

MINUTES
SENATE FINANCE COMMITTEE
March 26, 2007
9:02 a.m.

CALL TO ORDER

Co-Chair Bert Stedman convened the meeting at approximately [9:02:11 AM](#).

PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Bert Stedman, Co-Chair
Senator Charlie Huggins, Vice Chair
Senator Kim Elton
Senator Donny Olson
Senator Fred Dyson
Senator Joe Thomas

Also Attending: REPRESENTATIVE SCOTT KAWASAKI; SENATOR BILL WIELECHOWSKI; KAYE KANNE, Certified Direct-Entry Midwife and Executive Director, Juneau Family Birth Center; SHARLEEN GRIFFIN, Director, Division of Administrative Services, Department of Corrections; JOHN WEISE, Staff to Senator Lyman Hoffman

Attending via Teleconference: From Offnet Locations: CHUCK COPP, Chief of Police, Kenai Police Department; GARDNER COBB, Captain, Anchorage Police Department; CAROL COMEAU, Superintendent, Anchorage School District

SUMMARY INFORMATION

HB 35-EXTEND BOARD OF MIDWIVES

The Committee heard from the bill's sponsor and a representative of the midwifery profession. The bill reported from Committee.

SB 89-ELECTRONIC MONITORING OF GANG PROBATIONER

The Committee heard from the bill's sponsor, the Department of Corrections, the Anchorage School District, and representatives

of the Anchorage and Kenai Police Departments. The bill was held in Committee.

SB 105-REIMBURSEMENT FOR MUNICIPAL DEBT

The Committee heard from the bill's sponsor, and the bill reported from Committee.

[9:03:10 AM](#)

#hb35

HOUSE BILL NO. 35

"An Act extending the termination date for the Board of Certified Direct-Entry Midwives; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Stedman reminded Members that the Senate companion bill to this bill, SB 81-EXTEND BOARD OF MIDWIVES, had reported from Committee on March 13. Absent any objection to the contrary, the intent is that this bill report from Committee and "join up" with SB 81 in the Senate Rules Committee.

[9:03:49 AM](#)

REPRESENTATIVE SCOTT KAWASAKI, the bill's sponsor, affirmed that HB 35 and SB 81 were companion bills. HB 35 would extend the termination date for the Board of Certified Direct-Entry Midwives eight years, to the year 2015.

Representative Kawasaki advised that this cost-neutral Board addresses issues pertinent to the current 36 practicing midwives in the State. He urged passage of the bill as the Board is beneficial to the public and the profession. Representatives of the midwifery profession and the Legislative Budget and Audit Committee were available to testify to the benefits of continuing the Board.

Co-Chair Stedman informed the Committee that the fiscal note accompanying HB 35 differed from the one accompanying SB 81 in that HB 35's fiscal note correctly depicted the fiscal impact on

the FY 2007 (FY 07) budget. Thus, the intent was to eventually meld the House fiscal note with the Senate version of the bill.

Co-Chair Hoffman moved to report the bill from Committee with individual recommendations and accompanying fiscal note.

Senator Huggins objected in order to learn how to properly pronounce the bill sponsor's name.

Representative Kawasaki complied.

Senator Huggins removed his objection.

Senator Olson objected in order to hear a midwifery professional's perspective about the Board.

[9:08:03 AM](#)

KAYE KANNE, Certified Direct-Entry Midwife, Executive Director of the Juneau Family Birth Center, and representative of the Midwives Association of Alaska, informed the Committee that, in addition to helping establish the Board, she had served as a Board member for eight years.

[9:08:30 AM](#)

Senator Olson asked the difference between a midwife and a certified direct-entry midwife.

Ms. Kanne divulged that, while most countries only have one midwife classification, the United States has two: certified nurse midwives and certified direct-entry midwives who are also referred to in some states as licensed midwives. Originally, certified nurse midwives worked in hospitals under a physician's supervision. Eventually, the midwifery profession was expanded as the need "to serve women in their homes" was recognized.

