

**ALASKA STATE LEGISLATURE  
JOINT MEETING  
HOUSE JUDICIARY STANDING COMMITTEE  
SENATE JUDICIARY STANDING COMMITTEE**

Fairbanks, Alaska  
November 4, 2013  
9:31 a.m.

**MEMBERS PRESENT**

HOUSE JUDICIARY

Representative Wes Keller, Chair  
Representative Gabrielle LeDoux  
Representative Charisse Millett  
Representative Lance Pruitt  
Representative Max Gruenberg

SENATE JUDICIARY

Senator John Coghill, Chair  
Senator Lesil McGuire, Vice Chair  
Senator Fred Dyson

**MEMBERS ABSENT**

HOUSE JUDICIARY

Representative Bob Lynn, Vice Chair  
Representative Neal Foster

SENATE JUDICIARY

Senator Bill Wielechowski  
Senator Donald Olson

**COMMITTEE CALENDAR**

OVERVIEW: INFORMATIONAL HEARING ON SB 64 - OMNIBUS  
CRIME/CORRECTIONS BILL

- HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

CHAD HUTCHISON, Staff  
Senator John Coghill  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Participated in the informational hearing on SB 64 and presented a PowerPoint overview.

RONALD TAYLOR, Deputy Commissioner  
Office of the Commissioner - Anchorage  
Department of Corrections  
Anchorage, Alaska

**POSITION STATEMENT:** Testified and answered questions during discussion of SB 64.

BILLY HOUSER, Programs Administrator  
Division of Probation and Parole  
Department of Corrections  
Palmer, Alaska

**POSITION STATEMENT:** Testified and answered questions during discussion of SB 64.

PAT VENTAGEN, Chief Clinical Officer  
Akeela  
Anchorage, Alaska

**POSITION STATEMENT:** Testified and answered questions during discussion of SB 64.

KELVIN LEE, President  
New Life Development Inc. (NLDI)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified and answered questions during discussion of SB 64.

JANET MCCABE  
Partners for Progress

**POSITION STATEMENT:** Testified and answered questions during discussion of SB 64.

BILL MICKELSON  
Law Enforcement  
South Dakota

**POSITION STATEMENT:** Testified and answered questions during discussion of SB 64.

TOM BUTLER, Colonel

Montana Highway Patrol  
Montana

**POSITION STATEMENT:** Testified and answered questions during discussion of SB 64.

DENNIS JOHNSON, Program Director  
Alaska Pre-Trial Services  
Anchorage, Alaska

**POSITION STATEMENT:** Testified and answered questions during discussion of SB 64.

DOUGLAS MOODY, Deputy Public Defender  
Criminal Division  
Central Office  
Public Defender Agency  
Department of Administration  
Anchorage, Alaska

**POSITION STATEMENT:** Testified and answered questions during discussion of SB 64.

SHIRLEY LEE  
Tanana Chiefs Conference (TCC)  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified and answered questions during discussion of SB 64.

#### **ACTION NARRATIVE**

[9:31:39 AM](#)

**CHAIR JOHN COGHILL** called the joint meeting of the House and Senate Judiciary Standing Committees to order at 9:31 a.m. Senators Coghill, McGuire, and Dyson, and Representatives Keller, Millett, Pruitt, Gruenberg, and LeDoux were present at the call to order.

#### **Overview: Informational Hearing on SB 64 - Omnibus Crime/Corrections Bill**

[9:33:39 AM](#)

CHAIR COGHILL announced that the only order of business would be an informational hearing on SB 64 - Omnibus Crime/Corrections Bill. [In front of the committee was CSSB 64(STA)]

CHAIR COGHILL explained that the goal was to discuss its budget projections, incarceration and alternatives to incarceration, reentry issues, and community supervision. He offered his intent for a forthcoming proposed committee substitute (CS) to address the points raised in this meeting, with an objective to decrease costs while maintaining the high priority for public safety and respect for individuals. Referring to the provisions of the proposed bill that would establish an Alaska Sentencing Commission, he offered his understanding that, although one such commission had been statutorily established in the 1990s, there would be differences with this commission.

[9:38:08 AM](#)

CHAD HUTCHISON, Staff, Senator John Coghill, Alaska State Legislature, directed attention to CSSB 64(STA), and declared that the proposed bill was a joint, bi-partisan effort initiated by Senators Ellis and Coghill, with contributions by Senators Dyson, Myers, and French. Referring to the PowerPoint presentation titled "Presentation For CS For Senate Bill No. 64(STA)," he listed the goals to include: improvement of public safety, intelligent review of Alaska's criminal justice system, reduction of recidivism rates, and reduction of government costs (slide 3). He indicated the three major provisions of the proposed bill, slide 4, "What does SB 64 do?": One, it would establish an Alaska Sentencing Commission to review and analyze Alaska's sentencing laws, procedures, and statistics in order to reduce costs and increase the effectiveness of Alaska's criminal justice system; Two, it would amend the statutes pertaining to limited driver's licenses in order to assist chronic offenders to the crimes of driving under the influence (DUI) and refusal to submit to a chemical test, via the use of therapeutic courts and treatment; and, three, it would create new duties for the Department of Corrections (DOC) and the State Board of Parole to establish an alcohol and drug-testing program that provided for prompt response to probation/parole violations. Referring to slide 7, "Section 1," he explained that this would refine the conditions for qualification of credit for time spent in a treatment program against a sentence of imprisonment.

REPRESENTATIVE GRUENBERG, stating that he supported the proposed change, offered his understanding that Section 1 would reverse a decision by the Alaska Court of Appeals. He relayed that the House Judiciary Standing Committee (HJUD) had discussed this, and that it was an important addition to the proposed bill.

9:43:26 AM

MR. HUTCHISON expressed his agreement for the importance of Section 1.

CHAIR COGHILL noted that Section 1 attempted to allow both freedom and flexibility within the accountability.

MR. HUTCHISON went on to explain that Section 2 of the bill addressed the establishment of an Alaska Sentencing Commission, and that its membership makeup would include members of the House and Senate, active or retired judges and justices, representatives of the Native community, representatives of certain departments, agencies, and offices within the administration, and a victims' rights advocate, slide 8.

CHAIR COGHILL added that the policy questions of whether to provide for an executive director and whether to include a private-sector attorney in the proposed list of commission members were still to be discussed.

MR. HUTCHISON, moving to slide 9, "Section 2 (Continued)", said that the proposed Alaska Sentencing Commission should evaluate and make recommendations to improve the criminal justice system, and should consider statutes, sentencing practices, and crime/incarceration rates to make recommendations. These recommendations should be based on several factors, including seriousness, prior criminal history, and resources available to the agencies. Pointing to slide 10, he noted that a change incorporated into CSSB 64(STA) was that the proposed Alaska Sentencing Commission be established in the Office of the Governor, rather than in the Alaska Court System (ACS), so there would not be any perceived bias should the court be asked to rule on recommendations made by the commission. He indicated that the aforementioned previous commission had also been established in the Office of the Governor.

CHAIR COGHILL recollected earlier discussion that, as the court system was "loathe to make policy calls," the commission would better serve in the "policy making arena than it does in the judicial."

REPRESENTATIVE GRUENBERG, speaking on behalf of the minority membership of the joint committee, referred to the provisions of the bill addressing the appointment of legislative members to the proposed commission, and suggested that in order to avoid a conflict of interest, those provisions be amended such that

appointments of legislators from the minority caucuses shall be made by the minority leaders.

CHAIR COGHILL acknowledged that this point should be further discussed.

