding and allowed the Alaska Bar Association to make improvements for its employees and renters. The board reviewed the unified bar exam scores for attorneys, and continued to provide for disciplinary actions, exams, and continuing education for the Bar Association. When Deborah Reagan retired, the board hired Daniel Bailey as the new executive director. The Alaska Bar Association kept its member dues at the same rate. He serves on the building subcommittee. He assisted in evaluating the executive director and new bar counsel, Phil Shanahan.

[1:37:02 PM](#)

SENATOR MYERS stated that the committee heard [HB 109] to extend the Bar Association Board of Governors last year. He recalled continuing education for attorneys was contentious. He asked for his comments.

MR. COX offered his belief that the Board of Governors will add three continuing education units for ethics in response to the sunset review.

[1:37:58 PM](#)

SENATOR HUGHES asked how that compares to the national standards for continuing education.

MR. COX replied that Alaska is slightly less than the national standard but is comparable to the Pacific Northwest requirements.

[1:39:09 PM](#)

At ease

[1:39:09 PM](#)

CHAIR HOLLAND reconvened the meeting.

[1:39:43 PM](#)

JASON WILSON, Appointee, Board of Parole, Department of Corrections, Juneau, Alaska, (via Teams), stated he has served on the board since November 1, 2015, and seeks reappointment to the board. He said he is a Tlingit in the Raven clan. He has worked for the Central Council of the Tlingit and Haida Indian Tribes of Alaska for 18 years. He currently serves as the Village Police Safety Officer (VPSO) manager for Southeast Alaska. He previously worked for eight years at the Johnson Youth Center. During his first term on the Board of Parole, he went from knowing little about the Board of Parole to understanding the board's role and his contributions. He related that he currently coaches high school basketball, but he had also coached swimming and softball.

[1:42:20 PM](#)

CHAIR HOLLAND stated that his resume indicates substantial time serving as a youth counselor for detention facilities, family caseworker, welfare coordinator, and criminal justice specialist. He appreciated his willingness to serve.

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SENATOR MYERS asked about his time with Tlingit and Haida VPSOs and how it affects his decisions on the parole board.

MR. WILSON offered his belief that his time with the VPSO program gives him a better understanding of life in the villages, the role of VPSOs, and the community needs. He related that his work in family youth services highlights some of the struggles people face. He offered his belief that it is essential to come to parole hearings with an open mind and an understanding that factors that affect people making poor decisions and choices.

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SENATOR HUGHES asked him to provide information about the Board of Parole, including the board's composition, whether members typically agree, or if the board has split decisions. She recalled Edie Grunwald chairs the board.

MR. WILSON agreed that Ms. Grunwald serves as the chair and Sarah Possenti serves as the vice chair of the five-member board. He explained that the Board of Parole holds discussions before voting. Although the board is not always unanimous, members are generally not split. One person may feel strongly about certain aspects. He characterized the board members as creative, figuring out the best solution for each inmate's release. He offered his view that the board has knowledgeable members with a depth of experience. Two members, Mr. Meyer and Ms. Possenti, previously served as probation officers. They may suggest a halfway house or transitional housing. The Board of Parole's goal is to get inmates out of prison as productive members of society, but the decisions are not easy. The board considers many factors, including the probation officer's recommendations for release.

SENATOR HUGHES thanked him for the explanation and his insights.

CHAIR HOLLAND turned to the appointees to the Alaska Police Standards Council.

[1:49:13 PM](#)

JEFF BROWN, Appointee, Alaska Police Standards Council (APSC), Department of Public Safety, Utqiagvik (Barrow), Alaska, (via Teams), stated that he was appointed on 6/25/2021 by Governor Dunleavy. He resides in Utqiagvik, serving as the Chief of Police for the North Slope Borough (NSB) Police Department. He stated that he began his law enforcement career over twenty years ago in Virginia. He moved to Alaska in 2006. He said he

served in various positions at the North Slope Borough Police Department and for the Alaska Department of Public Safety, Office of Professional Standards. He offered his view that his work experience gives him a unique perspective on law enforcement and makes him well suited to carrying out the Alaska Police Standards Council's mission.