Ms. Kanne informed that the two midwifery classifications are melding today. Certified direct-entry midwives have become more professional and a licensure process has been established in practically every state. Certified nurse midwives are now working in birth centers as well as managing home births.

Ms. Kanne disclosed that because certified direct-entry midwives were originally apart from the medical profession, their clinical training requirements are more extensive than a certified nurse midwife "or even a physician". The midwifery licensure requirements include attending a specified number of births and apprenticeship programs.

Senator Olson removed his objection.

There being no further objection, HB 35 was REPORTED from Committee with previous zero fiscal note #1 from the House Finance Committee for the Department of Commerce, Community and Economic Development.

Co-Chair Stedman reiterated that the intent was to eventually attach HB 35's fiscal note #1 with SB 81.

[9:10:24 AM](#)

#sb89

CS FOR SENATE BILL NO. 89(JUD)

"An Act relating to requiring electronic monitoring as a special condition of probation for offenders whose offense was related to a criminal street gang."

This was the first hearing for this bill in the Senate Finance Committee.

[9:11:04 AM](#)

SENATOR BILL WIELECHOWSKI, the bill's sponsor, explained that this legislation would require gang members on probation or parole to wear electronic monitoring ankle bracelet devices. Increased gang activity in and around the Anchorage area in recent years and the concern that such activity would spread to other areas of the State were factors in this effort.

Senator Wielechowski reported that 122 gang related cases were reported in 2006 and 20 have been reported to date in 2007.

Senator Wielechowski informed that this legislation, which is modeled on the "innovative approach" San Bernardino California has taken to deter gang activity, is an effort to address

citizens requests that "something be done". Requiring gang members on parole or probation to wear electronic ankle monitoring devices has proven to be a successful deterrent in San Bernardino.

Senator Wielechowski explained that the movements of the individual wearing the ankle bracelet would be tracked by global positioning system (GPS) technology.

Senator Wielechowski noted that several monitoring options were available, including one that could trigger an alarm and alert the probation officer if the parolee or probationer entered a restricted zone, such as a high school. The probation officer could either contact the parolee or send police to the area. He stressed that GPS monitoring systems have been successful in prohibiting gang members on parole or probation from re-associating with other gang members.

Senator Wielechowski advised that the Anchorage Police Department, the Municipality of Anchorage and the Anchorage School District considered this legislation a top priority". Letters of support from the Anchorage and Fairbanks Police Departments are included in Members' packets [copies on file]. "They recognize that it's better to nip this problem in the bud rather than see it spread into outlying areas." He thought it unlikely that the gang problems being experienced today in the State would have been foreseen 20 years ago.

Senator Wielechowski spoke to the bill's indeterminate fiscal note. Two types of expenses are associated with this program. The first is the cost of the ankle monitoring device, which ranges from eight dollars to \$17 per day. That cost "would be paid by the parolee or probationer.

Senator Wielechowski identified the second expense as being the cost of monitoring individuals. The original version of the bill called for "continuous monitoring". That effort would require having a person monitor paroled or probationary gang member's movements 24 hours a day. One individual could realistically monitor 15 to 20 individuals. Either police or a probation officer would respond the moment an individual traveled into a prohibited zone.

[9:15:25 AM](#)

Senator Wielechowski communicated that the Senate Judiciary Committee considered continuous monitoring to be too expensive, and opted for computer monitoring rather than live monitoring. Computer monitoring technology has advanced to a level that could easily monitor of up to 100 individuals. This system would send an alarm to an authorized individual via a small communications device, such as a Blackberry, when someone moved into a restricted area. That individual could either call the offending individual or send a probation officer or a police officer, depending on the severity of the situation.

Senator Wielechowski stated that the Judiciary Committee supported a more passive monitoring approach primarily to contain program costs. The analysis section of the Department of Corrections indeterminate fiscal note #5 depicted the costs associated with each of the three monitoring options. The costs ranged from \$157,000 to \$195,000.