REPRESENTATIVE MILLETT asked whether there was precedence for any other committee appointments by the minority leader.

REPRESENTATIVE LEDOUX questioned whether the list of proposed commission members should be amended to include a representative from rural Alaska, given that the representative from the Alaska Native community may not necessarily live in rural Alaska.

CHAIR COGHILL acknowledged the point, and observed that the issue of who would appoint such a member would also need to be addressed.

REPRESENTATIVE MILLETT suggested that the list of proposed commission members be further amended to include "a substance-abuse expert," given the prevalence of substance-abuse problems among offenders.

CHAIR COGHILL, noting that both the Department of Public Safety and Department of Health and Social Services were represented, acknowledged that point as well.

SENATOR DYSON, opining that the committee could become quite large and unwieldy, suggested that the list of proposed commission members be amended to include someone who had significant criminal history, had been incarcerated in Alaska, and had successfully reintegrated into society.

CHAIR COGHILL acknowledged that suggestion.

[9:52:44 AM](#)

MR. HUTCHISON, directing attention back to slide 10, explained that other changes incorporated into Section 2 of CSSB 64(STA) included the addition of a victims' rights advocate to the list of proposed commission members and a conforming change to the provision stipulating that the commission should now consist of 17 members. There was also addition of the phrase "active or retired" to the provisions listing the justices and judges that could be designated as members. Referencing slide 11, he noted a change to now include a representative member from the Alaska Native community, rather than the executive director of the

Alaska Native Justice Center or his/her designee, thereby widening the pool from which that member may be drawn. He listed a change such that the member from the Department of Health and Social Services (DHSS) shall be designated by the commissioner or deputy commissioner, rather than the director of the Division of Juvenile Justice or a designated supervising regional probation officer.

REPRESENTATIVE LEDOUX questioned whether there were any over-represented incarcerated populations other than Alaska Natives that ought to be represented on the proposed Alaska Sentencing Commission.

CHAIR COGHILL ventured that it was necessary to address the fact that Alaska Natives were over-represented in Alaska's prisons, and he questioned whether the Department of Corrections had information for other groups which were over-represented in the prisons.

MR. HUTCHISON reported on the changes for a victims' rights advocate and the Alaska Native community member: to be appointed by the governor, shall serve at the pleasure of the governor, and may be reappointed. This was deemed necessary because the proposed Alaska Sentencing Commission would be established in the Office of the Governor; and the Office of the Governor, rather than the Alaska Judicial Council (AJC), shall provide staff and administrative support to the proposed commission. He noted that there was still some debate whether the AJC should instead be the entity that provided staff and administrative support to the proposed commission.

[9:58:19 AM](#)

MR. HUTCHISON expressed agreement that the AJC already did research analysis matching the intent of the proposed commission. Moving on to slide 12, he listed the changes recommended by various groups, which included a change of name to "Alaska Criminal Justice Commission," which would broaden the scope of the commission to more accurately reflect its mission. He spoke of another suggested change that, instead of deputy commissioners there be designees from the various departments.

[9:59:15 AM](#)

REPRESENTATIVE MILLETT inquired as to the theory behind the change from deputy commissioner to designee, and she expressed her discomfort with this recommendation.

MR. HUTCHISON replied that this would broaden the scope of experience for those who could serve on the commission.

REPRESENTATIVE MILLETT expressed her concern that this would result in a lower level involvement.

[10:00:09 AM](#)

MR. HUTCHISON directed attention to the list of recommended changes for membership on slide 13, "Section 2 - Potential Policy Calls (Continued)," noting that it now included more designees among its proposed 17 members. Moving on to slide 14, he commented that AJC already had staff with comparable duties, which would allow for a relatively smooth transition. He noted the unresolved question on slide 15, whether an Executive Director should have oversight for the commission. He pointed out that, although there would be more accountability, there could also be a potentially larger fiscal note.

CHAIR COGHILL shared that his staff had created a comparison sheet for the various duties of other commissions.

[10:02:49 AM](#)

REPRESENTATIVE GRUENBERG, referring to slide 15 which stated that the 21 similar commissions in the United States all had Executive Directors, asked what these commissions did in order to necessitate an Executive Director.

CHAIR COGHILL expressed his agreement with Representative Gruenberg, and pointed out that some commissions had the authority to make regulations, in contrast to this proposed commission.

[10:03:49 AM](#)

REPRESENTATIVE GRUENBERG, observing that the proposed commission would primarily be making recommendations, asked if regulatory power was only included with an executive function.

CHAIR COGHILL replied that the purpose of the proposed commission was solely for recommendations.

CHAIR COGHILL, in response to a question from Representative Gruenberg, offered to share the authority granted to various commissions.

[10:05:31 AM](#)

MR. HUTCHISON directed attention to slide 16, "Sunset?" and reported that three, five, and seven year thresholds had been discussed, noting that the previous commission had been for three years.

[10:05:58 AM](#)

CHAIR COGHILL offered his belief that a commission needed enough time to become effective, and to study the effects of current practices.

[10:06:41 AM](#)

REPRESENTATIVE MILLETT offered her belief that the commission needed independence, noting her concern with the commission being housed within the AJC.

[10:07:10 AM](#)

MR. HUTCHISON referenced slide 17, which explained why the commission was housed in the Office of the Governor. It listed the potential problems of establishment by the court system, as it could include a perception for potential bias with recommendations coming from the court system.

MR. HUTCHISON moved on to slide 18, "Section 3," which discussed the revocation of a license for a DUI or a refusal. He reported that the intent of Section 3 was to get treatment for chronic offenders, thereby lowering the cost to the state and the burden to society, while allowing the offenders to return to a normal operating mode. He explained that a license revocation could be terminated by the courts upon successful completion of a court ordered treatment program, good behavior, and successful driving with a limited license for a minimum period of time. He listed various times of revocation, depending on offense, slide 19. Directing attention to slide 20, "OR..." he relayed that the intent of the proposed bill was for a person, who had successfully completed a court ordered treatment program with good behavior, and had successfully driven under the limited license for a minimum period of time, would expedite the return of driver licenses after felony DUI's or refusals. Moving on to slide 21, "What does that mean?", he offered an example for Section 3 of the proposed bill, and described a third DUI offense. He explained that this was "designed to incentivize

chronic DUI offenders to face their alcohol problems" and offered a strong incentive for a person to stay clean and sober and become a productive member of society, while reducing costs to the state's criminal justice system.

[10:11:07 AM](#)

MR. HUTCHISON reported on the changes made to Section 3 of the proposed bill by the Senate State Affairs Standing Committee (SSTA), slide 22. He detailed that page 6, lines 13-17, changed the conditions to terminate a license revocation for DUI or refusal to clarify that a person needed to successfully complete a court ordered treatment program, could not be charged or convicted of a DUI or refusal since completion of the program, and must have successfully driven with a limited license for the minimum period.

[10:11:42 AM](#)

MR. HUTCHISON, addressing slide 23, "Section 4 - Limited Licenses," detailed that a limited license could be granted after a DUI or a refusal if the person participated in a court-ordered treatment program, provided proof of insurance, and agreed to be free from drugs and alcohol and pay the cost of testing for these substances.

[10:12:23 AM](#)

CHAIR COGHILL shared that the conditional license program could include wearing an ankle monitor or testing twice daily for drug and alcohol, in order to increase individual accountability and public safety.