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CHAIR HOLLAND remarked on his impressive resume, then turned to the next appointee, Michael Craig.

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MICHAEL CRAIG, Appointee, Alaska Police Standards Council (APSC), Department of Public Safety, Juneau, Alaska, (via Teams), stated he was appointed on 5/26/2017 and reappointed on 3/1/2018 as the public member for a larger city on the APSC. He has enjoyed his service. He said his family came to Alaska as a military family in 1963. He graduated from high school in Glennallen. His family spent several years in Valdez in the 1970s. He has worked for the Trans-Alaska Pipeline System (TAPS) since 1983 in security and as the Security Operations Manager from 1997 to 2006. He has had substantial contact with law enforcement, the military, and other security from exercises, drills, and meetings. He currently works as the Senior Employee Concerns Coordinator, reviewing cases and investigations involving conflicts and making a determination. He has a Professional Certified Investigator License. He related he has experience in technical writing, reviewing procedures, and regulations. He explained that 8 of 12 APSC positions are law enforcement, but there is never any pressure to vote in unison. Thus, he feels comfortable speaking as a public member, providing the public's perspective of what would be fair and equitable on cases.

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CHAIR HOLLAND thanked Mr. Craig.

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At ease

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CHAIR HOLLAND reconvened the meeting and opened public testimony; hearing none, he closed public testimony on the confirmation hearing for the Governor appointees.

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

Board of Governors of the Alaska Bar
Jedediah Cox - Anchorage

Board of Parole
Jason Wilson - Juneau

Alaska Police Standards Council
Jeff Brown - Barrow
Michael Craig - Anchorage

[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.]

[1:57:22 PM](#)
At ease

SB 187-HARASSMENT; SEX OFFENDERS & OFFENSES

[2:00:00 PM](#)

CHAIR HOLLAND reconvened the meeting and announced the consideration of SENATE BILL NO. 187 "An Act relating to criminal law and procedure; relating to the crime of harassment; relating to the duty to register as a sex offender; amending the definition of 'sex offense'; relating to lifetime revocation of a teaching certificate for certain offenses; relating to the definition of 'domestic violence'; relating to multidisciplinary child protection teams; relating to arrest authority for pretrial services officers and probation officers; and providing for an effective date."

CHAIR HOLLAND stated the intention to hear the introduction and take questions from members on Friday.

[2:00:45 PM](#)

JOHN SKIDMORE, Deputy Attorney General, Office of the Attorney General, Criminal Division, Department of Law, Anchorage, Alaska, stated that SB 187 would make small, focused changes to the laws relating to sex offenses. This bill would create a new crime of harassment, elevating the crime of harassment to

address gaps. This bill would amend sex offender registration, teacher certificates, and authorize the Department of Correction's personnel to file criminal charges and refer cases of sexual conduct between children to a multidisciplinary team to determine any concerns because the criminal justice system isn't designed to address this conduct.

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MR. SKIDMORE turned to the crime of harassment. Currently, it is not a crime in Alaska to go up to someone and grab them by the crotch or their genitals unless that conduct was done with the intent to annoy or harass them. He referred to [State of Alaska v.] Townsend. A gentleman went to a bar to enjoy an evening out when someone unknown to him grabbed his crotch. He did not want that conduct to occur. In 2011, the Alaska Court of Appeals ruled that this evidence did not support a finding that Townsend's sexual contact with T.M. was coerced by the use of force. Although the state has the crime of harassment on its books, that crime requires that the prosecution prove the intent to annoy an individual. This means the prosecutor must prove the person intended to annoy the victim. It leaves the conduct subject to the person saying they grabbed the person with the intent of sexual gratification or some other reason than to annoy the victim, which is not currently a crime. In 2021, the Court of Appeals in Dorsey v. State of Alaska ruled that to prove this type of sexual conduct, the state must prove that the victim was coerced by the use of force or the threat of force. A person who intentionally subjects another person to offensive, unwanted physical conduct by touching, either directly or through clothing, the person's genitals, buttocks, or female breast would be subject to a class C felony. It would close the loophole that the department had to decline to prosecute because the conduct did not meet the elements described in Alaska law.

