

NOTE FROM THE EDITOR

The *Alaska Law Review* is pleased to present our June 2021 issue, the first in our thirty-ninth volume. While the Covid-19 pandemic has continued to pose challenges to our editorial process, I am proud of the hard work our staff has dedicated to this issue and am eager to share our latest publication with you, the reader. This issue features two articles, three student notes, and two case comments. These pieces discuss a wide variety of legal topics significant to Alaska, offering perspectives from practicing attorneys, scholars, and students alike.

In our first article, *Alaska Native Corporation Endowment Models*, authors Robert Snigaroff of Denali Advisors and former Alaska Attorney General Craig Richards provide a timely analysis of how the Tax Cuts and Jobs Act of 2017 has impacted settlement trust provisions relevant to Alaska Native Corporations. The authors suggest that Alaska Native Corporations should consider bolstering their endowment business activity, drawing comparisons discussion to the Alaska Permanent Fund and from other sovereign wealth funds and endowments. The authors consider the eventuality of for-profit corporations failing which conflicts with important aspects of the Alaska Native Corporation mission, such as cultural continuation.

Our second article, *Alaska's Tribal Trust Lands: A Forgotten History*, is written by former Deputy Solicitor for Indian Affairs at the U.S. Department of Interior Kyle Scherer. Mr. Scherer provides an authoritative overview of the debate surrounding whether the Secretary of Interior should accept land in trust on behalf of federally recognized tribes in Alaska pursuant to the Alaska Native Claims Settlement Act. Explaining past legal opinions, Mr. Scherer delves into the 2017 acceptance of a small parcel of land in Craig into trust and the debates that ensued. Noting an absence of substantive discussion of Alaska's existing trust parcels, Mr. Scherer offers a detailed explanation of Alaska's past trust acquisition actions in order to better frame future debates.

In the first student note in this volume, *Time's Up: A Call to Ban the Use of Sex as an Investigatory Tactic in Alaska*, incoming Editor-in-Chief Kate Goldberg argues that the existing police practice of using sexual contact with sex workers for investigative purposes violates due process and should be outlawed through the reintroduction of bills previously presented to the Alaska Legislature in 2017. Ms. Goldberg provides a history of Alaska's prostitution jurisprudence, followed by an analysis of ongoing practices measured against modern interpretations of the Due

Process Clause of both the U.S. and Alaska Constitutions.

In our second student note, *Selective Justice: A Crisis of Missing and Murdered Alaska Native Women*, Megan Mallonee describes the epidemic of missing and murdered Alaska Native women and the cultural, historical, and legal barriers faced in the quest for justice. Ms. Mallonee advocates for further discussion on the multi-faceted challenges Alaska Native women face, from empowering tribal communities to providing more spaces for Alaska Native voices, while also acknowledging past state failures to adequately protect the native community.

Our last student note, by Brendan McGuire, discusses the constitutionality of Alaska Hire, an employment program which favors hiring Alaska residents for public works projects. In *Putting the Last Frontier to Work: In Defense of Alaska Hire*, Mr. McGuire rebuts former Alaska Attorney General Kevin Clarkson's legal opinion that the hiring scheme is unconstitutional. Mr. McGuire argues that in its current form, Alaska Hire is valid under both the federal Privileges and Immunities Clause and the Alaska Equal Protection Clause.

The first comment of the issue is written by Kate Goldberg and Macklin Willigan and examines the Alaska Supreme Court's recent opinion in *Chinuhuk v. State*. The comment delves into the state's rule of lenity and a now-repealed statutory provision pertaining to sex offenders and required probationary periods following suspended terms of imprisonment. Their comment takes issue with the court's holding, which they argue leads to a toothless probationary scheme and a misapplication of the rule of lenity.

In our final comment, Kristen Renberg and Angela Sbanò offer a prescient analysis of the Alaska Court of Appeals' recent decision in *Dalton v. State* that held a restriction requiring prior approval from a parole officer before any and all internet use was unconstitutionally broad. The authors note the court's departure from precedent as it recognizes the ubiquitous nature the internet now poses in our daily lives. The authors put the Court of Appeals' decision in context of what other jurisdictions have held concerning Internet access in the parole and probation context.

This issue of the *Alaska Law Review*, in addition to all of our previous issues, is available on our website, alr.law.duke.edu. There, anyone who is interested can access PDFs of our volumes, which are easily printable and searchable. We hope that you will visit our website and continue engaging with ALR as we strive to inform and educate the Alaska legal community. We welcome your comments, responses, and feedback at alr@law.duke.edu.

The pandemic has posed unparalleled challenges to our editing process, and we are proud of the successful volume we still are able to

present to our readers. This year's editorial staff has never met in-person because of the pandemic, which has added increased difficulties to our editing and publishing process. Nevertheless, we have worked hard to ensure timely legal issues pertinent to the Alaska legal community are discussed within our pages.

On behalf of the editorial staff, I hope you find this issue instructive, thought-provoking, and useful. We are grateful to the Alaska Bar Association for the privilege of publishing the *Alaska Law Review* and its continued support. Lastly, and most importantly, thank you to you—the reader—for your interest in the scholarship of our published authors. We look forward to future collaboration with the Alaska legal community in the months and years to come.

*Cormac Bloomfield,
Editor-in-Chief, 2020–21*