[10:13:32 AM](#)

MR. HUTCHISON opined that there should be immediate consequences for charge or conviction of DUI or refusal, or a positive test for drugs or alcohol. He reported on slide 24, "Section 4," which listed other changes made to the proposed bill by the Senate State Affairs Standing Committee (SSTA). He pointed out that page 6, lines 26-31, and page 7, lines 4-6 and 12-13, changed the conditions for granting a limited license. He explained the new timeframes, and the requirement to abstain from alcohol and drug use while also paying for the cost of testing for these substances. He declared that any positive test for these substances would result in the limited license being revoked.

[10:14:21 AM](#)

MR. HUTCHISON presented Section 5 of the proposed bill and explained the procedure if a person needed to plead guilty or no contest, slide 25, which included modification of the language to include an ability by the court to reduce the fine, imprisonment, or license revocation. Reviewing slide 26, "Sections 6 & 7," he addressed the issue of dealing with DUI and refusal for felons, noting that the court may restore the driver's license if there was good behavior and social responsibility for 10 years, and the court shall restore the license if there has been good behavior and financially responsibility while successfully driving with a limited license for five years. He reported on the changes in Section 6 of the proposed bill, slide 27. On page 8, lines 11-27 of the proposed bill, the felony DUI was addressed, and he listed when the department may restore and shall restore the driver's license, clarifying that a person cannot have had a conviction for a criminal offense since the license was revoked.

[10:16:00 AM](#)

CHAIR COGHILL offered his belief that the aim was to create a high degree of accountability while offering tools for the court to reward good behavior and increase public safety.

[10:16:42 AM](#)

REPRESENTATIVE MILLETT asked if there was a requirement for ignition interlock devices during the 5 year limited license period.

CHAIR COGHILL surmised that this would be an option for the courts.

MR. HUTCHISON, in response to Representative Millet, stated that currently it was not included in the proposed bill.

[10:17:41 AM](#)

REPRESENTATIVE LEDOUX questioned whether the proposed bill included a provision for restitution to the victim.

CHAIR COGHILL expressed his agreement with the need for restitution, and accountability for its collection.

10:18:40 AM

MR. HUTCHISON discussed slide 28, "Section 7 - Changes from State Affairs," and detailed that these changes paralleled those changes in Section 6 addressing Felony Refusal. Moving on to slide 29, "Sections 8 & 9," he relayed that these sections directed the Commissioner and the Parole Board to establish programs for probationers and parolees which included random drug testing, required a petition to revoke if there was violation, and allowed the courts to receive prompt notice of a violation and to take action as necessary.

MR. HUTCHISON explained slide 31, reporting that Sections 8 & 9 were modeled after the Probation Accountability and Certain Enforcement (PACE) program in Anchorage. He quoted from Judge Steven Alm in Hawaii, slide 30: "I thought about how I was raised and how I raise my kids. Tell 'em what the rules are and then if there's misbehavior you give them the consequences immediately." He pointed out that this was the basic premise for the PACE program, as it responded immediately to bad behavior. The PACE program would identify probationers who were likely to violate their conditions of probation, and notify them that any violations had consequences. Frequent randomized drug testing would be required, and there would be swift, certain terms of incarceration for any violations.

MR. HUTCHISON noted that slide 32 addressed the changes in Section 8. These changes clarified the language that a probation officer would file a petition to revoke probation if a probationer failed to appear for an appointment, tested positive for controlled substances or alcohol, or failed to follow any court ordered conditions of probation. Explaining slide 33, "Changes in Section 9," he pointed out that this included similar clarifying language for the parole board. He mentioned that there were some potential policy calls for Sections 8 & 9, slide 34, which could include a change of language from "urinalysis" to "drug and/or alcohol testing."

MR. HUTCHISON referenced slide 35, "Sections 10 - 12," noting that these discussed applicability and changes, and that there were not any substantive changes to the proposed bill by the SSTA. He shared that the act would take effect immediately, and that the commission should meet for the first time no later than September 30, 2014, and report no later than February 1, 2016.

10:24:00 AM

The committee took an at-ease from 10:24 a.m. to 10:37 a.m.

[10:37:26 AM](#)

CHAIR COGHILL brought the committee back to order.

REPRESENTATIVE GRUENBERG asked to clarify that there would be a discussion regarding concepts and issues.

CHAIR COGHILL explained that this would be a discussion of reasons for the need of the proposed bill and pertinent issues including recidivism, accountability, and monitoring.

REPRESENTATIVE GRUENBERG asked if the witnesses could reference judicial decisions that also needed legislative evaluation and review that could be included in the proposed bill.

[10:39:56 AM](#)

RONALD TAYLOR, Deputy Commissioner, Office of the Commissioner - Anchorage, Department of Corrections, responded to an earlier question from Representative LeDoux regarding the over representation of the Alaska Native population, 37 percent, in the corrections system. He noted that the African American population represented about 10 percent in the corrections system. Directing attention to a three year study of the Alaska recidivism rate, he reported that this study was the impetus for making changes within the Department of Corrections. He reported that there was a 48 percent recidivism rate during the first year after release, either for a new crime or a technical violation. After three years, there was a 66 percent recidivism rate. He reported that only 15 inmates still remained in custody outside of the state.

[10:43:41 AM](#)

REPRESENTATIVE LEDOUX asked if the growth rate for inmate populations was due to population increase or an increase to sentences.

MR. TAYLOR declined to speculate, though he opined that it was a combination of both.

[10:44:13 AM](#)

REPRESENTATIVE GRUENBERG asked if there were any Alaska offenders still incarcerated in the federal system.

MR. TAYLOR replied that these offenders were included in the aforementioned 15 offenders residing outside Alaska.

[10:44:44 AM](#)

CHAIR COGHILL asked for the percentage of violent and non-violent offenses within the recidivism rate.

MR. TAYLOR replied that only the overall recidivism rates were addressed.

[10:45:08 AM](#)

SENATOR DYSON offered his understanding that 58-60 percent of recidivism was for non-violent offenses.

CHAIR COGHILL expressed his agreement.

[10:45:44 AM](#)

SENATOR MCGUIRE suggested that it would be helpful to identify the returning offenders by gender, by race, and by crime, in order to better invest for rehabilitation.

MR. TAYLOR, in response to Senator Dyson, pointed out that the figures he referred to were for violent and non-violent offenses, but overall recidivism rates were not distinguished. In response to Senator McGuire, he said that these risk assessment tools had previously been used for classification, but were now being used as she had suggested.

[10:48:02 AM](#)

MR. TAYLOR, in response to Senator McGuire, said that these tools were only used for classification and had not been used to help anyone improve.

SENATOR MCGUIRE asked if the recidivism tools could now be used for future analysis.

MR. TAYLOR expressed his agreement. In response to Chair Coghill, he explained that LSI-R referenced the Level of Service Inventory - Revised.

[10:49:53 AM](#)

MR. TAYLOR stated that the Department of Corrections total budget for fiscal year 2014 (FY 14) was \$334 million, of which about \$5 million was federal funds. He noted that the projected inmate population was based on the housing use at the Goose Creek Correctional Center.

[10:50:44 AM](#)

MR. TAYLOR, in response to Chair Coghill, stated that the inmate housing at Goose Creek Correctional Center was more expensive than it had been for housing in the Colorado facilities. He went on to say that current inmate population was slightly higher than had been projected and going forward, reflected about 7.3 percent growth in general funding, with a 3 percent population growth rate. He speculated that there would be a shortage of 770 beds for the inmate population in FY 20, equivalent to an additional facility about half the size of Goose Creek Correctional Center.