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MR. SKIDMORE added that this also addresses the issue of surprise, as described in the Townsend case, and cases in which the victim freezes in utter shock or is afraid of what was happening to them. Unless these cases have coercion through force or threat of force, the state cannot prosecute them. He related his own experience as a prosecutor informing victims who felt violated, humiliated, and upset about being touched sexually by another person that he could not prosecute the case because the conduct did not meet the statutory elements of a crime. He said he would be furious if that were to happen to his daughters, and the offense could not be prosecuted.

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MR. SKIDMORE turned to sex offender registration. Certain crimes do not require registration as a sex offender, but they probably should. Under the bill, sending an explicit photo to another person with the intent to annoy or humiliate the person would be a crime, punishable as a class B misdemeanor. If the person posted an explicit photo of another person to a website, it would be a class A misdemeanor. However, suppose the person posted an explicit image of a person's genitals, penis, or female breast to a website with the intent to annoy or humiliate the person without their consent. In that case, the photo can be resent again and again, and there is no way to eliminate it. This bill says a person must register as a sex offender in those circumstances.

MR. SKIDMORE stated that the bill would require a person who is required to register as a sex offender to report additional information to the Department of Public Safety (DPS). Currently, individuals are not required to provide some information, including travel plans, temporary lodging, and passport information. However, a person might take a "vacation" with the specific purpose of engaging in sexual conduct with minors, so knowing their planned location can help law enforcement track them. This bill would require the sex offender to provide their full name, mailing and physical address, school address, telephone number(s), social security number, citizenship, employer, job title, physical address of employment, temporary lodging, professional license, and a palm print. This is the information required by the federal system and other states that would be helpful to law enforcement, so requiring it will align Alaska with the federal registration requirements. He characterized these as long-overdue updates.

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MR. SKIDMORE turned to revocation of teaching certificates. A person convicted of certain types of sex offenses, including sexual assault, sexual abuse of a minor, enticing a minor, indecent exposure, unlawful exploitation of minors, all require a lifetime revocation of a teaching certificate under AS 14.20.030(b). However, what is not included in the list of offenses is the distribution or possession of child pornography. This helps to ensure that those individuals teaching children can be around children. Someone who has been convicted of possession or distribution of child pornography is the type of conduct most citizens would agree should not be around children. He noted this was a common-sense change suggested by the Department of Education.

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MR. SKIDMORE highlighted that if a person is on condition of probation for a sex offense and violates those conditions, the pretrial services officer should not be required to call law enforcement to investigate the person. This bill would allow a probation officer to arrest them. For example, suppose an individual is out on pretrial release conditions, and the individual has unlawful contact with a victim of domestic violence or sexual assault case. In that case, the pretrial services officer should be able to charge that type of conduct. Those are examples of the problems that the department would like to allow Department of Correction's employees to address directly.

MR. SKIDMORE turned to individuals under the age of 13 who engage in sexual conduct with one another. Currently, the department would never charge them with a crime. The Division of Juvenile Justice (DJJ) can sometimes charge juveniles, but the department will not adjudicate them if the minor is under 13 years of age. This would allow multidisciplinary child protection teams to assist in evaluating and investigating reports of sexual contact or sexual penetration occurring between two children under the age of 13 and make referrals or recommend the appropriate treatment. He stated that if children display inappropriate conduct, they should get counseling to address those problems.

