

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

February 25, 2022

1:33 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)

State Commission for Human Rights
Jessie Ruffridge - Soldotna
Zackary Gottshall - Anchorage

- CONFIRMATIONS ADVANCED

Alaska Police Standards Council
David Knapp - Palmer

- CONFIRMATION ADVANCED

Violent Crimes Compensation Board
Gregory Bringhurst - Fairbanks

- CONFIRMATION 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 & HELD

SENATE BILL NO. 182

"An Act establishing the crime of interference with emergency communications."

- HEARD & 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 |
| 02/23/22 | (S) | Heard & Held |
| 02/23/22 | (S) | MINUTE(JUD) |
| 02/25/22 | (S) | JUD AT 1:30 PM BUTROVICH 205 |

BILL: SB 182

SHORT TITLE: INTERFERENCE WITH EMERGENCY SERVICES

SPONSOR(s): WILSON

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|----------|-----|---------------------------------|
| 02/08/22 | (S) | READ THE FIRST TIME - REFERRALS |
| 02/08/22 | (S) | JUD |
| 02/16/22 | (S) | JUD AT 1:30 PM BUTROVICH 205 |
| 02/16/22 | (S) | Heard & Held |
| 02/16/22 | (S) | MINUTE(JUD) |
| 02/25/22 | (S) | JUD AT 1:30 PM BUTROVICH 205 |

WITNESS REGISTER

JESSIE RUFFRIDGE, Appointee
State Commission for Human Rights
Office of the Governor
Soldotna, Alaska

POSITION STATEMENT: Testified as an appointee to the State Commission for Human Rights.

ZACKARY GOTTSALL, Appointee
State Commission for Human Rights
Office of the Governor
Anchorage, Alaska

POSITION STATEMENT: Testified as an appointee to the State Commission for Human Rights.

DAVID KNAPP, Appointee
Alaska Police Standards Council
Department of Public Safety
Palmer, Alaska

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

GREGORY BRINGHURST, Appointee
Violent Crimes Compensation Board
Department of Public Safety
Fairbanks, Alaska

POSITION STATEMENT: Testified as an appointee to the Violent Crimes Compensation Board.

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

POSITION STATEMENT: Answered legal questions on SB 187 and SB 182.

JASMINE MARTIN, Staff
Senator David Wilson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions on behalf of the sponsor of SB 182.

JACOB BUTCHER, Communications Manager
Mat-Com Dispatch
City of Wasilla
Wasilla, Alaska

POSITION STATEMENT: Answered questions during the discussion of SB 182.

ACTION NARRATIVE

[1:33:48 PM](#)

CHAIR ROGER HOLLAND called the Senate Judiciary Standing Committee meeting to order at 1:33 p.m. Present at the call to order were Senators Myers, Hughes, Kiehl, and Chair Holland. Senator Shower arrived shortly thereafter.

CONFIRMATION HEARING(S)
State Commission for Human Rights
Alaska Police Standards Council
Violent Crime Compensation Board

[1:34:30 PM](#)

CHAIR HOLLAND announced the consideration of Governor Appointees.

[1:34:59 PM](#)

SENATOR SHOWER joined the meeting.

CHAIR HOLLAND turned to the first appointee, Jesse Ruffridge, State Commission for Human Rights.

[1:35:38 PM](#)

JESSIE RUFFRIDGE, Appointee, State Commission for Human Rights, Office of the Governor, Soldotna, Alaska stated that she was appointed to serve on the public seat. She provided her background. She said she has resided in Alaska for 24 years. She stated she thought this commission would be a good fit because the issues of human rights and dignity were near and dear to her heart. She has worked with marginalized populations in Alaska. She offered her view that the commission serves a vital role in ensuring fair treatment for all Alaskans.

[1:36:50 PM](#)

CHAIR HOLLAND noted that from 2016 to 2019, she worked for Priceless Alaska, an organization that helps support survivors of sex trafficking in the state. He offered his belief that she brings relevant experience to the board.

[1:37:19 PM](#)

SENATOR SHOWER stated that he asks questions of every candidate to ensure that the committee has done its due diligence. He asked if she had anything in her background that would cause any issues, such as criminal or civil judgments. He characterized his question as asking if she had any "skeletons in her closet."

[1:38:20 PM](#)

MS. RUFFRIDGE answered no.

[1:38:37 PM](#)

SENATOR KIEHL stated that she mentioned having worked recently with marginalized communities in Alaska. He asked if she could expand on that by identifying what groups she worked with.

MS. RUFFRIDGE responded that she helped mentor single moms after she had her son. That led to creating a larger ministry of mentoring single moms. She said she matched young moms with mentors on the Kenai Peninsula but her mentoring expanded into the Mat-Su Valley and Anchorage. She stated that led her to understand the human trafficking and sex trafficking that happens in the state.