[9:17:09 AM](#)

Senator Olson asked whether those were annual costs.

Senator Wielechowski affirmed.

Senator Olson inquired to the length of time a probationer would be required to wear a monitoring device.

Senator Wielechowski advised that the length of an individual's probation or parole period would be the determining factor.

[9:17:46 AM](#)

Senator Dyson understood that, to date, the State has not experienced "classic patterns" of gang activity such as turf wars or "the control of a particular criminal activity" such as drug distribution or prostitution.

Senator Dyson declared that this technology could be useful in monitoring individuals who had committed other types of crimes such as sexual assault and domestic violence. To that point, he asked the reason that the scope of the bill was limited to individuals associated with gang activity.

Senator Wielechowski agreed that the devices could be effective in controlling other crimes. They have been successful in other

places in deterring "sexual offenders; particularly sex offenders of little children". The devices could be programmed to alert authorities when the wearer crossed into a place such as a school zone.

Senator Wielechowski qualified that the bill's focus on gang related offenders was strictly in consideration of cost. While he would not object to expanding the scope of the bill to include other criminal activities, he cautioned that doing so would significantly increase the fiscal note.

Senator Wielechowski suggested that monitoring parolee and probationer activities be considered a first step. If successful, it could be expanded to include other offenses.

[9:19:49 AM](#)

Senator Dyson concluded from discussions with law enforcement personnel that gang related activities in Alaska were not geographically centered and is spreading outside of the area where the parolee or probationer might reside. Thus, effective monitoring activities might be limited.

Senator Dyson asserted that restraining orders on domestic violence (DV) "have very little demonstrated effectiveness on keeping the abusers from going where they shouldn't go". Law enforcement often responds after the "order has been violated and or the damage is done..." Thus, while he thought that this legislation would assist in curtailing gang related activities in the future, he thought "it would have marginal affect on the criminal gang activity now". The monitoring device "could be hugely helpful, particularly in DV cases and the other ones where somebody has been terrorized by sexual assault and has no clear way without this of knowing where their perpetrator is in relationship to them".

[9:21:23 AM](#)

Senator Wielechowski agreed that this type of monitoring would be effective in addressing DV cases. Nonetheless, utilizing the device to address gang related activities was the top priority of the Anchorage and Fairbanks Police Departments, the Anchorage School Board, and the Municipality of Anchorage including people in his Senate District. He stressed that monitoring gang related

parolees and probationers would be a "strong deterrent" in containing gang related activities.

[9:22:14 AM](#)

Senator Thomas asked whether research has shown that monitoring paroled gang members is effective in reducing the pressure on such an individual to re-associate with a gang.

Senator Wielechowski communicated there being "strong indicators that when gang members get out of jail, there is a tremendous tremendous peer pressure" to rejoin the gang. However, research indicates that gang members seek to avoid having someone who is being monitored around them, as that person's movements could be tracked. This has assisted the paroled gang member "to get back into society" and distance themselves from a gang.

Senator Thomas asked whether the cost of expanding the bill to include the monitoring sex offenders had been investigated.

Senator Wielechowski replied in the negative.

[9:23:50 AM](#)

SHARLEEN GRIFFIN, Director, Division of Administrative Services, Department of Corrections, spoke to the Department's indeterminate fiscal note #5. The costs of three different types of monitoring options were depicted in the fiscal note analysis. The experience of San Bernardino with the continuous monitoring system or "active GPS" monitoring" is one monitor per 15 offenders. The expense associated with that system is likely the reason the Senate Judiciary Committee supported replacing that system with another monitoring option.

Ms. Griffin explained that "a Passive GPS system with intensive supervision" would allow a probation officer to monitor 20 probationers. This system was not "real time" though. It would download a tracking of the probationer or parolee's movements every 24 hours. However, this system could be programmed to alert the probation officer "in real time" if the parolee entered a restricted zone.