MR. SKIDMORE reminded members that the state leads the nation in sex crimes per capita. The state should act proactively and take preventative measures to intervene or intercede and stop it from becoming a more significant problem later on.

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KACI SCHROEDER, Assistant Attorney General, Legal Services Section, Criminal Division, Department of Law, Juneau, Alaska, paraphrased the sectional analysis for SB 187.

Section 1. This section includes conforming amendments to the changes made to the crime of harassment in section 2-4.

MS. SCHROEDER said the substantive change is on page 2, line 12, which incorporates the new harassment statute into the crime of stalking. This would mean that if someone were previously convicted of this type of harassment and stalks the same victim, that crime would be elevated to a felony.

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Section 2. This section creates the new crime of harassment in the first degree (class C felony). A person is guilty of harassment in the first degree if they intentionally subject another person to offensive physical contact by touching, either directly or through clothing, the other person's genitals, buttocks, or female breast.

Section 3. This section renames the current crime of harassment in the first degree "harassment in the second degree." A person is guilty of harassment in the second degree if they knowingly subject another person to offensive physical contact with blood, mucus, saliva, semen, urine, vomitus, or feces. Section (a)(2) of this statute is repealed in the repealer section.

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Section 4. This section renames the crime of harassment in the second degree to "harassment in the third degree". It also changes the required mental state from "intent to harass or annoy" to "knowingly" for subsections (a)(5) (offensive physical contact) and (a)(7) (repeatedly sending a communication that taunts, challenges, or intimates a person under 18 in a manner that places the person in reasonable fear of physical injury).

MS. SCHROEDER explained that Section 4 only makes one substantive change on page 3, lines 7 and 20, which changes the mental state from the intent to harass or annoy to "knowingly," which is a lower and broader mental state.

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Section 5. This section requires a person required to register as a sex offender to report additional information such as passport information, physical address of the person's employer, and the person's job title to the Department of Public Safety.

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MS. SCHROEDER directed attention to page 4 of SB 187, which lists the information a kidnapper would need to provide to DPS, including their social security number and passport information. Another change was made on page 5, line 14, to allow any peace

officer, in addition to the Department of Corrections or Department of Public Safety, to take the sex offender or kidnapper's fingerprints.

Section 6. This section contains a conforming amendment to the changes made in sec. 5. February 14, 2022.

MS. SCHROEDER said Section 6 clarifies that people required to register for 15 years and for life are required to provide the information listed in Section 5.

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Section 7. This section requires a person required to register as a sex offender to notify the Department of Public Safety if the person plans to leave the state or is away from any address provided to the department for seven days or more.

MS. SCHROEDER highlighted that the notice varies from 7 days for travel within the state to 21 days for international travel. If the person were away from the address the person provided for seven or more days, they would need to notify the department.

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Section 8. This section clarifies that the duration of the tolling period for sex offenders who are in noncompliance with this chapter will be day for day.

MS. SCHROEDER noted that the substantive provision on page 7 clarifies that the tolling is day per day.

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Section 9. This section adds to the list of offenses that will require a person to register as a sex offender:

- 1.) Sending an explicit image of a minor if the image has been distributed on the Internet;
- 2.) Harassment in the first degree (new statute in this bill);
- 3.) Animal cruelty where sexual conduct is involved; and
- 4.) Misconduct involving a corpse.

MS. SCHROEDER referred to page 8, line 21, which incorporated the new harassment statute. The person would be required to register after the second conviction.

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Section 10. This section requires a lifetime revocation of a person's Alaska teaching certificate if the person has been convicted of distribution or possession of child pornography (AS 11.61.125-11.65.127).

Section 11. This section amends the definition of "crime involving domestic violence" to include the new harassment statute (AS 11.61.117), interfering with a crime involving domestic violence (AS 11.56.745) and unlawful contact (AS 11.56.750 - 11.56.755).