[1:40:06 PM](#)

SENATOR SHOWER asked for the two or three items she would like to address and any potential solutions.

MS. RUFFRIDGE responded that she worked with the elderly for a substantial time and saw their healthcare needs. Her primary interest was to make things easier for moms, especially single moms. She also had the privilege of being an adoptive mom, so she learned to navigate relationships with the birth family through the Office of Children's Services (OCS). She said not one particular issue stands out, but those were the areas where she felt she could bring expertise and experience to the commission.

[1:41:54 PM](#)

ZACKARY GOTTSHALL, Appointee, State Commission for Human Rights, Office of the Governor, Anchorage, Alaska, stated that he was appointed to serve on the public seat. He provided his background, including serving in the US Marine Corps and the US Army. He left the service on medical retirement. He said his military service helped him develop and hone his skills in human resources, including employment law. As a senior military officer, he became familiar with the US Equal Employment Opportunity laws and the Uniformed Services Employment and Reemployment Rights Act (USERRA). He acknowledged that his experiences were deeply focused on the defense industry, but they also could apply to the private sector.

MR. GOTTSHALL said he believes in principled, innovative leadership, limited government, and personal responsibility. He related that he and his wife are currently working to establish a non-profit to assist women and children who suffered abuse or violence.

[1:44:09 PM](#)

SENATOR KIEHL noticed he listed the Veterans Advisory Council and the Missing and Murdered Indigenous Persons (MMIP) as his choices and interest for boards and commissions, but not the

State Commission for Human Rights. He asked how he was nominated to serve on the commission.

MR. GOTTSBALL answered that he learned about the commission through his work with NC Machinery and during his interview for the other board positions. He related his understanding that a large part of the effort by the Human Rights Commission is focused on equal employment opportunities. He offered that because of his unique experiences, he was encouraged to consider serving on the Commission. He stated that he believes this will be a good fit, and he likes the opportunity to serve Alaskans and hopes to help them pursue happiness.

[1:45:45 PM](#)

SENATOR SHOWER asked if he had any "skeletons in his closet."

MR. GOTTSBALL answered no.

[1:46:13 PM](#)

CHAIR HOLLAND stated that he was sure he had a great career in the military. He offered his belief that the applicants were ethical people with good life experiences and concern for their fellow man. He said he was pleased to see them come forward and submit their names to serve.

SENATOR HUGHES thanked him for stepping up to serve. She acknowledged that the Human Rights Commission is an important one.

[1:47:38 PM](#)

DAVID KNAPP, Appointee, Alaska Police Standards Council, Department of Public Safety, Palmer, Alaska, stated that he was appointed in January 2018 to serve in the probation, parole and correctional officer position on the council. This will be his second term. He provided his background, including graduating from Seward High School and serving in the US Air Force. He has worked for the Department of Corrections for 17 years, serving at Spring Creek Correctional Center, Anchorage Correctional Complex, and the Mat-Su Pretrial Facility.

[1:48:04 PM](#)

MR. KNAPP stated that he was assigned to the prisoner transport unit for the last five years. In this capacity, he manages the inmate telephone system and is the Department of Corrections gang coordinator. He stated that his job was to identify gangs and gang members within the institution. He said he also supervised the Department of Correction's canine unit. He

explained that gang activity and drugs frequently occur together. He would pass information and intelligence gleaned from monitoring prisoner phone calls, gangs, and gang members to the canine unit to assist in conducting drug suppression activities. He also teaches a gang identification class and firearms instruction at the Department of Corrections Academy. He enjoyed serving on the APSC. He expressed an interest in assisting the council with a large backlog of regulation changes due to the pandemic.

MR. KNAPP highlighted that when an officer comes before the council, he wants to ensure the officer receives fair treatment and that the facts concerning their case are correct so that the appropriate decisions can be made. He offered his belief that he brings his correctional officer work experience, knowledge, and perspective to the council.

MR. KNAPP said he has nothing in his past that should be a problem. He stated that he would like to help assist with a large backlog of regulation changes.

1:50:50 PM

SENATOR MYERS expressed interest in national scrutiny of police regarding racial issues. He asked for his view and how he could help the council address this issue.

MR. KNAPP responded that he would not want the council to overreact to issues in the national media but to investigate whether these issues are occurring in Alaska before taking any action. He related that he had encountered little of this in his personal experience. He offered his view that Alaska has well-trained police.

1:52:15 PM

CHAIR HOLLAND and SENATOR HUGHES thanked him for serving.