Ms. Griffin stated that the third option, Passive GPS without intensive supervision, would require one probation officer per 40 offenders.

Ms. Griffin stated that fiscal note #5 is an indeterminate fiscal note because the type of monitoring system and therefore the number of parolees who would be monitored is unknown.

[9:25:42 AM](#)

Senator Elton asked whether the use of the devices would be limited due to availability.

Ms. Griffin understood otherwise. The State could contract with a provider for whatever number was required. She could investigate this further if desired.

Senator Elton asked that the issue be further reviewed. He also inquired as to which communities could utilize the devices.

Ms. Griffin communicated that electronic monitoring (EM) devices are currently being utilized in Anchorage, Fairbanks, Ketchikan, and Kenai. She would investigate whether there were areas in the State in which EM devices would not work.

Senator Elton inquired to the process for determining who would be required to wear the monitoring device.

Ms. Griffin responded that the Department currently used EM devices "as a form of incarceration". The Department was uncertain as to the number of individuals the Court would identify for this program.

Senator Elton asked, for sake of clarity, whether the Alaska Court System or the Department of Corrections would make the determinations.

Ms. Griffin understood that the Court would make the determinations. Further questions in this regard should be directed to the Department of Law.

[9:28:10 AM](#)

Senator Wielechowski informed the Committee that, in order to have an individual wear the EM device, an aggravating factor must be proven in Court. In other words, it must be proven that the defendant had been involved in an offense or benefited from the activity of a criminal street gang.

9:29:07 AM

CHUCK COPP, Chief of Police, Kenai Police Department and Member, Anchorage Violent Crimes Task Force Law Enforcement Subcommittee, testified via teleconference from an offnet location. He noted that the Anchorage Violent Crimes Task Force was formed to specifically address youth and gang violence in the city.

Chief Copp voiced his support for the bill. EM is a proven tool in many states in monitoring violent crime parolees and probationers. It has specifically been beneficial in allowing probation officers to monitor the activities of 17 to 22 year olds as it has allowed officers to "provide positive reinforcement when their behavior patterns are in compliance". This age group is "amenable to positive reinforcement when behavioral patterns do change".

Chief Copp affirmed that the EM device is a deterrent to re-associating with a gang as gangs do not welcome being monitored and tracked. "It is a good tool".

Chief Copp informed the Committee that Kenai law enforcement, in partnership with the Department of Corrections, has been operating a pilot monitoring program for approximately two weeks. Up to 15 individuals are effectively being monitored at this time. Good data would be available in approximately 12 months. The program would be beneficial to other areas of the State.

9:31:37 AM

Senator Dyson asked the type of individuals being monitored in the Kenai program.

Chief Copp reminded that the pilot program had only been operational for two weeks. Offenders being monitored to date have committed lower level violent crimes such as assault or crimes determined by the Court to be worthy of monitoring. The program, which is undergoing an approximate two-month evaluation period, is utilizing several types of technologies. The system is functioning properly in regards to monitoring such things as offender's locations and "the ability to monitor breath samples

remotely". The program would be modified to address higher level offenders after this initial period.

Senator Dyson understood therefore that the Kenai pilot program did not currently include gang related offenders. He asked whether the higher level offenses being referred to would include violent crimes with victims living in the area.

Chief Copp understood that the program would be expanded to include individuals who had committed violent sex crimes and violent assaults. A list of qualifiers has been developed by adult-probationary officers and the Court.

Chief Copp informed that Kenai, at the moment, did not have many gang related offenders in its prisons. Kenai law enforcement officials have worked diligently with the Anchorage Police Department to deter gang activity from spreading to the area.

Chief Copp reported that Kenai has taken "a very active role" in implementing this pilot program. In addition to the goal of having its own program in place, the hope is that this effort would support the effort to implement a similar program in Anchorage.