[10:51:56 AM](#)

REPRESENTATIVE LEDOUX, speculating that the policy to return prisoners to in-state was not a fiscal decision, asked if the policy was to have the inmates closer to their families.

MR. TAYLOR expressed his agreement that this was part of the decision making, and that keeping the jobs in Alaska was also part of the decision.

CHIAR COGHILL reflected that it had not been an easy policy call, and that given the projection for an increase to inmate populations, it would be necessary to immediately begin planning for another facility. He pointed out the importance of the proposed bill in order "to figure out how to do it better."

[10:53:42 AM](#)

REPRESENTATIVE PRUITT asked about any plans to deal with the increase in inmate population.

MR. TAYLOR replied that there were a combination of approaches, which included expansion of community halfway houses, electronic monitoring, and out of state contracts. He declared that the priority was to meet the needs within Alaska.

[10:54:42 AM](#)

MR. TAYLOR noted that there had been a slight decrease to recidivism rates from FY 06 to FY 10. He pointed out that adjustments had been made in FY 07 with the addition of some programming, and with technical assistance for the classification of the inmate population. He directed attention to an increase for successful completion of parole and the continuing decrease in the recidivism rates between FY 10 and FY 13.

[10:57:32 AM](#)

CHAIR COGHILL asked if the decrease in recidivism was due to fewer technical violation issues or an increase to the successful completion of programs.

MR. TAYLOR, in response, said that it was a combination and that the community was providing support for those individuals returning to the community. In response to Chair Coghill, he said that the PACE project was part of the success, though it was the prisoner re-entry initiative program and its task force that had turned the focus to successful completion of probation and parole. He lauded the community and legislative support for out-patient participation in expanded programs, as well.

[11:00:22 AM](#)

MR. TAYLOR directed attention to the department's mission statement and reported that securing confinement represented approximately 79 percent of the budget. Only about 4 percent of the DOC budget were reformative programs, while 15 percent of the budget was directed to supervised release and the community reintegration program. He reported that a departmental review to reduce recidivism had focused on who, what, and how. The "who" addressed to whom to devote time, energy, and resources; "what" addressed the needs and the problems of offenders who entered the system; and, "how" addressed the ways to deal with the problem areas.

[11:02:10 AM](#)

MR. TAYLOR explained that the LSI-R was utilized as a risk-assessment tool to identify the risk to re-offend, and to match supervision and treatment levels with strategies to produce the best correctional outcomes. He pointed out that the LSI-R was a 54 item risk assessment tool to review both static and dynamic factors, and to offer ways to address these needs. He declared that it was necessary to focus on the "essential 8" needs,

including attitudes, risky thinking, low self-control, anger management, and anti-social behavior. He noted that almost 90 percent of those persons using electronic monitoring devices had peers engaged in the same criminal activities. He pointed out that, as most inmates had never had, and did not understand, a healthy relationship, it was necessary to teach these. He reported that DOC would develop an overall case plan for each person which addressed at least four of the needs, in order to increase the possibility for reducing recidivism. He declared a need for each program to match each individual, with positive reinforcement and the correct intensity in each program.

MR. TAYLOR noted that, as almost 60 percent of persons on probation and parole were being over-classified, it was necessary to more accurately utilize the information on the risk assessments, and not simply use it for classification. He stated that programming, including clinical assessments, had been increased to better serve more individuals. He described the Alaska Native substance abuse programs in Nome and Bethel.

[11:07:37 AM](#)

MR. TAYLOR, in response to Chair Coghill, said that population shifts created a problem for fulfillment of programs. He assured the committee that the DOC has been working hard to minimize these movements before programs were completed.

[11:09:31 AM](#)

CHAIR KELLER asked who administered the clinical assessment.

MR. TAYLOR, in response, stated that there was a contract with Akeela, and that an inmate was only evaluated if the risk assessment tool suggested there was a problem with substance abuse. He spoke about the aftercare programs in the communities, and, in response to Representative Millett, he explained that there was a small wait list, and that the program was voluntary. He noted that DOC supported completion of the program for those inmates leaving custody. He said that the need for individual institutional counseling was determined by the LSI-R, and that, as substance abuse counseling services were not available for 60 -70 percent of the population, those with the highest risk were identified for the program. He pointed out that completion of the program, while incarcerated, was voluntary unless there was a court order.

[11:14:32 AM](#)

REPRESENTATIVE LEDOUX asked whether court orders requiring completion of the substance abuse programs during incarceration would reduce the rates of recidivism.

MR. TAYLOR reflected that court orders which had been ignored resulted in further incarceration. He stated that an increase to motivation for treatment was optimal, although a court order could be appropriate. He questioned how it would be determined who would require the court order. In response to Representative Millett, he said that he did not have statistics on the recidivism rate for court ordered versus voluntary program participation.

MR. TAYLOR, returning to his presentation, explained that there had been a 14 percent reduction in recidivism for those who completed the programs, although, in agreement with a statement by Chair Coghill, he acknowledged that there was still a greater than 40 percent rate for recidivism. In response to an earlier question by Chair Coghill regarding mental health services, he reported that 42 percent of the inmate population had mental disabilities, 27 percent experienced some severe mental illness, and up to 60 percent had possibly suffered a brain injury prior to custody. He referenced a new study regarding the impact of the services for these mental health services. He explained that the larger DOC facilities had supplied mental health clinicians to provide assessments, crisis intervention, treatment and relapse planning, and individual counseling. Upon entry into the DOC facility, an inmate was medically screened, and referral for mental health screening was offered if deemed necessary.

[11:18:40 AM](#)

SENATOR DYSON questioned whether the earlier reference to brain injury included autism and fetal alcohol syndrome.

MR. TAYLOR expressed his agreement. He stated that both psychiatric and tele-psychiatry services were available in the facilities. He described a program in the Anchorage area which combined probation officers and mental health clinicians to provide legal and clinical supervision for parolees with severe mental disorders of delusions or hallucinations. He discussed the mental health courts, which involved mental health clinicians and probation officers, as a voluntary post-charge program for those both in and out of custody, and an alternative to jail. It was required that an individual agree to the

sentencing and follow all the treatment recommendations by the court. Eligibility for the mental health court and participation in this program required psychotic disorder, serious mental illness, or organic impairment.

MR. TAYLOR, in response to Chair Coghill, said that this program was for both behavior and medication management. He shared that, as the capacity of each case coordinator was 20-30 cases, the program service was currently at its capacity.

MR. TAYLOR spoke about the Assess, Plan, Identify, and Coordinate (APIC) program, with its goal to quickly link offenders to community treatment centers, medication management, and housing to help ensure access to benefits and jobs. This program also offered help with child care, food, clothing, and transportation. To qualify, the person had to be incarcerated at the time of the referral, and have access to the services for 90 days prior to release and 60 days after release from custody. In response to Representative Millett, he said there was coordination for access to benefits with Indian Health Services and the Alaska Native Tribal Health Consortium.

[11:24:17 AM](#)

MR. TAYLOR mentioned that electronic monitoring allowed inmates to serve time outside the facilities.

[11:24:58 AM](#)

BILLY HOUSER, Programs Administrator, Division of Probation and Parole, Department of Corrections, stated that he was a programs administrator and a supervisor for the community jails, halfway houses, and electronic monitoring programs. He stated that all individuals having electronic monitoring were continually monitored for alcohol, with random weekly testing. He declared that individuals were responsible for compliance with the program demands, and that the recidivism rate after three years was only 18 percent. He said that, although there was a supervision fee, much of it was often waived, as it was based on ability to pay. He declared that required payment for restitution created a habit for budgeting.