1:53:08 PM

GREGORY BRINGHURST, Appointee, Violent Crimes Compensation Board, Department of Public Safety, Fairbanks, Alaska, via teleconference, stated that he was appointed to serve on the public seat in May 2019 and is seeking reappointment to the board. He stated that too many Alaskans are victims of violent crimes. He said it is an honor to serve on the board.

1:54:08 PM

MR. BRINGHURST related his own experience as a victim of violent crime. When he was 14 years of age, his mother was murdered in

Fairbanks in 1996. He was the recipient of violent crimes compensation, which enabled him to attend college. He said he was unsure he would have attended college without it. Losing his mother and witnessing other traumatic events led him to seek opportunities to help others. He indicated that his work in public policy and participation on the board had allowed him to help those experiencing challenges and trauma, ideally by helping to prevent it. He said he enjoyed serving on the board that helps to foster victim advocacy, provide services, and promote victim recovery. He currently serves as a regional director and rural advisor for US Senator Sullivan in Fairbanks. He previously worked as a policy advisor for US Senator Lisa Murkowski in Washington, DC.

MR. BRINGHURST suggested that all Alaskans consider serving on a board or commission because these entities provide an essential part of state government.

[1:56:00 PM](#)

MR. BRINGHURST answered Senator Shower's earlier questions of appointees. He stated that nothing in his past would create issues. He stated he would like to continue working on outreach to let people know about the Violent Crimes Compensation Board's services, including helping victims experiencing medical issues file medical claims or address the loss of earnings.

MR. BRINGHURST highlighted two essential points. First, the board offers relocation services for people experiencing domestic violence or other situations they must escape. Second, he would like to continue his work to help people access mental health services. While VCCB doesn't provide mental health services, they can help provide the opportunity for people to seek those services. He emphasized that the state has a need for mental health services. He stated that he appreciated the committee's support and looked forward to continuing to serve.

[1:58:03 PM](#)

SENATOR HUGHES asked if VCCB had adequate funding to help victims, or if the board had a waitlist of victims and had to turn some away.

MR. BRINGHURST responded that VCCB does not turn people away. However, he suggested that the board could use one or two additional staff to serve more people. He said he could ask the executive director if the committee would like more information.

[1:59:09 PM](#)

SENATOR HUGHES asked him what policy work, area of focus or the topics he worked on in US Senator Murkowski's office.

MR. BRINGHURST answered that he worked as a rural advisor, and as staff to the Indian Affairs Committee. He stated that his portfolio was fairly broad, covering housing, census, and rural development. He said he always leaned towards topics of interest to Fairbanksans. He said he felt fortunate to have worked on many issues that are important to Alaska.

[2:00:32 PM](#)

SENATOR HUGHES asked for a rough breakout of the number of rural versus urban victims.

MR. BRINGHURST responded that he did not have those figures in front of him. He acknowledged that a significant number of victims were from rural Alaska. However, the most claims come from Anchorage since it is the largest city in Alaska. He offered to provide the committee with a breakdown.

[2:01:13 PM](#)

SENATOR KIEHL thanked him for applying for a second term. He asked about the new direction the board has taken since the staff changeover and how successful those changes have been.

[2:01:34 PM](#)

MR. BRINGHURST responded that VCCB has a new executive director who has taken steps to improve the board's processes. For example, the board has been working with a US Department of Justice workgroup to update the board's policies and procedures for all of the services the board provides. He related that the board had other staff changes. However, the board leaves those decisions to the executive director without much involvement by the board. He offered his view that staff decisions are left up to the director unless there are some extenuating circumstances. The board has made progress in reducing the time it takes to process claims. The board continually strives to improve and help victims during their greatest time of need.

[2:03:16 PM](#)

SENATOR KIEHL asked if the board has seen improvement in the quality of applications.

MR. BRINGHURST related his understanding that the board has seen improvement, but he deferred to the executive director to respond to the specifics on applications.

[2:03:47 PM](#)

SENATOR KIEHL recalled he mentioned the board could use additional staff. He wondered how much effort was being made on outreach for non-profits.

MR. BRINGHURST answered that VCCB makes an effort to keep in contact with advocates and other groups around the state. Over the last two years, in-person outreach has definitely decreased due to the pandemic. As a board member, he would like to see outreach increase. However, it is difficult due to the increase in claims and the amount of time it takes to review and process applications. He highlighted that adding another staff member would open up more time for outreach. He stated that board members don't engage with these activities daily. Still, he frequently holds conversations with the executive director to ensure that the board's policy and procedures are developing in ways that allow the board to serve victims better.

[2:06:12 PM](#)

SENATOR KIEHL stated that VCCB has not submitted an annual report since the one that covered the board's activities for fiscal year (FY) 2018. He said he hoped to see the Annual Report reports caught up sometime soon.