Senator Dyson asked whether the probationers would pay for the program in Kenai.

Chief Copp was unsure of the manner in which probationers and parolees would support the program.

[9:34:58 AM](#)

Senator Thomas asked whether the Court or law enforcement agencies might be liable if, due to equipment failure or another reason, a person being monitored committed a serious crime.

Chief Copp expressed that "government entities will always have liability" since the nature of their task is to provide for public safety. The technology has worked well in other parts of the country and should work in Alaska. He did not anticipate liability increasing beyond current experience.

[9:36:12 AM](#)

CAPTAIN GARDNER COBB, Anchorage Police Department, testified via teleconference from an offnet location in support of the bill. He suggested that the narrow scope of this bill would present the opportunity to determine whether the program would work in Alaska. If successful, the program could be expanded.

Captain Cobb supported the Active Monitoring method as it would allow law enforcement officers to catch a parolee or probationer in the act of violating. There is also value in changing an individual's behavior and keeping them from re-associating with a gang.

Captain Cobb attested to the gang problem in Anchorage. There is no "inexpensive solution to mitigating the violence here". Because he is the coordinator of the gang response effort in Anchorage, he is aware of national efforts in this regard. "The way to get the violence under control to begin with is that you identify the gang leaders, the hard core members, the ones that are committing most of the violence, and you put them in jail for a long long time."

Captain Cobb also announced that in order to counter the "conveyor belt" that is producing "these hardened thugs that are committing the violent crimes", investments must be made to help families at risk.

[9:38:35 AM](#)

Senator Dyson concluded that the likely outcome of this monitoring effort would be to revoke probations rather than to protecting public safety.

Captain Cobb shared that the experience in Anchorage is that people out of jail on bail or on probation are committing violent crimes. This program "would help mitigate that" by keeping those individuals separate from people and areas which influence that activity.

Senator Dyson understood therefore that law enforcement officials would be able "to intercede" were a perpetrator to approach a victim.

Captain Cobb clarified that the Department of Corrections would conduct the monitoring activities. APD would respond if the Department of Corrections required assistance.

[9:40:29 AM](#)

CAROL COMEAU, Superintendent, Anchorage School District and Member, Anchorage Violent Crimes Task Force, testified via teleconference from an offnet location in support of the legislation. It would be both an intervention and a preventive measure to having gang activities on high school grounds. Many gang "wannabes" are in schools. This bill would assist in deterring people who are out of high school from getting on school grounds.

Ms. Comeau advised that many school students are currently wearing ankle monitoring bracelets for a variety of reasons. The School District has an excellent relationship with police officers who work in the schools and probation officers. Passage of this legislation would provide an additional tool through which to deter gang related activities.

[9:42:08 AM](#)

Senator Elton asked whether the Judiciary Committee action of including "parole" in the bill would require a title change. He also asked whether that inclusion would affect the fiscal note.

[9:42:29 AM](#)

Senator Wielechowski clarified that the subsection pertaining to parolees was added by the Senate Judiciary Committee, at the request of the Department of Law. The expense associated with that should be included in the fiscal note as it was developed after that action occurred. The bill title might require a change to reflect the addition of the parole subsection.

[9:43:14 AM](#)

Ms. Griffin stated that the Department would continue to support an indeterminate fiscal note. The cost would be dependent on the number of people being monitored and the type of monitoring methodology.

[9:43:38 AM](#)

Co-Chair Hoffman observed that the fiscal note denoted there being 96 offenders on probation with 36 of those under intensive

supervision. There were 50 juvenile probationers with another 23 pending. He asked whether the monitoring system would focus on juveniles or adult probationer/parolees.

Senator Wielechowski communicated that the goal would be to monitor anyone meeting the definition. While this could be further addressed by the Department of Law or the Department of Corrections, he thought that the program would apply more to adults and juveniles tried and convicted as adults under law.

Co-Chair Hoffman asked which of the three monitoring methods was preferred by the Department of Corrections.