[11:27:55 AM](#)

MR. HOUSER explained that the electronic monitors measured alcohol levels in the skin perspiration. He declared that 90 percent of inmates had substance abuse or alcohol related

issues. From a risk standpoint, DOC would rather know what the participants were doing, more than where they were located. He stated that the response time for a probation staff to be on site in the Anchorage area was about two hours. In response to Chair Coghill, he stated that these currently could only monitor for alcohol, not drugs. He then provided information regarding the function of various forms of technology, declaring that the limiting factor for advanced function was battery size. The electronic monitor used cellular technology from a home based unit, and would work in any community with cellular service. During regular work hours there was constant monitoring. In Alaska, there were currently 362 individuals being monitored. The difficulty with remote locations was for response time to bring an individual back in control.

[11:34:40 AM](#)

REPRESENTATIVE MILLETT asked where the device was attached and who put it on and removed it.

MR. HOUSER explained that there was a fiber-optic strap attached to the leg, applied by DOC staff, and its unauthorized removal was a felony.

[11:35:58 AM](#)

MR. HOUSER, in response to Representative LeDoux, said that the electronic monitor was only removed upon completion of the sentence. The battery was changed every three to six months, and it could be submerged in three feet of water.

[11:37:26 AM](#)

MR. HOUSER, in response to Chair Coghill, stated that the daily cost was about \$12.00 per day. He demonstrated a new device, the Silver Lite 2, a portable breathe unit that took the person's picture, conducted a portable breathe test, and logged a GPS location for about \$9.00 per day.

[11:38:23 AM](#)

REPRESENTATIVE MILLETT asked about the daily cost to house an inmate.

MR. TAYLOR replied that it was about \$147 per day.

[11:38:40 AM](#)

CHAIR COGHILL asked when the breath unit was used in place of an ankle bracelet.

MR. HOUSER explained that a participant with a "no alcohol" probation could be required to use the breath unit, and blow into it upon command. It could also be used in conjunction with the leg monitor if there had been alerts triggered by alcohol other than through consumption.

[11:39:57 AM](#)

CHAIR COGHILL asked if there were a specific schedule.

MR. HOUSER replied that it could either be a specific schedule or a random request.

CHAIR COGHILL commented that, as domestic violence was often in conjunction with alcohol consumption, it could help resolve some problems. He asked if DOC had the discretion for use, or was a court order necessary.

MR. HOUSER replied that these monitors could be used entirely at the discretion of DOC during management of one of its programs. If a person was on probation, without an alcohol condition, then a court order would be necessary. He declared that the technology was rapidly changing.

[11:43:06 AM](#)

REPRESENTATIVE PRUITT asked what were the limitations to its use, and what could its future role become, in lieu of incarceration.

MR. HOUSER reported that, in 2007, there had been about 68 people statewide using the electronic monitoring program daily, while today, there were about 362 people using the program. He noted that there was now a trend for more inmates who had completed a treatment program from halfway houses to be released with electronic monitoring. He explained that it was necessary for the person to have a stable place to live and to have a job or the potential for a job in order for a positive outcome.

REPRESENTATIVE PRUITT asked about the limitations for expansion of the program.

[11:47:18 AM](#)

MR. HOUSER listed funding, technology, lack of monitors, and lack of eligible individuals, as possible limiting factors. He reported that some people were denied for various reasons, and that a positive behavior and trust was a necessity. He explained that for many inmates, it was necessary to learn appropriate life skills to model.

MR. TAYLOR said that the halfway house placements had increased by 33 percent, and that the new technology had allowed more inmates to be released with electronic monitoring and more inmates to move into halfway houses.

[11:51:34 AM](#)

SENATOR MCGUIRE addressed the shortage of continuing care in residential substance abuse treatment programs, and stated that behavioral treatment for addictions was the only way to stop the cycle. She offered her belief that it was smart justice to know the right places to put funding. She suggested the use of web based communication technology with residential treatment providers for rural Alaska, so that post release could include both monitoring and interactive communication for support in behavior modification. She opined that this would allow for a more productive reintegration into society.

[11:54:08 AM](#)

MR. TAYLOR expressed his agreement, and noted that there was an increased need for substance abuse services, both in the community and inside the correctional institutions.

[11:55:12 AM](#)

CHAIR COGHILL offered his belief that the proposed bill intended to offer recommendations for sentencing structure, and allow for accountability with a maximum amount of freedom, while maintaining the necessary security.

[11:56:37 AM](#)

SENATOR DYSON asked if there was pretrial electronic monitoring.

MR. HOUSER explained that there would be a pilot project for pre-trial monitoring of domestic violence offenders, although a court order would be necessary as part of the bail release.

11:58:10 AM

CHAIR COGHILL, directing attention to the technology tools that were available and the policy questions for use in both urban and rural area, expressed his concern for any inequity in application of the tools. He declared his desire for statewide use of the PACE program, although it would require monitoring, and asked if the PACE program was expandable.

MR. TAYLOR replied that the program had currently been expanded into Palmer, and that Anchorage was also looking to expand. He stated that it was now in three locations.

MR. HOUSER, in response to Representative Millet, said that his monitoring program was currently a little bit below capacity, noting that there were about 45 clients per staff officer, and that more staff would be necessary if there were 400 participants. He explained that spot checks, which would log the monitor serial number at any location, could be conducted on a drive by basis without actual contact.

REPRESENTATIVE GRUENBERG asked if there would be a use for drones.

MR. HOUSER replied, "I hope not."

12:03:46 PM

The committee took a recess from 12:03 p.m. to 1:29 p.m.

1:29:20 PM

CHAIR COGHILL brought the committee back to order, and stated that the panel would discuss re-entry issues.

1:30:55 PM

PAT VENTAGEN, Chief Clinical Officer, Akeela, provided background information about Akeela, explaining that the organization had started 40 years ago as a substance abuse disorder treatment program, and currently offered 44 substance abuse and mental health programs throughout the state along with 18 contracts with DOC for substance abuse treatment services. Referring to the two maps he had provided to the committee, he indicated that these reflected Akeela's involvement statewide. He pointed out that Akeela had substance abuse programs with all but one prison facility, Ketchikan Correctional Center. He

reported that Akeela had contracts with the community based services in Anchorage, Palmer, Juneau, Kenai, and Fairbanks.

CHAIR COGHILL asked to clarify that these were both voluntary and court ordered prescriptive services. He commented about the budgetary and statutory requirements affecting programmatic delivery.

[1:34:52 PM](#)

MR. VENTAGEN, in response to Chair Coghill, said that DOC had established capacity numbers for the programs which were based on an average length of stay with fully staffed programs. He spoke about the difficulties with fully staffing the programs in rural areas. He pointed out that, as these were fee for service programs, there was not a charge if a service was not provided. He reported that the staffing ratio was 1 to 12.5, for the 90 day programs, and 1 to 48 for the continuing care programs, which was based on individual need for three to six months. He noted that there was not a waiting list, except in Anchorage, for the continuing care programs.

[1:37:41 PM](#)

REPRESENTATIVE MILLETT asked about the effect on program success for released prisoners of wait time before being admitted to an outpatient program.

MR. VENTAGEN replied that currently there was not any data available. Referencing those inmates who had completed treatment programs in the institutions and then attended the community aftercare programs, he clarified that there was not any wait time except in the Anchorage program. He offered to supply the wait time for the Anchorage aftercare program, opining that it was only about a week. He pointed out that the wait time for the Anchorage treatment program was about four weeks. He expressed his agreement with Representative Millett that these wait times were crucial. In response to Chair Coghill, he stated that Akeela also worked with reentry people who were electronically monitored.