MR. BRINGHURST offered to immediately report back to the committee on the status of the Annual Report.

[2:06:56 PM](#)

CHAIR HOLLAND thanked him for sharing his personal experiences, and for his service on the board.

[2:07:21 PM](#)

CHAIR HOLLAND opened public testimony; finding none, he closed public testimony on the governor appointees.

[2:07:52 PM](#)

SENATOR SHOWER 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:

State Commission for Human Rights
Jessie Ruffridge - Soldotna
Zackary Gottshall - Anchorage

Alaska Police Standards Council
David Knapp - Palmer

Violent Crimes Compensation Board
Gregory Bringhurst - Fairbanks

[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.]

[2:08:41 PM](#)

At ease

SB 187-HARASSMENT; SEX OFFENDERS & OFFENSES

[2:11:11 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."

[SB 187 was previously heard on 2/23/22.]

[2:11:30 PM](#)

CHAIR HOLLAND stated support for the governor's efforts to close loopholes and fill gaps in existing law. He noted for the record that members are not defending bad behavior by asking questions but are working to ensure that the public policies are well defined and clearly understood.

[2:11:56 PM](#)

SENATOR MYERS said he was glad the bill would close a loophole by defining the crime of harassment in the first degree. He asked for examples of other crimes with a class C felony penalty compared to those that fall under a class A misdemeanor.

[2:12:27 PM](#)

JOHN SKIDMORE, Deputy Attorney General, Office of the Attorney General, Criminal Division, Department of Law, Anchorage, Alaska, related that a class C felony has a sentencing range of 0-2 years. He noted that numerous crimes fall into that

category. He listed a few, including theft in the second degree, relating to theft greater than \$750; assault in the third degree, which is conduct that would place somebody in fear by means of a dangerous instrument, such as a firearm or a knife; and forgery in the second degree, which would include a crime like forging a check.

[2:13:17 PM](#)

SENATOR MYERS asked what the penalties were for assault in the first or second degree, and whether it was a class C or a class A misdemeanor.

[2:13:32 PM](#)

MR. SKIDMORE related that assault in the first degree is a class A felony, which has a sentencing range of four to seven years with a maximum of 20 years.

SENATOR MYERS expressed an interest and knowing what would be comparable in the class C felony range.

[2:14:15 PM](#)

MR. SKIDMORE referred to AS 11.41.220, Assault in the third degree. He reviewed subsections (a).

(a) A person commits the crime of assault in the third degree if that person

(1) recklessly

(A) places another person in fear of imminent serious physical injury by means of a dangerous instrument;

(B) causes physical injury to another person by means of a dangerous instrument; or

(C) while being 18 years of age or older,

(i) causes physical injury to a child under 12 years of age and the injury would cause a reasonable caregiver to seek medical attention from a health care professional in the form of diagnosis or treatment;

(ii) causes physical injury to a child under 12 years of age on more than one occasion;

(2) with intent to place another person in fear of death or serious physical injury to the person or the person's family member, makes repeated threats to

cause death or serious physical injury to another person;

MR. SKIDMORE related an instance of using a dangerous instrument in 11.41.220 (a)(1)(A), as previously mentioned, would be a person pointing a gun at somebody or holding a knife in a manner that indicates the person is about to stab someone. He explained that serious physical injury must create a risk of death or serious impairment, whereas physical injury would be a minor injury done by means of a dangerous instrument. He stated that he provided a few examples, but there were four or five more descriptions for assault in the third degree.

[2:15:49 PM](#)

MR. SKIDMORE stated that [AS 11.41.210] assault in the second degree is a class B felony, and [AS 11.41.200] assault in the first is a class A felony.

[2:15:54 PM](#)

SENATOR MYERS asked whether an assault in the fourth degree would be a class A misdemeanor.

MR. SKIDMORE responded that assault in the fourth degree is a class A misdemeanor. He reviewed AS 11.41.230(a).

(a) A person commits the crime of assault in the fourth degree if

(1) that person recklessly causes physical injury to another person;

(2) with criminal negligence that person causes physical injury to another person by means of a dangerous instrument; or

(3) by words or other conduct that person recklessly places another person in fear of imminent physical injury.

MR. SKIDMORE explained that "recklessly" causing physical injury would be a lower mens rea than in SB 187 for the crime of harassment than "knowingly." He related the highest mental state would be "intentionally."

MR. SKIDMORE stated AS 11.41.230 (a)(2) relates to "criminal negligence," and paragraph (3) relates to "recklessly" placing another person in fear of imminent physical injury. For example, it is not the statement, "I hate you, and I'm going to hurt

you;" but that the person is in front of another person and indicates they are ready to hit the other person, creating the threat of imminent injury rather than actually causing an injury. He summarized that those were the class A misdemeanor crimes for assault.