[9:45:14 AM](#)

Ms. Griffin stated that the Department's position would depend on the version of the bill adopted. The Department would likely support the "passive GPS with intensive supervision" monitoring system were the word "continuous" not included in the final version of the bill. The "active GPS with intensive supervision" monitoring system would be supported otherwise.

Co-Chair Stedman ordered the bill HELD in Committee for further discussion.

[9:46:07 AM](#)

#sb105

CS FOR SENATE BILL NO. 105(TRA)

"An Act extending, for purposes of a program of debt reimbursement to municipalities, the date by which debt must be incurred for a small boat harbor; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Stedman communicated that the intent would be to move this bill from Committee today unless new information or unanticipated circumstances were presented.

Co-Chair Hoffman, the bill's sponsor, deferred to staffer John Weise to present the bill.

JOHN WEISE, Staff to Co-Chair Hoffman, stated that this bill is a continuum to HB 528, which was passed by the Legislature in 2002. Due to a number of delays, including a lengthy environmental impact statement (EIS) process, the small boat harbor project in the City of Unalaska which was specified in that bill could not be completed by the 2007 deadline.

Mr. Weise displayed a schematic [copy not provided] of the overall project and communicated that the outer harbor work, which is a federal project, must be completed before the City of Unalaska could conduct the inner harbor work addressed in HB 528.

Mr. Weise advised that the funding mechanism for the outer harbor work that would be conducted by the federal Corps of Engineers had changed, and the work could not begin until full federal funding was allocated. This funding was anticipated to be included in the FFY 2008 appropriation bill with construction to begin in 2009.

Mr. Weise stated that the total cost of the inner harbor project work that would be conducted by the City of Unalaska is estimated to be approximately \$12 million dollars. Five million dollars of that was reimbursable by the State.

[9:50:16 AM](#)

In response to a question from Co-Chair Stedman, Mr. Weise stated that language in the title of the original version of SB 105 mirrored that of HB 528. The intent of this bill was to extend the 2007 deadline for debt incurred for projects specified in HB 528 to 2012. The Unalaska small boat harbor project is the only project included in that bill that has not incurred debt.

Mr. Weise specified that since the title of the bill could not specifically denote the Unalaska small boat harbor in its title, the goal of the committee substitute adopted by the Senate Transportation Committee was to "make it as tight as possible so that the funding would only get directed toward a small boat harbor, and, in this case, Unalaska's".

Senator Huggins concluded therefore, that even though multiple harbors were identified in HB 528, funding would be limited to the Unalaska small harbor project.

Mr. Weise expressed that the other harbors would be covered since they are still in the bill. The distinction is that, with the exception of Unalaska, debt for the other harbor projects has been incurred.

Co-Chair Stedman specified that this bill would not incur any fiscal impact to the State, as the fiscal impacts had been addressed in HB 528. This bill would simply extend the timeline of that legislation.

Mr. Weise noted that a representative of the City of Unalaska was available to answer questions.

[9:53:11 AM](#)

Senator Dyson spoke in support of the bill. "Dutch Harbor/Unalaska is the largest fishing port" in North America and perhaps the world, in terms of "fish poundage or value". Fishing in that area is dangerous and it is imperative that boats have access to safe harbors. The Dutch Harbor/Unalaska area is the largest fishing industry location in the State and is a significant supporter of the industry.

Co-Chair Hoffman moved to report the bill from Committee with individual recommendations and accompanying fiscal notes.

There being no objection, CSSB 105(TRA) was REPORTED from Committee with two previous zero fiscal notes: fiscal note #1 from Department of Commerce, Community and Economic Development and fiscal note #2 from the Department of Transportation and Public Facilities.

AT EASE [9:55:05 AM](#) / [9:55:02 AM](#)

#

ADJOURNMENT

Co-Chair Bert Stedman adjourned the meeting at [9:55:10 AM](#).