MR. TAYLOR, in response to Chair Coghill, explained that institutional programs occurred inside the facilities, whereas the community care component included after care in the community for those out of custody, but on probation and parole. In response to an earlier question by Representative Millett regarding the wait time for programs during re-entry, he

explained that the other individual needs were being met even during the interim for substance abuse services.

[1:42:37 PM](#)

MR. VENTAGEN cited an August, 2012, McDowell Group report, "Economic Costs of Alcohol and other Drug Abuse in Alaska, 2012," which reported \$518.7 million in direct costs in FY2010 from alcohol and drug abuse, with an additional \$673.2 million in productivity costs. He pointed out that only \$40 million of the direct cost was spent for substance abuse services. He declared that Akeela believed that, as treatment was effective, any additional resources for treatment and its follow up would reduce the direct costs. He noted that this had already been demonstrated in Texas.

MR. VENTAGEN offered his understanding that the need by DOC of community based substance abuse treatment in Anchorage far outweighed the support available from Akeela given the existing contracts. He declared that, as there was already an overload on the community programs, Anchorage could use more treatment resources for those on probation and parole.

[1:44:41 PM](#)

MR. VENTAGEN pointed out that, as the highest rate of recidivism occurred in the first year, Akeela focused on that first year with substance abuse treatment, case management for vocational and educational training services, and housing. He declared these services to be essential, specifically in the first year.

MR. VENTAGEN, in response to Representative Millett, explained that there was not any evidence to show a decrease in the 92 percent rate for substance abuse in offenders; although substance abuse treatment will reduce recidivism, these need to be done in conjunction with the other reentry services, in order to reduce costs. In response to a further question, he expressed his agreement that the cost for offender health care would also significantly decrease when there was not substance abuse.

[1:49:38 PM](#)

KELVIN LEE, President, New Life Development Inc. (NLDI), explained that NLDI was a non-profit organization which had offered reentry transitional housing with supportive services to people returning to the community after incarceration since

2008. He reported that NLDI currently had housing for both men and women, with a total of 48 beds. He declared that stable housing and a structured environment was the key for community reentry.

MR. LEE explained that, with help from NLDI, each person developed their own transitional plan, and that NLDI helped maintain this structure, especially for the requirements of probation and parole. He spoke about an upcoming program that would help inmates prepare a plan six months prior to release.

CHAIR COGHILL asked if this was done in conjunction with a risk assessment tool, and if it was voluntary.

MR. LEE explained that the program had been designed on information obtained from probation officers so that "we're not operating in error with anybody. We know what DOC wants, and we're doing the same thing to make sure those needs are getting taken care of." In response to a question from Representative Millett, he explained that the application process began in the correctional facilities, aided by the probation officers' suggestions for inmates who were ready to transition. He relayed that the average stay with NLDI was 120 days, that the "drop-out" rate was highest in the first 90 days, and that the high structure and demand for accountability forced a commitment from the inmates. He declared that NLDI created a healthy environment for these transitions to the new processes outside incarceration. He reported that, as the program was voluntary, the inmates would have to report to their probation officer if they decided to leave the program.

[2:00:09 PM](#)

REPRESENTATIVE LEDOUX asked whether Akeela or NLDI was a faith-based organization.

MR. LEE said that NLDI was not faith based although it endorsed many of the principles. He declared that, as behaviors had to change, it was necessary to embrace whatever means would support those changes.

MR. VENTAGEN replied that Akeela was not faith based, and used cognitive behavioral therapy and evidence based treatments, instead.

[2:01:18 PM](#)

MR. LEE, in response to Senator Dyson, explained that the NLDI program was designed to assist and teach people how to live in a community outside the correctional facility.

[2:03:06 PM](#)

SENATOR DYSON inquired as to the impact of a felony record on re-entry to the community and its effect on recidivism.

MR. TAYLOR replied that there were more than 1,600 collateral consequences, or federal, state, and local barriers, to jobs, housing, and employment faced when leaving incarceration. He noted that although there were work groups studying ways to reduce these barriers, there were many layers to each.

[2:05:17 PM](#)

SENATOR DYSON asked what the legislature could do in support, such as reduce the levels of certain crimes, or expunge criminal records to public access after a specific time.

MR. TAYLOR expressed his agreement with these suggestions. He declared that support for re-entry had to be embraced by business employers, as well as the state agencies.

CHAIR COGHILL said that Senate Judiciary Standing Committee would review this area.

[2:07:41 PM](#)

REPRESENTATIVE MILLETT referenced three things Mr. Houser had mentioned for making a difference to those getting out of prison: stable housing, treatment, and employment. She offered her agreement to the need for more funding for treatment, and asked what incentives could be offered to employers and landlords to give an opportunity to those released from incarceration.

MR. TAYLOR replied that DOC offered fidelity bonding to employers, though he was not aware of any housing incentives.

MR. LEE stated that NLDI encouraged job development agreements with employers, which were more successful when a stable housing situation had been taken arranged.

[2:09:43 PM](#)

REPRESENTATIVE MILLETT asked about follow up housing opportunities after leaving NLDI, and if there were any incentives.

MR. LEE reported that transitional housing was being extended, and that NLDI had agreements with Cook Inlet Housing and Alaska Housing to create a housing history which could be relayed to the next housing provider.

MR. VENTAGEN shared that Akeela had transitional housing for up to two years in Ketchikan and Anchorage for those who had completed treatment and substance abuse programs. He noted that Akeela worked closely with prospective landlords to show the ability of those transitioning out to pay rent.

[2:12:05 PM](#)

REPRESENTATIVE LEDOUX asked for an explanation to fidelity bonding.

MR. TAYLOR explained that the Department of Labor & Workforce Development (DLWD) offered bonds, similar to a guaranteed assurity, for ex-felons. He allowed that the state assumed some responsibility, and he offered to send more information. In response to Chair Coghill, he expressed his agreement that a transitional housing program based on the Delancey Street Foundation model was being offered by Cook Inlet Region, Incorporated (CIRI), as well as other supportive services.

[2:14:52 PM](#)

MR. LEE stated that NLDI was working toward its next component, permanent re-entry supportive housing.

[2:16:16 PM](#)

JANET MCCABE said that Partners for Progress had been working for the past 14 years with both the therapeutic courts and housing and re-entry assistance. She directed attention to its suggested amendment provided to the committee on July 25, 2013, which proposed a change to AS 28.35.030(k) and the potential impact on electronic monitoring [Included in members' packets]. This would allow first time DUI offenders to use electronic monitoring in lieu of a mandatory three day incarceration. She explained that legislation currently required on site supervision. She declared support for the effective development of electronic monitoring. She listed an estimated annual cost

savings to the state of \$860,000, though she surmised that this was a conservative estimate. She stated that the recidivism rate after use of electronic monitoring was only 18 percent after three years. She suggested that first time DUI offenders should not be housed with higher level offenders. She referenced research articles which stated that electronic monitoring was the wave of the future. She expressed her agreement with electronic monitoring being combined with personal contact. She summarized by declaring that DOC maintained up to date equipment, and strove to meet individual needs.