[2:17:15 PM](#)

SENATOR KIEHL referred to the tiered and laddered system of seriousness for the crime of harassment. He recalled that the committee discussed when someone touches another person's inner thigh, and the person slaps the perpetrator's hand away. He related that would constitute a class B misdemeanor. If the the person patted the person on the buttocks, having previously had their hand slapped away, that would raise the crime to a class C felony. However, it seemed like comparable conduct. He asked for clarification on the disparity.

MR. SKIDMORE answered that currently touching a person's inner thigh is a class B misdemeanor, and it would stay at that level.

[2:18:57 PM](#)

MR. SKIDMORE reviewed AS 11.61.118, Harassment in the first degree.

(a) A person commits the crime of harassment in the first degree if, under circumstances not proscribed under AS 11.41.434 – 11.41.440, the person violates AS 11.61.120(a)(5) and the offensive physical contact is contact

(1) with human or animal blood, mucus, saliva, semen, urine, vomitus, or feces; or

(2) by the person touching through clothing another person's genitals, buttocks, or female breast.

(b) Harassment in the first degree is a class A misdemeanor.

[2:19:50 PM](#)

MR. SKIDMORE explained that the penalty for this behavior was increased to a class A misdemeanor in SB 187 [on page 2, lines 25-31 to page 3, line 3].

Sec. 11.61.118. Harassment in the second [FIRST] degree. (a) A person commits the crime of harassment in the second [FIRST] degree if, under circumstances not proscribed under AS 11.41.434 - 11.41.440, the

person violates AS 11.61.120(a)(5) and the offensive physical contact is contact

(1) with human or animal blood, mucus, saliva, semen, urine, vomitus or feces; or

(2) by the person touching through clothing another person's genitals, buttocks, or female breast.

(b) Harassment in the second [FIRST] degree is a class A misdemeanor.

MR. SKIDMORE reviewed the tiered approach that consists of a generalized "anywhere on the body" which is a class B misdemeanor; offensive physical contact with a substance [which is a class A misdemeanor], and the highest level would be a class C felony, in AS 11.61.117, as in SB 187.

Sec. 11.61.117. Harassment in the first degree. (a) A person commits the crime of harassment in the first degree if, under circumstances not proscribed under AS 11.41.434 - 11.41.440, the person intentionally subjects another person to offensive physical contact by touching, directly or through clothing, another person's genitals, buttocks, or female breast.

(b) Harassment in the first degree is a class C felony.

[2:20:14 PM](#)

MR. SKIDMORE described those three areas, "another person's genitals, buttocks, or female breast" which is repeated throughout the statutory framework, as being more sexualized areas, so the conduct is elevated in the bill.

[2:20:34 PM](#)

SENATOR KIEHL suggested this area might need work. He further suggested that the notion that it would be a less serious crime to put feces on someone than patting them on the buttocks seemed wrong. He recalled the initial presentation on the bill related a scenario where someone grabbed another person's crotch. He said he understood the mental state, but maintained it needed work.

SENATOR HUGHES agreed that touching the inner thigh was more invasive than touching the buttocks, and it should be adjusted.

[2:21:38 PM](#)

SENATOR SHOWER recalled that the legislature made numerous changes with Senate Bill 91 and subsequent criminal bills. He recalled that several years ago, the committee spent an entire hearing on the overall effect of how a minor would be treated for sending explicit photographs since that frequently happens with the proliferation of cell phones and social media.

MR. SKIDMORE responded that the bill addresses minors in several sections. He offered to walk through those and make sure that he addressed his question. The harassment crime that the department proposes doesn't have any age element of the person involved, but a minor could undoubtedly be a victim. He acknowledged that other crimes could also be applied. He would need to review the facts of a case to identify the offense, which could be more comprehensive and more severe than this one. The department would not charge a minor, a person under 18, in an adult court. However, this statute would be available for the Division of Juvenile Justice to consider for someone being adjudicated as a delinquent.

[2:24:12 PM](#)

MR. SKIDMORE stated that nothing in the statutes for harassment addresses sending images. However, another subsection of the bill relates to changes in the Sex Offender Registry. Several years ago, the statutes made it a crime to send an explicit image of a minor. He stated that might be the discussion he recalled that a previous committee held. This bill has two subsections to address it. The current statutes read:

Sec. 11.61.116. Sending an explicit image of a minor.

(a) A person commits the offense of sending an explicit image of a minor if the person, with intent to annoy or humiliate another person, distributes an electronic photograph or video that depicts the genitals, anus, or female breast of that other person taken when that person was a minor under 16 years of age.