MS. SCHROEDER referred to page 10, line 14, to the conforming change made to the new harassment statute. It also added several offenses to the definition of domestic violence, including interfering with the report of a crime involving domestic violence and unlawful contact.

Section 12. This section allows a probation officer to arrest a sex offender for the crime of violation by a sex offender of a condition of probation under AS 11.56.759.

Section 13. This section expands the arrest authority of a pretrial services officer to include escape in the third degree (class C felony), tampering with physical evidence (class C felony), and unlawful contact in the first degree (class A misdemeanor).

Section 14. This section allows multidisciplinary child protection teams to assist in the evaluation and investigation of reports of sexual contact or sexual penetration occurring between two children under the age of 13.

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Section 15. This section contains a conforming amendment incorporating the new harassment in the first degree statute (touching of buttocks, genitals, breast either directly or through clothing) into the child protection statutes requiring the department to report certain conduct to law enforcement.

MS. SCHROEDER referred to page 12, line 20, to language incorporating the new harassment statutes as conforming changes.

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Section 16. This section makes the applicability section found in HB 49 (sec. 142(c), ch. 4, FSSLA 2019) related to requiring sex offenders who are required to register in another state to also register with Alaska when they are present in the state retroactive. This will allow that requirement to apply to individuals who were required to register in another state at the time that HB 49 became effective.

MS. SCHROEDER clarified that these provisions are retroactive, so people who were already required to register in another state would need to register in Alaska, regardless of their arrival date.

Section 17. This is the repealer section.

[2:22:34 PM](#)

Section 18. This is the applicability section.

MS. SCHROEDER said the bill is prospective, but two areas are retroactive, including the information sex offenders and child kidnappers have to provide to DPS and teaching certificates. This would capture those already required to register as sex offenders and provide additional information. If someone has a teaching certificate in Alaska but was previously convicted of distributing or possessing child pornography, they will face mandatory revocation.

Section 19. This is the effective date section. The bill is effective July 1, 2022.

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SENATOR HUGHES referred to Section 7 and asked if penalties apply if the sex offender does not comply with the notification requirements.

MR. SKIDMORE answered yes. He stated that penalties would be imposed when a sex offender refuses to comply with registration requirements.

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SENATOR HUGHES referred to Section 8 and asked how tolling works.

MS. SCHROEDER answered that tolling means the clock stops if a sex offender does not comply with the sex offender registration

requirements. Suppose the person needs to register for 15 years, but on year five, the sex offender is out of compliance. In that case, an additional day will be tacked on at the end of the registration requirement for each day the sex offender is out of compliance.

[2:25:30 PM](#)

SENATOR HUGHES referred to Section 9 regarding sending or posting an explicit image to the internet. She stated that images could be circulated in other ways. For example, an explicit image could be posted in a bathroom, on a bulletin board, or mass texted. She asked if the administration was open to public display language rather than just the internet.

MR. SKIDMORE responded that per AS 11.61.116, taking an explicit photo and displaying it, the penalty would be a class B misdemeanor when it is simply shared with someone else. For example, if a person emailed the explicit photo to someone else, it would be a class B misdemeanor. SB 187 refers to the sex offender registration requirement, making it a class A misdemeanor to post an explicit image on a website. He stated the department absolutely would be open to other concepts.

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CHAIR HOLLAND referred to Section 12, which would add a new subsection regarding a probation officer's power to arrest. He asked if probation officers currently have the power to arrest.

MR. SKIDMORE answered that some officers in the Department of Corrections have the authority to file charges. Probation officers always have the authority to arrest for probation violations. This provision would allow them to file a criminal charge in court, which will be referred to the prosecutor's office.

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SENATOR KIEHL referred to Section 7 regarding sex offender registration. He asked for the interaction between other states' registries and federal registries and if they share information among the states.

MR. SKIDMORE answered that when Alaska prosecutes cases, some information is shared. He deferred to Lisa Purington, Department of Public Safety (DPS) to respond to specific questions about the registry.