[2:22:59 PM](#)

REPRESENTATIVE MILLETT expressed her concern that elimination of incarceration would send the wrong message with regard to the severity of the crime. She questioned the responses from victim's rights groups and Mothers Against Drunk Driving (MADD), as they had strongly advocated for a "big hammer" for a first time DUI. She opined that a first DUI offense should be a "wake up call." She acknowledged all of the reasons listed by Ms. McCabe, but expressed her concern for changing the sentencing guidelines for DUI offenses. She declared her preference for funding to be directed toward a treatment program.

MS. MCCABE offered her agreement with the concerns for DUI, but, noting that second and third DUI offenders were allowed to be placed with electronic monitoring, she questioned the lack of consistency for not allowing the same for a first time offender. She declared that this would continue to send the aforementioned shock value message.

[2:27:23 PM](#)

MR. HOUSER advised that research had indicated that "shock incarceration" was not a good idea, as the shock was the initial arrest, booking, and court appearance. He said that the three day DUI arrest was a waste of money. He emphasized the necessity for the DOC staff to explain the judicial and legal process, and the expectations after completion of the program, as offenders only heard the sentencing, and nothing else. He reported that much of the 18 percent rate of recidivism after use of electronic monitors was due to non-completion of the conditions of probation. He reiterated that the DOC staff, during the briefing prior to use of electronic monitors, worked to ensure that offenders understood the judicial process.

CHAIR COGHILL asked for any evidence based statistics.

MR. HOUSER referenced a 2008 study by the University of Utah which addressed the lack of value for shock incarceration.

REPRESENTATIVE MILLETT asked if Partners for Progress had discussed its proposed amendment with MADD or other groups with a vested interest in the DUI laws.

MS. MCCABE replied that she would make those contacts.

CHAIR COGHILL said that he would invite testimony from a representative of MADD.

[2:31:42 PM](#)

REPRESENTATIVE LEDOUX expressed an interest in receiving the statistics addressing drunk driving arrests in states that did and did not have mandatory jail sentences. She offered her belief that anecdotal evidence indicated that jail sentences were instrumental in decision making.

[2:32:44 PM](#)

MS. MCCABE stated that many other states choose not to incarcerate for misdemeanors.

CHAIR COGHILL, declaring the importance for reviewing the aforementioned University of Utah study, listed accountability, a change of behavior, and maintenance of public safety as the prime concerns before making policy changes.

REPRESENTATIVE LEDOUX opined that jail time could act as a deterrent to those new to the criminal justice system.

MS. MCCABE reflected that the University of Utah study would be very instructive. Referring to the aforementioned bonding for employment, she stated that there had never been a request for a bond payout. She opined that the hirees became very good employees.

[2:38:16 PM](#)

BILL MICKELSON reported that he had been in law enforcement for 42 years with an emphasis on development and implementation of special programs, including sobriety programs. He reported that, in 2004, he began research on driving felonies related to

alcohol and drugs, as they accounted for almost 33 percent of the state felonies. He declared the need to develop a new criminal justice model to address this, which resulted in the development of a 24/7 drug and alcohol monitoring program. Since its inception, there had been 31,000 people placed in the twice daily alcohol monitoring program, with a resulting 99.2 percent compliance. He explained that 85 percent of the alcohol testing was this twice daily testing at a testing site, which offered immediate results. He declared that this immediacy had changed behavior and cognitive skills with a long term positive approach to the criminal justice system. He said that the cost savings had been significant, about \$248 million, and that there was more than a 50 percent reduction in repeat offenders for DUI. He noted that, as there had also been a significant reduction in domestic violence, judges were now using the 24/7 sobriety program for a variety of offenses as a condition of bond, sentence, and probation. He reported that, as South Dakota had DUI sentencing guidelines which required extended times for driver's license suspension, the 24/7 sobriety program had allowed for license reinstatement while successfully participating.

MR. MICKELSON declared that the protocols and treatment facilities liked the program as a means for changing behavior and lowering the recidivism rates.

[2:43:11 PM](#)

TOM BUTLER, Colonel, Montana Highway Patrol, explained that he had been in Montana law enforcement for 22 years. He detailed that two Montana troopers were killed in drunken driving related events in 2010, and this had lead the agency to review its DUI policy. They studied the successful 24/7 sobriety program in South Dakota and first initiated it as a pilot program in select counties. In 2011, the program was fully implemented statewide, which presented a significant shift in law enforcement approach. He declared that budgetary shortfalls necessitated a nationwide change for treatment within the criminal justice system. He stated that alcohol and/or drugs were at the cause of almost every entry into the criminal justice system. He declared that control of alcohol in the equation would allow much greater success. In a study by the Rand Corporation, the results of the 24/7 Sobriety program in South Dakota had indicated that repeat DUI arrests were reduced by 12 percent, and domestic violence arrests were reduced by 9 percent. He shared that Montana was working with the Rand Corporation for a pilot study of twice daily testing in Yellowstone County. He declared that the 24/7

program created structure in a person's life, with swift and certain consequences for failure to the test, whereas, this benefit was lost with electronic monitoring. He anticipated that the Yellowstone County pilot study would be implemented in the next two or three months.

[2:47:46 PM](#)

MR. BUTLER relayed that 65 percent of Montana's population was covered by the 24/7 program, with almost 350,000 breath tests being administered. He said that the percent of failure was very similar to that of South Dakota, although there was not yet enough data to analyze recidivism and its effects. He opined that the results would be the same in both Montana and South Dakota as there were similarities to both geography and population base.

[2:49:14 PM](#)

DENNIS JOHNSON, Program Director, Alaska Pre-Trial Services, explained that his service was a non-profit agency which provided pre-trial electronic monitoring, as well as drug and alcohol testing. He noted that the court had recently stated its recognition of the need for a 24/7 [accountability] program. He reported that Alaska Pre-Trial Services had initiated a similar program a year prior to this, in which they had reviewed the South Dakota program and its use of the company, Intoximeters, Inc., which provided the assigning agency with the reporting data for the twice daily testing. He offered his belief that proposed SB 64, through a review of the data and programs in other states, was an incredible opportunity to address the issue in statute. He reported that his company had 176 people statewide on its pre-trial program. He noted that, generally, first time DUI offenders were not referred to the Alaska Pre-Trial Services program, as it focused on its role as the court appointed third party custodians for more serious offenses. He offered his belief that, although his company had not had more than 50 offenders enrolled in the 24/7 program at any given time, the 24/7 program was a response to the high number of violations committed by offenders while out on bail. He emphasized the need for "swift, immediate, sure consequences" to any violation of the parole, which could include a return to DOC custody, and an appearance before the judge who originally sent the offender to the third party custodian program. He expressed his strong support for the 24/7 program, and explained its use for child custody determinations by the Office of Children's Services (OCS).

[2:55:35 PM](#)

MR. JOHNSON, in response to Chair Coghill, explained that the Intoximeters, Inc. data master and data base provided the evidence in DUI cases. He explained that the billing for \$5 each day per offender included payment of \$1 each day to Intoximeters, Inc. to allow use of its database. He noted that there was an opportunity for the State of Alaska to purchase the data base for use with its departments. He reported on his staffing around Alaska, which included 10 officers and 4 support staff in the Anchorage area. He noted that the case load was about 40 offenders per officer. He clarified that the 24/7 program was voluntary, and would allow for approximately 300-350 offenders to be kept out of correctional facilities. In response to Chair Coghill, he explained that the recidivism rate for those who had been in the program was about 16.5 percent, as this program included higher risk participants. He relayed that, as the third party custodians, they had developed protocols with the local authorities for custody and transportation.

