

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

January 25, 2023

1:32 p.m.

MEMBERS PRESENT

Senator Matt Claman, Chair
Senator Jesse Kiehl, Vice Chair
Senator James Kaufman
Senator Cathy Giessel
Senator Donald Olson

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

PRESENTATION(S): ALASKA COURT SYSTEM REPORT ON OPERATIONS

- HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

NANCY MEADE, General Counsel
Administrative Offices
Alaska Court System
Anchorage, Alaska

POSITION STATEMENT: Delivered the report on the Alaska Court System operations.

ACTION NARRATIVE

[1:32:22 PM](#)

CHAIR MATT CLAMAN called the Senate Judiciary Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Kiehl, Olson, Kaufman, Giessel and Chair Claman.

PRESENTATION: ALASKA COURT SYSTEM REPORT ON ITS OPERATIONS

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CHAIR CLAMAN announced the committee would hear a report from the Alaska Court System about its operations.

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NANCY MEADE, General Counsel, Administrative Offices, Alaska Court System (ASC), Anchorage, Alaska, described the organization and operations of ACS.

MS. MEADE stated that ACS is organized into four judicial districts. Each district has one presiding judge for the trial courts. The presiding judges sit in Juneau, Kotzebue, Anchorage, and Bethel. The court system has four levels of courts including trial and superior courts. The trial courts encompass 20 district judges in 7 locations. The superior court has 45 judges in 15 locations. The legislature sets the number of Superior Court judges by statute and the legislature is charged with adding judges. District judges are set by Court Rule and are placed in areas requiring the targeted support.

MS. MEADE continued that a dissatisfaction with trial court decisions led to appeals. The court of appeals and its four judges handle criminal matters exclusively, including delinquency and post-conviction relief (PCR) proceedings. In 2020, the legislature authorized the fourth court of appeals judge. She explained that the fourth judge addressed the backlog of cases. She stated that the supreme court is comprised of five justices. Most criminal cases do not make it to the supreme court. One can petition the supreme court to take a criminal case, however that is uncommon. In addition to the district, superior, court of appeals and supreme court, ACS has 38 magistrate judges. Magistrate judges are hired directly by ACS to serve in the larger courts. Some judges travel a circuit. Alaska has 40 different court locations covered by a judicial officer including a magistrate judge. The magistrate judges hear minor offenses including misdemeanors, emergency hearings and early felony cases before going to the superior court system.

MS. MEADE continued that ACS has 772 total positions representing 1.5 percent of the state budget. Mr. Doug Wooliver would discuss the budget in future hearings. She mentioned that ACS does not retain collected funds such as filing fees or fines; all go to the General Fund. In FY22, ACS contributed \$7.5 million to the General Fund.

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MS. MEADE reminded the committee that ACS exists as a separate branch of government and does not have authority to pass regulations (substantive law authorized by statutes). The supreme court instead passes Court Rules. She referred to the Alaska Rules of Court, an annual publication. She continued that ACS has a robust system for amending and adopting rules. The supreme court appoints seven Rules committees with substantive law experts. The Court Rules function in lieu of regulations. She noted that the legislature retains the ability to change Court Rules under the constitution with a two-thirds vote. That occurred when a substantive law change incidentally touches a procedure.

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CHAIR CLAMAN asked about the four judges on the court of appeals. Do they each hear every case? He wondered about the five Supreme Court Justices and their process for hearing cases.

MS. MEADE replied that the court of appeals requires three judges to sit on any case panel. The odd number of judges enable a fair vote in cases with split decisions. The case load is evenly distributed.

She continued that all five Supreme Court Justices sit on all cases. Justices and judges may recuse themselves from any matter where a conflict of interest existed. A judge may be recused, and less than five Justices might precede on a given case.

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MS. MEADE directed attention to the three pie charts on a handout labeled: "FY 22 Trial Court Case Filings Statewide." The document exemplified the superior and district court's separate and combined areas of responsibility. She pointed out the superior and district courts combined pie chart (top of page), depicting 47 percent minor offences, 23 percent criminal, 27 percent civil and 3 percent children's filings in FY22. Most minor offenses were traffic related and the filing process was largely automated.

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MS. MEADE continued to discuss the pie charts. The lower two charts depict superior court and district court filings. The superior court is the court of general jurisdiction consisting of 45 judges. A Superior Court Judge can hear any dispute including civil, criminal, minor offenses and those involving children. The district court is a subset of superior court jurisdiction. The superior court filings consist of 30 percent

felonies, 10 percent child in need of aid (CINA), 16 percent domestic relations and 31 percent probate. The superior court has exclusive power over domestic relations, CINA and probate cases.

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MS. MEADE explained that the district court, with its 20 judges, handles minor offenses. The vast amount of time spent in court addresses misdemeanors including driving under the influence (DUI) and property crimes. She highlighted the civil protective orders and small claims portions of the workload.

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MS. MEADE noted a backlog in criminal cases that began during the Covid-19 pandemic. She stated that ACS addressed the backlog by making additional judicial officers available. She wished to speak further about the resolution of criminal cases.

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CHAIR CLAMAN asked about the backlog at the time of the recording versus one year prior.

MS. MEADE replied that ACS viewed the backlog as the number of pending cases. She opined that the timeframes required to complete these cases varied. She spoke to the importance of criminal case resolution. Most criminal cases resolve immediately or within three months.

CHAIR CLAMAN asked for updated statistics related to the criminal case backlog.

MS. MEADE responded that in 1/1/22 there were 19,620 pending cases (felonies and misdemeanors combined). In January of 2023, the number was 17,700. She noted that ACS preferred faster processing of these cases but reminded that the pandemic led to some deficiencies.