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SENATOR KIEHL wondered if the intent was that someone subject to the registry would be able to file in Alaska and satisfy their federal registration or if the person needed to file the information twice.

MR. SKIDMORE answered that the person would not need to file on the federal and Alaska registries. The federal registry applies to someone who committed a federal crime that requires a registry. The state registry applies to someone who commits a state crime that requires a registry. The significance of bringing the state into compliance is because the federal government sets out guidelines for states and attaches purse strings to those requirements. For example, Alaska will receive specific federal dollars, but because the state is not 100 percent compliant, the state gets slightly less in certain federal grants. This bill attempts to bring the state into further compliance to receive that funding. Second, the state would seek travel information. Suppose the sex offender intended to travel from Alaska to Seattle for some time. This provision would allow Alaska to share the additional details with Seattle, so the State of Washington could monitor that offender. He stated the hope would be to reduce the likelihood of the person committing a sex crime against a victim in their state.

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SENATOR KIEHL asked if the expectation is that other states will monitor sex offenders who have served their sentences and are off probation and parole but are still on the Sex Offender Registry.

MR. SKIDMORE answered that each state could decide what efforts it will make to monitor sex offenders. He highlighted that when Alaska is notified of those coming to Alaska, the state tries to ensure that the person does not end up in an apartment right next to a school. The determination of how much monitoring occurs is a state-by-state policy call.

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SENATOR MYERS stated that this bill significantly increases the amount of information sex offenders must supply to register on the Sex Offender Registry. He said he is aware of at least one case where someone used the Sex Offender Registry to target sex offenders. He expressed concern about identity theft, especially since the state experienced several data breaches. He asked if requiring sex offenders to turn over this additional information would subject the state to civil liability.

MR. SKIDMORE responded that the information that an offender must provide to DPS does not equate with the information made available to the public. For example, the offender would need to provide their social security number. That information would never be posted online. He explained that information is for law enforcement to investigate or monitor the sex offender. The department is always concerned about identity theft, but he did not believe that having the additional information would subject the state to additional civil liability. He stated that this information is stored in the state's criminal justice databases with greater protections than most other databases in the state system. He acknowledged that this does not mean it is foolproof. Still, the Federal Bureau of Investigation's Criminal Justice Information System (CJIS) requires states to adhere to additional steps to protect the information.

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SENATOR HUGHES related that the state has the worst sexual assault problem in the nation. She further related that this is one of three bills to address the issue. She expressed an interest in the department providing an overview of the problem, although she acknowledged that the state had taken steps to make Alaska a safer state. She recalled that surveys had been given to those impacted. She remarked that victims are not always women.

SENATOR HUGHES asked if it was necessary to prove force or the threat of force for sexual assault involving penetration.

MR. SKIDMORE answered yes.

SENATOR HUGHES recalled that victims sometimes freeze up due to shock or fear. She envisioned that what started as harassment could progress. In the less egregious situation, the bar is higher, yet the person could freeze up and be sexually assaulted to a worse degree. She asked for clarification.

[2:36:13 PM](#)

MR. SKIDMORE agreed that conduct could start off as sexual contact that can progress to sexual penetration. Alaska's sexual assault laws require force, per the Alaska Supreme Court ruling in *Dorsey v. State*. He explained that SB 187 could address both of those conducts. If sexual penetration occurs, the person would be engaging in sexual contact. He characterized this as a step in the right direction, but SB 187 would not solve providing a new crime or a greater penalty for penetration. However, SB 187 would criminalize that conduct. This type of

sanction could be argued during sentencing for the more egregious conduct.

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SENATOR HUGHES acknowledged that this might not be solvable. She stated that if this conduct started as contact and led to penetration, it could lead to arrest, but that penalty is minor. She said it seems that linkage was needed. The person should receive a harsher penalty without proving force or threat of force for sexual penetration. She asked if the department had any ideas of how to accomplish this.