[3:01:44 PM](#)

DOUGLAS MOODY, Deputy Public Defender, Criminal Division, Central Office, Department of Administration, noted that there had been a low technology system similar to 24/7 with Village Public Safety Officers (VPSOs) in Bethel more than 25 years prior. He expressed concern for the cost to the offender, and he suggested there be a sliding scale of cost.

[3:04:39 PM](#)

CHAIR KELLER asked whether any states had moved from a voluntary system, and if there was any effect on the cost and the success of the monitoring program if the state paid for the program.

[3:05:12 PM](#)

MR. BUTLER replied that, in Montana, the cost was \$2 per test, of which \$1 was designated for the jurisdiction administering the test, and \$1 was paid to Intoximeters, Inc. for use of its software. The average blood alcohol level with a DUI arrest in Montana equated to 15-16 drinks, which would cost \$12-\$25. He declared that the payment of the 24/7 monitoring program was not an issue for those offenders. He shared that South Dakota had warned against providing the testing on credit, opining that

offenders provided the funds in order to keep themselves out of jail. He noted that Montana had previously spent millions of dollars of software. He emphatically stated that the Intoximeters, Inc. software had been excellent, with no state money invested in the system.

3:08:31 PM

REPRESENTATIVE GRUENBERG asked that Mr. Moody address any constitutional problems with the proposed legislation and the aforementioned proposed amendment from Partners for Progress [Included in members' packets].

3:09:15 PM

SHIRLEY LEE, Tanana Chiefs Conference (TCC), explained that Tanana Chiefs Conference (TCC) was a non-profit consortium of 42 Interior tribes and member organizations with a mission to improve the health of Alaska Natives through medical and behavioral health services. She reported that she was also an Episcopal priest, active in prison ministry and prison advocacy. She shared that TCC was interested in the proposed bill, as there was a disproportionate number of incarcerated Alaska Natives, most of whom for substance abuse. She declared the need of incentives for change in order to succeed in recovery, or recidivism among native populations would continue. She stated that sentencing reform was necessary, as statistics indicated that the punishment for substance related crime did not deter the offender, and a better approach would be to address the underlying problem of substance abuse. She declared that there was a great need for expanded treatment and behavior health service. She applauded the creation of an expert commission through the proposed bill, and she suggested that the Alaska Native member be nominated through a tribal organization, as the representative of a tribal entity would have more expertise. She pointed out that each of the health programs needed to consider substance abuse as an impacting factor. She concurred with the suggestion by Senator Dyson that a member of the commission be an individual who had been sentenced and incarcerated in Alaska, in order to give voice to that population. She suggested this include both an urban and a rural nominee, as each had quite different experiences.

MS. LEE said that TCC was very supportive of the limited license opportunity for those with successful adherence to therapeutic court, as the program could provide incentive to offenders. She

emphasized that TCC was excited with proposed SB 64 and what it represented as the first step on a large scale.

MS. LEE directed attention to the 24/7 program, and questioned its effectiveness in rural villages. She expressed concern for false positives, a lack of holding facilities, and the speed for a response given the remoteness of many villages. She opined that any the reforms needed to address the possibility of partnerships with Native organizations for solutions. She explained that many communities conducted sentencing circles where community members and the offender met in a circle and the individual was told how their conduct impacted the community. She declared that this had proven to be a successful, low-cost effective approach.

MS. LEE noted a concern for the lack of information regarding undiagnosed Fetal Alcohol Syndrome (FAS) among offenders, and questioned whether this should have any impact on the sentencing. She pointed out that the Centers for Disease Control and Prevention (CDC) had successfully implemented telemedicine in rural villages, and she suggested this should be considered in judicial decision making. She reported that the Housing First program had been successful with providing permanent housing for homeless, chronic inebriates, and this same philosophy could be applied for offenders. The precept was that the provision of permanent, stable housing created a stable base for work on other issues.

[3:17:22 PM](#)

MS. LEE concluded by pointing out that TCC was constantly reviewing approaches for creating meaningful change and improvement to the way justice was served and lives were improved, as this should be the end goal. She shared that transformation for an individual could transform a family, a village, and "perhaps even a state."

[3:17:56 PM](#)

CHAIR COGHILL expressed his agreement with her summary of the issues. He relayed that, although he struggled with some tribal authority issues, local accountability was the "highest premium you can get." He declared his commitment to making this work, and reiterated that accountability was the way to make the programs succeed. He opined that the 24/7 program offered accountability, which could lead to positive results for a

decrease in domestic violence, wellness in the community, and greater family togetherness.

[3:19:41 PM](#)

REPRESENTATIVE GRUENBERG, referring to page 3, line 2, of the proposed bill, asked for clarification to the suggested changes. He asked Ms. Lee for her suggestions in order for the state to avoid any "crossfire of various people in the various Native communities." He asked that any suggestions be forwarded to the Senate Judiciary Standing Committee.

CHAIR COGHILL acknowledged that he was also searching for language to this amendment.

REPRESENTATIVE GRUENBERG reiterated his earlier question to Mr. Moody, that Mr. Moody addresses any constitutional problems with the proposed legislation and the aforementioned proposed amendment from Partners for Progress. He declared his desire to avoid any last minute adjustments.

CHAIR COGHILL shared that Legislative Legal Services had stated that this content was within constitutional boundaries.

REPRESENTATIVE GRUENBERG asked to see any legal memos addressing this issue.

CHAIR COGHILL declared that constitutionality was a "touchstone" for any draft to a bill.

[3:21:51 PM](#)

MR. MOODY replied that he did not see any constitutional problems with the proposed bill or any of the proposed changes, as currently written. He noted that PACE was a similar program type, and it did not pose any problems.

[3:22:50 PM](#)

REPRESENTATIVE GRUENBERG noted that there was not language in the bill that he, as an attorney, would like to have included. He referred to the language on page 4, lines 8 - 9, and suggested that the commission also consider any published appellate decisions.

CHAIR COGHILL suggested that, as the Department of Law should also be involved with this language, it would be best to work on

these details in committee. He declared that the proposed bill would still have amendments, and that the budget for the 24/7 and the PACE program would still need to be discussed.

[3:25:50 PM](#)

MR. TAYLOR said that the DOC was excited about the reentry efforts and the development of the partnerships, all working to move "our system in a positive direction." He stated that he was looking forward to building a strong re-entry program to ensure that those people released from custody be successful when leaving incarceration. He declared that the 24/7 and the PACE programs were tools for staff to use to help ensure success for people upon their release from custody.

[3:27:10 PM](#)

CHAIR COGHILL summarized that the suggestions for the proposed bill were now on the table, and he intended to incorporate many of these and introduce a committee substitute. He suggested that the House Judiciary Standing Committee could either wait to see the Senate version, or work on its own version.

[3:28:15 PM](#)

CHAIR KELLER asked that Chair Coghill consider another joint meeting of the committees to evaluate any proposed committee substitutes.

CHAIR COGHILL offered his belief that the 24/7 program "was one of the best things that we can do to roll forward." He noted that other tools could also be available, and other issues could also be addressed in the proposed bill.

[3:30:01 PM](#)

MR. BUTLER offered to participate in future meetings and he invited any members of the joint committee to come review the program in person, offering his belief that this would be beneficial.

MR. MICKELSON expressed his concurrence and he also extended the same invitation.

CHAIR COGHILL expressed his desire for evidence based input, and noted that he would accept both their offers for help.

3:31:55 PM

**ADJOURNMENT**

There being no further business, the joint meeting of the House Judiciary Standing Committee and Senate Judiciary Standing Committee was adjourned at 3:31 p.m.