(b) In this section,

(1) "computer" has the meaning given in AS 11.46.990;

(2) "distributes" means to deliver the image to another person by sending the image to the other person's computer or telephone;

(3) "Internet" has the meaning given in AS 11.46.710(d).

(c) Sending an explicit image of a minor is

(1) a class B misdemeanor if the person distributes the image to another person;

(2) a class A misdemeanor if the person distributes the image to an Internet website that is accessible to the public.

[2:24:45 PM](#)

MR. SKIDMORE stated that [subsection (a)] relates to distributing a photo of genitals, female breast or anus of someone under the age of 16 to another person without that individual's consent. He noted those were the three sexualized areas discussed earlier. Suppose the person posted that image on a website. If so, it is now available for everyone. Theoretically, the person loses control of it by sending it to another person. However, when the image is posted online, the person has completely lost control over who has that image, what that party may do with it, and where else it may appear. He said in those circumstances that conduct is elevated to a class A misdemeanor. This bill does not alter either of those classifications.

[2:24:57 PM](#)

MR. SKIDMORE explained that when a person posts an explicit image online, it creates sexual predatory concerns, and that person would be required to register under [Section 9] of the bill.

[2:26:14 PM](#)

MR. SKIDMORE related that a minor would be impacted because the Sex Offender Registry provides additional protections to minors. If a minor is the one who posts it, the state does not require minors to register when they are sex offenders. The only other impacts in the bill related to teaching certificates, but that doesn't relate to the question.

[2:26:49 PM](#)

SENATOR SHOWER asked if the bill should further clarify touching. He related unintentional or innocent touching that could occur at a bar when people are dancing, to avoid someone weaponizing it.

MR. SKIDMORE responded that the administration chose to attach the highest mental element, the mens rea of "intentional." Thus, the person must make a conscious objective to cause an offensive physical touching to another person. It is not about accidental touching, for example, accidental touching of someone's buttocks or female breast that might occur in a crowded elevator. The lesser crimes of "annoying" conduct have a lower mens rea. If the person did not intend the touching to happen or was not being reckless to the fact that the touching was offensive to another person, it is not a crime. He emphasized that those are the protections. The burden of proof in a criminal case is to prove something beyond a reasonable doubt, which is not an easy standard to meet. He acknowledged that the committee has the purview to consider the bill and make adjustments.

[2:30:08 PM](#)

SENATOR HUGHES asked if the penalty would be elevated if the victim's name is attached to the explicit images being sent or posted. She suggested that might be something to consider because it might be challenging to identify someone in a photograph but identifying the victim by name makes the crime more severe.

[2:30:47 PM](#)

MR. SKIDMORE answered no.

[2:30:57 PM](#)

SENATOR HUGHES expressed concern that a person could get angry at a person at the end of an evening out and might "weaponize" the touching behavior.

MR. SKIDMORE answered that the department wrestles with this in sexual assaults. The department must prove that the evidence supports the allegation beyond a reasonable doubt. He cautioned that he was not suggesting that the person was lying or was wrong, but the burden of proof provides protection. He highlighted that is one reason why the prosecutors do not proceed with some sexual assault cases.

[2:32:59 PM](#)

SENATOR KIEHL referred to posting an explicit photo of a minor to a public website. He said he was unsure where the line lies. He acknowledged revenge. He said he sends messages using apps, including Instagram or Snap Chat stories. He stated that the department might wish to respond in writing if his question is too complex.

MR. SKIDMORE responded that he did not believe that the law expressly defines it. He stated that AS 11.46.710 (d) provides a definition. "Internet" means the combination of computer systems or networks that make up the international network for interactive communications services, including remote logins, file transfer, electronic mail, and newsgroups. The classification provision for the offense states that it is "an Internet website that accessible to the public" [AS 11.61.116(c)(2)]. The prosecutor would need to argue whether the social media website was accessible to the public. He related that he could imagine arguments that a person might use to defend their posting to websites, including that they had restricted access to the site to their friends. He was unsure the courts had resolved this issue.

[2:35:54 PM](#)

SENATOR MYERS referred to Section 13 to the issue of whether pretrial officers could file a complaint. He stated that the bill would expand their authority from two to five offenses. He asked for the reason to extend this authority to pretrial officers rather than to prosecutors.