MR. SKIDMORE responded that this is an issue the Department of Law has considered internally and with the administration. He said he was unsure whether the administration and DOL had decided on the approach to take. He agreed this issue needs attention.

[2:38:40 PM](#)

SENATOR HUGHES asked if the department could provide different options for the legislature to consider. She surmised that the department had reviewed approaches taken by other states.

MR. SKIDMORE offered to do so, but he said he could not do so today.

[2:39:25 PM](#)

CHAIR HOLLAND asked whether Alaska has statutory rape laws.

MR. SKIDMORE answered yes. Alaska has four different degrees of sexual abuse of a minor, depending on the sexual contact or sexual penetration. Other states sometimes refer to this law as statutory rape.

[2:40:15 PM](#)

SENATOR KIEHL referred to harassment in the bill. He agreed all of the conduct is bad behavior and should not be ignored. The descriptions given in the presentation, including unwelcome contact with genitals, are more severe than the language in the bill. He expressed concern that an unwelcome hug between two adults might be offensive, but it is chest-to-chest contact. He asked whether the intention was to make that conduct a sex felony.

MR. SKIDMORE answered that it would not be considered a sex felony for several reasons. First, any prosecutions for harassment in the first degree would not be considered a sex

crime for the enhanced penalties. He related that harassment in the first degree would be a class C felony with 0-2 years, whereas a sex felony would have a penalty of 2-12 years for a first offense.

SENATOR KIEHL commented that it would be a registerable sex offense the second time.

MR. SKIDMORE referred to a registerable sex offense, using the hypothetical of an unwelcome hug. He explained that what protects the person giving a hug is the mens rea, which requires intentional engagement in the contact while being reckless that the other person does not want that conduct. If the person is not reckless to that fact, then no crime has been committed. He pointed out that the first offense does not require registrations, but a second offense would be registerable because it creates a pattern, not that the department would want to prosecute someone for an unwanted hug. However, when someone consciously engages in offensive behavior by touching one of three parts of the human body, it would be a crime but not a registerable offense. When a person engages in that behavior for a second time, ignoring what is offensive to someone by touching one of three parts of the body establishes a pattern of sexual offender behavior and would require registering on the Sex Offender Registry.

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SENATOR KIEHL pointed out that this only relates to bad behavior. He acknowledged that this was an overview, so he preferred not to dig deeper. He asked why the bill specified three areas of the body but did not include others, such as an employer touching the person's inner thigh without contact to their genitals or unwelcome kissing or licking.

MR. SKIDMORE answered the department took what the legislature had already grouped and followed that same pattern. He stated that touching the inner thigh, kissing, and licking can be offenses, but they can be prosecuted as harassment. One change made in Section 3, "knowingly subjects another person to offense physical contact," constitutes criminal conduct, but it would not be elevated to a higher level of touching the genitals, the buttocks, or the female breast previously described. Second, other laws indicate certain conduct or contact is not allowed in the workplace. It is not criminalized, but substantial civil penalties can be imposed for creating a hostile work environment or sexual harassment in the workplace.

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SENATOR KIEHL stated he was less interested in criminalizing what happens in the workplace than on a bus or in a movie theater.

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CHAIR HOLLAND asked for the difference between the municipal crimes of harassment compared to the proposed state crimes of harassment.

MR. SKIDMORE related that some years ago, the Municipality of Anchorage aligned its municipal code with the state code. However, municipal codes can criminalize misdemeanor conduct, but since this bill would create a felony penalty, it is not something municipalities would be able to address. He was unsure what MOA's current laws are related to harassment without looking them up.

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CHAIR HOLLAND held SB 187 in committee.

[2:49:05 PM](#)

There being no further business to come before the committee, Chair Holland adjourned the Senate Judiciary Standing Committee meeting at 2:49 p.m.