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House Health & Social Services Committee Co-Chair

Serving House District 16: College Gate, Russian Jack, Nunaka Valley, & Reflection Lake

Committee Member: Resources, Energy, & Legislative Budget & Audit

Questions and Answers Document

House Bill 133:

Division of Juvenile Justice Cleanup

Does the new terminology prevent the Division from creating new or different facilities in the future? For example, we are removing the terms “correctional school” and “juvenile work camp” from the facilities operated by the Division in state statute. Does this restrict the Division from operating a correctional school or work camp in the future?

The updated terminology presented in HB 133; “juvenile detention facility”, “juvenile treatment facility”, and “temporary secure holding area”, is less restrictive than existing language used to describe DJJ facilities; “juvenile work camp” and “correctional school.”

The updated terminology does not restrict DJJ from making changes to their facilities or having a work camp in the future.

How is it that the current language is interfering with DJJ operations? Can you provide an example of how the existing terminology is a problem for DJJ or law enforcement?

Inconsistencies between state statute and actual DJJ operations has led to confusion amongst law enforcement working with juveniles. For example, DJJ reported having to explain to law enforcement that there is no detention home to bring minors to and that they should bring them to one of DJJ’s detention facilities. Law enforcement is simply working with the direction provided to them by state statute, which can be confusing when the facilities operated by DJJ are not accurately and clearly listed out in state statute.

Regarding the Carey case, is there any other state statute that needs revising to fully address the issue? Did the prosecutor miss any provisions under existing law?

No, there is no other state statute that needs to be amended to close the loophole presented by the Carey case. Daniel Carey was acquitted of this charge because the court found that DJJ staff were not explicitly listed as being in a position of authority over minors under AS 11.41.470(5).

HB 133 closes this loophole and prevents a similar defendant from being acquitted in the future.

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Are DJJ staff trained on how to identify signs of child abuse or neglect? Are we potentially putting staff in a position to be prosecuted for not reporting when they don't know any better?

DJJ staff are trained to identify signs of child abuse and neglect, and it is standard practice for DJJ staff to file reports to the Office of Children's Services (OCS). Youth committed to the custody of DHSS frequently disclose abuse to DJJ staff. DJJ facility and probation staff make an average of nearly 90 protective services reports to OCS annually; adding DJJ staff to the list of mandatory reports merely aligns state statute with existing best practices for the Division and will not result in substantial changes in policy.

Why does the bill repeal the revocation of juvenile driver licenses for offenses involving a controlled substance?

SB 165 repealed the revocation for formally adjudicated misconduct involving controlled substance offenses, but not for offenses informally handled through DJJ, resulting in harsher penalties for cases in which there is no court finding. It is for this reason that probation officers within the division have been directed not to seek revocations in these cases. **HB 133 resolves the issue by repealing the revocation of drivers' licenses for drug offenses handled without formal court action.**

However, it should be noted that while SB 165 repealed DJJ's authority to file revocations of licenses of this sort with the court, **it did not repeal the courts' ability to revoke licenses for adjudicated delinquents and convicted minors.**

AS 28.15.185(k) states, **(emphasis added):**

“A person is subject to revocation, under (b) of this section, of the person's driver's license or permit, privilege to drive, or privilege to obtain a license if the person

(1) **is at least 13 years of age but not yet 21 years of age and is convicted of or is adjudicated a delinquent minor by a court for misconduct involving a controlled substance under [AS 11.71](#)** or a municipal ordinance with substantially similar elements; or

(2) **is at least 13 years of age but not yet 18 years of age and is convicted of or is adjudicated a delinquent minor by a court for an offense involving the illegal**

use or possession of a firearm that is punishable under [AS 11](#) or a municipal ordinance with substantially similar elements.

(b) The court shall impose the revocation for an offense described in (a) of this section as follows:

(1) for a first conviction or adjudication, the revocation *may be* for a period not to exceed 90 days;

(2) for a second or subsequent conviction or adjudication, the revocation *may be* for a period not to exceed one year.”

In summary, HB 133 repeals the revocation of drivers’ licenses for drug offenses handled without formal court action. However, the option, while unlikely, for court revocation remains for adjudicated delinquents and minors convicted of controlled substance offenses and weapons offenses.

How does this bill impact Village Police Safety Officers (VPSOs)?

DJJ regularly trains local law enforcement, including VPSOs, how to properly detain juvenile offenders. HB 133 does not impact the ability of VPSOs to work with juveniles, however, it does clarify that DJJ operates “temporary secure juvenile holding areas” for the temporary detention of juveniles. Current statute allows for “juvenile detention facilities” for the temporary detention of juveniles, which is of issue given the fact that juvenile detention facilities are currently defined as separate quarters within a city jail. In many rural communities, there either isn’t a city jail, or the city jail is insufficient for the holding of juveniles because it does not meet standard requirements of sight and sound separation from adult prisoners.

DJJ already operates with a list of temporary secure holding areas in various communities throughout the state, however the language and authority for operating these temporary facilities does not exist under state statute.

The new definition of “temporary secure holding areas” was created and defined under this legislation to more accurately reflect the diverse array of holding areas used by DJJ staff across the state.

Can adult probation officers arrest juveniles?

Sections 16, 22, and 23 of the bill clarify that the authority to arrest a minor under the jurisdiction of DJJ rests with juvenile officers for violations of conditions of release. Adult probation officers do not have the authority to arrest juveniles, HB 133 clarifies this.

However, AS 47.12.245(a) provides that a peace officer may arrest for criminal offenses which are handled as though the minor were an adult due to their severity.

Further questions may be directed to Megan Holland at 465-4940.