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SENATOR KIEHL asked about the number of pending cases before the pandemic.

MS. MEADE replied that on 1/1/2018 there were 9,640 pending cases. She stated that more felony cases were closed in 2022 than in 2018.

SENATOR KIEHL asked if disposed or closed meant that a verdict was rendered, and a sentence was issued.

MS. MEADE replied that "disposed of" indicated that a case was closed. In these cases, the person was adjudicated, verdict or plea was entered, and the appropriate sentence was handed down. She pointed out that less than 1 percent of misdemeanors go to a jury trial. For felonies, 40 percent were dismissed, last year with plea bargains. She spoke further about the process of plea agreements. For misdemeanors, 53 percent were dismissed.

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SENATOR KAUFMAN asked about the numerical dollar value that classified a misdemeanor.

MS. MEADE responded that civil jurisdiction has a dollar value up to \$100 thousand. With respect to criminal jurisdiction, the distinction between a felony and misdemeanor is the punishment set out by the legislature in statute. If the crime is punishable by more than a year, it is considered a felony. If the crime is punishable by a year or less, it is considered a misdemeanor.

SENATOR CLAMAN spoke to the court's backlog. He referenced the backlog of 17 thousand cases increasing from numbers less than 10 thousand pre-pandemic. He asked when ACS expected to close the backlog.

MS. MEADE replied that the FY16, FY17, FY18, and FY19 case backlog numbers were commonplace and expected. She explained that cases were filed and closed daily. She expected cases to settle near the 10 thousand mark again, but she was unsure about the time required to get there.

SENATOR OLSON asked whether criminal cases always proceeded toward a jury trial.

MS. MEADE responded that the defendant could opt for a judge-tried criminal trial. During the pandemic, parties had the right to ask for jury trial and a few were held when the request was made.

SENATOR OLSON asked for the percentages of jury trials versus judge trials.

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MS. MEADE replied that the request for a jury trial was infrequent. She guessed five requests per year, but she offered to provide accurate data to the committee.

SENATOR CLAMAN asked if both the prosecutor and defense must agree to waive a jury trial or was the decision solely up to the defendant.

MS. MEADE replied that she would provide the committee with accurate data later.

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MS. MEADE moved to the appellate court case load which had 158 filings in FY22. The supreme court had 336 filings. She reminded the committee that the supreme court had additional duties as they were the administrative head of the courts.

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MS. MEADE continued that the court employed an administrative office of 75 people, the largest segment being information technology (IT) employees. She highlighted that ACS had a strong self-help center. The courts provided family law self-help via an 800-number offering procedural aid. This service offered efficiency to citizens and the courts. She continued that housing assistance self-help was another offering via a national grant to help divert eviction cases and landlord/tenant disputes. All the self-help options are available via the ACS website. She pointed out the law libraries, open daily in some locations. She mentioned a fiscal office for bail payments, trust accounts and grant administration. She spoke about restitution collection on behalf of victims.

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MS. MEADE directed attention to the data sheet: "Alaska Court System Summary of Existing Therapeutic Courts." She detailed that therapeutic courts existed in six different locations. The therapeutic courts represent an alternative approach to help a defendant through a criminal case with intensive treatment. The defendant must opt in and plead guilty after which they enter a structured program for 18 months with the sentence deferred with program participation. The therapeutic court system was resource intensive with the goal of addressing the underlying issues leading individuals to criminality. She added that extensive information about the therapeutic courts was available on the ACS website.

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MS. MEADE talked about the target populations of therapeutic courts. The Anchorage therapeutic courts were the first of its kind. If defendants graduate from the demanding program offered

by the therapeutic courts, they recidivate at a much lower rate. She spoke to limitations for therapeutic courts. Communities must have adequate housing, providers and personnel available for the participants.

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CHAIR CLAMAN asked about availability and accessibility of the therapeutic courts.

MS. MEADE replied that it varied over the years. Currently, Fairbanks and Anchorage wellness courts were over capacity. All the other state therapeutic courts were under capacity. She stated that she wanted more people enrolled in therapeutic courts because a judge was already staffed. She indicated that the incentive to enter therapeutic courts was low because the program required intensive participation for 18 months or more. Many people would prefer to spend four months in jail rather than 18 months in the program. Additionally, not every interested participant was deemed appropriate by the courts.

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SENATOR KAUFMAN asked a question about the capacity of the program.

MS. MEADE provided an example about the Juneau therapeutic court maximum capacity of 15 people. She stated that the judge had a hearing every week with various numbers of participants.

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MS. MEADE offered to answer further committee member questions.

CHAIR CLAMAN recalled descriptions of the therapeutic courts success rates. He wondered about further expansion of the program.

MS. MEADE replied that ACS was always looking for new Therapeutic Court locations, but the limiting factors of housing and providers prevented further expansion. She noted that the Bethel therapeutic court was eliminated due to the lack of treatment providers. She stressed that funding was not the issue. She declared that therapeutic court coordinators were interested in expansion, but the limits made set-up difficult. She spoke about the Fairbanks veterans therapeutic court, which was a successful endeavor.

CHAIR CLAMAN wondered if the public defender and public advocate were actively looking for candidates for the therapeutic courts. He asked if there was a broad awareness of the option.

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MS. MEADE replied yes, there is great awareness. She stated the defense counsel typically suggests diverting the person to the therapeutic courts. Then the prosecutor considers the candidate's potential fit. There is a prosecutor and public defender dedicated to each community offering therapeutic court.

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CHAIR CLAMAN found no further questions.

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There being no further business to come before the committee, Chair Claman adjourned the Senate Judiciary Standing Committee meeting at 2:20 p.m.