[2:36:47 PM](#)

MR. SKIDMORE answered that currently, police officers could file complaints when they encounter criminal conduct, so it does not need to go through the district attorney's office. However, pretrial officers don't have the same designation, so express authority must be given. The expanded crimes include AS 11.56.320, Escape in the third degree. This means the individual has been released on condition for pretrial and has an ankle monitor for electronic monitoring. Frequently, the person will cut or tamper with the electronic ankle monitor. It would add AS 11.56.610, tampering with physical evidence that interferes with ankle monitoring, and AS 11.56.750, relating to unlawful contact. This is when a court has indicated pretrial that the defendant cannot come in contact with specific parties, usually the victim. As pretrial services officers monitor the defendants, they may realize the defendant came in contact with the victim. In those instances, the officers must call a law enforcement officer, who will collect the same information the pretrial services officer would collect. The officer would make the arrest, write up the report, and send the information to the district attorney, who will decide whether to bring criminal charges, summons, or arrest warrants. Under the bill, the pretrial service officers can make the arrest. He pointed out that the Department of Corrections incurred \$800,000 in damage to electronic monitoring.

[2:39:39 PM](#)

CHAIR HOLLAND asked about collateral consequences incurred by someone facing a felony conviction instead of a misdemeanor conviction.

MR. SKIDMORE answered that the collateral consequences were challenging to describe. He stated that when a person becomes a felon, the person potentially would be on supervised probation. It would affect the felon's voting rights and right to use concealed weapons. He acknowledged that long firearms would be impacted by federal law. He stated it would also impact the person's ability to obtain employment.

CHAIR HOLLAND asked how it would impact child custody.

MR. SKIDMORE said he was unsure how it would affect child custody.

[2:41:06 PM](#)

CHAIR HOLLAND asked if the individuals who were online to answer questions had anything to add, and they did not.

[2:42:12 PM](#)

CHAIR HOLLAND held SB 187 in committee.

SB 182-INTERFERENCE WITH EMERGENCY SERVICES

[2:42:16 PM](#)

CHAIR HOLLAND announced the consideration of SENATE BILL NO. 182 "An Act establishing the crime of interference with emergency communications."

[SB 182 was previously heard on 2/16/22, and public testimony was heard and closed.]

CHAIR HOLLAND noted that at the last hearing some members indicated they had questions for the Department of Law, Criminal Division.

[2:43:00 PM](#)

SENATOR SHOWER asked if anything could be done to hold emergency service dispatchers harmless if they did not take a call. He noted that the call center sometimes receives numerous calls. He recalled testimony from a dispatcher that reported the Mat-Com Wasilla Center received 86 calls from one individual on July 4, 2021, which could have prevented them from responding to actual

emergencies. He asked if the legislature could provide any protections for the 911 dispatchers.

[2:45:00 PM](#)

JOHN SKIDMORE, Deputy Attorney General, Office of the Attorney General, Criminal Division, Department of Law, Anchorage, Alaska, responded that his expertise was prosecuting crimes. He does not practice in torts. He acknowledged that some immunities apply to law enforcement or prosecutors acting in good faith. He was unsure whether it was possible to provide immunity in certain circumstances. He suggested consulting with attorneys who work in this area.

[2:45:58 PM](#)

SENATOR SHOWER asked him to consult with the attorneys and report to the committee.

MR. SKIDMORE agreed to do so.

[2:46:11 PM](#)

SENATOR HUGHES related that the committee discussed this. She noted that when dispatchers receive numerous calls the call center may bring in additional dispatchers. She asked if an officer could be sent to arrest the person, once identified, to stop them from making 75 calls in one day since the 911 dispatcher could trace the call. She asked if anything would prevent an immediate interception to stop that person from making numerous false calls.

MR. SKIDMORE answered no. He stated that this bill would create a criminal offense, and an officer would need to determine the probable cause that the person was committing an offense. If they were committing an offense, law enforcement could arrest the person.

[2:47:37 PM](#)

SENATOR HUGHES asked if the sponsor intended that an officer would be dispatched after the known third or fourth call came in from a known prank caller to prevent further disruption.

[2:47:59 PM](#)

JASMINE MARTIN, Staff, Senator David Wilson, Alaska State Legislature, Juneau, Alaska, on behalf of the sponsor, answered yes. She said that the bill would also help 911 dispatchers by allowing them to inform the caller that the disruptive or offensive calls were illegal.

[2:48:15 PM](#)

SENATOR MYERS stated that he asked during the initial hearing about callers suffering from mental illness. He recalled the answer was that the person must be stopped, but via the criminal justice system, the person could receive access to the needed mental health services. While he understood the intent, it also means that the mentally ill person would be exposed to the criminal justice system. He asked for the prosecutorial view of that circumstance.

MR. SKIDMORE responded that in the last year or so, the legislature passed a bill that would allow the person to be transported to a crisis center for assistance. He explained that if the case was brought to a prosecutor, they would evaluate the person's mental status to determine if the person was competent. If the person was found to be competent and mental illness was not a defense, the district attorney would evaluate the available resources, the public interest, and if it was appropriate to do so. He pointed out that the department declines cases every day because murders and assaults are more pressing. He said that these cases would be determined case-by-case.

[2:51:13 PM](#)

SENATOR KIEHL recalled a question from a prior hearing. He referred to page 2, lines 3-4 to subsection (a)(4), related to blocking communications between police, fire, or medical service personnel to cause a disruption in service. He asked whether other crimes pertained to the behavior of disrupting official activities of police or fire personnel.

MR. SKIDMORE answered that he was speaking to interference between personnel that would clog up the system of communications between emergency service personnel. He said he could not immediately recall specific statutes, and he would need to research the statutes to determine if other provisions could be used to charge the person.

[2:52:58 PM](#)

SENATOR KIEHL interpreted that language to mean standing between two police officers in the field and interfering with their ability to communicate with one another.

MR. SKIDMORE answered that the only crime that came to mind was if the person was interfering with an official investigation. He characterized it as a fairly serious felony offense. He offered

to review the elements to determine how it would apply, but he was not prepared to do so today.

2:54:04 PM

JACOB BUTCHER, Communications Manager, Mat-Com Dispatch, City of Wasilla, Wasilla, Alaska, stated that programs were being developed in Anchorage, Mat-Su, and Fairbanks, so moving forward it will be possible to address mental health aspects. In response to Senator Hughes, he stated that the intent of SB 182 was to address the disrupting callers and take measures to stop it after the third, fourth, or fifth call, rather than to wait until the 70th or 80th call.

2:55:07 PM

SENATOR HUGHES surmised that he had worked with the sponsor on the bill. She referred to page 2 regarding interrupting communications between the dispatcher and various first responders. She offered her view that the person could interrupt the communication between the dispatcher and another person in need. She expressed concern that the disruptive caller might be keeping the dispatcher from picking up a call from another citizen in need. She asked if the bill is adequate since it applies to interrupting communication and a first responder, or between first responders.

2:56:07 PM

MR. BUTCHER offered his view that the language on page 1, subsection (a)(1) and (2) captures that need.

(1) makes repeated emergency communications to report a previously reported incident with no change in circumstance with the intent to cause an emergency police, fire, or medical service response, after an emergency communications worker instructs the person to stop initiating contact for the previously reported incident;

(2) makes repeated emergency communications knowing that there is not a police, fire, or medical emergency;

MR. BUTCHER stated that would capture the communication that the person is having with the emergency communications center whereas the language on page 2 captures the other types of interference that could happen between two first responders or the communications center, and the emergency responders in the field.

[2:56:50 PM](#)

SENATOR HUGHES asked what language pertains to interrupting communications between the dispatcher and another citizen in need.

MR. BUTCHER answered that was covered in Section 1, Sec. 11.56.785(a)(1), (2), and (3) of SB 182. He stated if the person was making repeated emergency communications and reports while knowing that there was no emergency would disrupt communications. He offered his view that it would be easy for the dispatcher to pull the call logs to see which 911 calls were put on hold from citizens reporting real emergencies, how many 911 calls went to queue, put on hold, or rolled over to the secondary answering point.

[2:57:39 PM](#)

MS. MARTIN interjected that she believed she understood Senator Hughes' question. She referred to page 2, which addresses communications between emergency personnel and communications out of the communications center to emergency personnel. However, it doesn't cover the 911 call to the communications center. She offered her view that it was a valid point.

[2:58:12 PM](#)

SENATOR HUGHES asked if the language should be added.

MS. MARTIN responded that it was worth considering because she did not think it was covered in the language.

[2:58:36 PM](#)

SENATOR KIEHL pointed out that the last thing they wanted to do was make it a crime to call 911 in a panic. He stated that the first two paragraphs relate to bad behavior when a person has been told to stop calling, and the person keeps calling. However, typically people who call 911 are panicked, and the committee would not want to criminalize it if numerous people called in about a massive emergency that floods 911. He offered his view that focusing on the bad behavior as the sponsor has done will avoid unintended consequences.

[2:59:44 PM](#)

SENATOR SHOWER referred to the language on page 2, to paragraph (4). He suggested that the language "between police and fire" implies it is on the scene. He related a scenario where a citizen who was under duress because their child was in the house and they yelled or otherwise inadvertently disrupted

police or fire first responders. He wanted to ensure that the language would not create a crime for that circumstance.

3:01:02 PM

CHAIR HOLLAND held SB 182 in committee.

3:01:21 PM

There being no further business to come before the committee, Chair Holland adjourned the Senate Judiciary Standing Committee meeting at 3:01 p.m.