

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

April 2, 2014

1:08 p.m.

MEMBERS PRESENT

Representative Wes Keller, Chair
Representative Bob Lynn, Vice Chair
Representative Gabrielle LeDoux
Representative Charisse Millett
Representative Neal Foster
Representative Lance Pruitt
Representative Max Gruenberg

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CONFIRMATION: COMMISSION ON JUDICIAL CONDUCT

Marc June - Anchorage

CONFIRMATION(S) ADVANCED

CONFIRMATION: VIOLENT CRIMES COMPENSATION BOARD

NORA G. BARLOW - Anchorage

CONFIRMATION(S) ADVANCED

HOUSE BILL NO. 375

"An Act relating to the crime of trespass."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 171(JUD)

"An Act relating to multidisciplinary child protection teams;
and relating to investigation of child abuse or neglect."

- MOVED HCS CSSB 171(JUD) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 64(FIN)

"An Act relating to theft and property offenses; relating to the
definition of 'prior convictions' for certain theft offenses;

establishing the Alaska Criminal Justice Commission and providing an expiration date; relating to the crime of custodial interference; relating to the duties of the Alaska Judicial Council; relating to jail-time credit for offenders in court-ordered treatment programs; relating to conditions of release, probation, and parole; relating to duties of the commissioner of corrections and board of parole; establishing a fund for reducing recidivism in the Department of Health and Social Services; requiring the commissioner of health and social services to establish programs for persons on conditions of release or probation that require testing for controlled substances and alcoholic beverages; requiring the board of parole to establish programs for persons on parole that require testing for controlled substances and alcoholic beverages; relating to the duties of the Department of Health and Social Services; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 375

SHORT TITLE: CRIMINAL TRESPASS ON PRIVATE PROPERTY

SPONSOR(s): FINANCE

03/13/14	(H)	READ THE FIRST TIME - REFERRALS
03/13/14	(H)	JUD
04/02/14	(H)	JUD AT 1:00 PM CAPITOL 120

BILL: SB 171

SHORT TITLE: MULTIDISCIPLINARY CHILD PROTECTION TEAMS

SPONSOR(s): COGHILL

02/12/14	(S)	READ THE FIRST TIME - REFERRALS
02/12/14	(S)	JUD
02/24/14	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/24/14	(S)	Heard & Held
02/24/14	(S)	MINUTE(JUD)
03/03/14	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/03/14	(S)	Scheduled But Not Heard
03/05/14	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/05/14	(S)	Moved CSSB 171(JUD) Out of Committee
03/05/14	(S)	MINUTE(JUD)
03/07/14	(S)	JUD RPT CS 2DP 2NR SAME TITLE
03/07/14	(S)	DP: COGHILL, DYSON
03/07/14	(S)	NR: WIELECHOWSKI, OLSON
03/21/14	(S)	TRANSMITTED TO (H)

03/21/14 (S) VERSION: CSSB 171(JUD)
03/24/14 (H) READ THE FIRST TIME - REFERRALS
03/24/14 (H) JUD
04/02/14 (H) JUD AT 1:00 PM CAPITOL 120

BILL: SB 64

SHORT TITLE: OMNIBUS CRIME/CORRECTIONS/RECIDIVISM BILL

SPONSOR(S): JUDICIARY

02/27/13 (S) READ THE FIRST TIME - REFERRALS
02/27/13 (S) STA, JUD
04/04/13 (S) STA AT 9:00 AM BUTROVICH 205
04/04/13 (S) <Bill Hearing Postponed>
04/09/13 (S) STA RPT CS 1DP 1NR 1AM NEW TITLE
04/09/13 (S) DP: DYSON
04/09/13 (S) NR: GIESSEL
04/09/13 (S) AM: COGHILL
04/09/13 (S) STA AT 9:00 AM BUTROVICH 205
04/09/13 (S) Moved CSSB 64(STA) Out of Committee
04/09/13 (S) MINUTE(STA)
07/25/13 (S) JUD AT 10:00 AM WASILLA
07/25/13 (S) Heard & Held
07/25/13 (S) MINUTE(JUD)
01/29/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
01/29/14 (S) Heard & Held
01/29/14 (S) MINUTE(JUD)
01/31/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
01/31/14 (S) Heard & Held
01/31/14 (S) MINUTE(JUD)
02/03/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/03/14 (S) Heard & Held
02/03/14 (S) MINUTE(JUD)
02/05/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/05/14 (S) Heard & Held
02/05/14 (S) MINUTE(JUD)
02/07/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/07/14 (S) -- MEETING CANCELED --
02/10/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/10/14 (S) Heard & Held
02/10/14 (S) MINUTE(JUD)
02/12/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/12/14 (S) Moved CSSB 64(JUD) Out of Committee
02/12/14 (S) MINUTE(JUD)
02/14/14 (S) JUD RPT CS 4DP 1NR NEW TITLE
02/14/14 (S) DP: COGHILL, MCGUIRE, WIELECHOWSKI,
DYSON
02/14/14 (S) NR: OLSON

02/14/14 (S) FIN REFERRAL ADDED AFTER JUD
 02/25/14 (S) FIN AT 9:00 AM SENATE FINANCE 532
 02/25/14 (S) Heard & Held
 02/25/14 (S) MINUTE(FIN)
 03/06/14 (S) FIN AT 5:00 PM SENATE FINANCE 532
 03/06/14 (S) Heard & Held
 03/06/14 (S) MINUTE(FIN)
 03/11/14 (S) FIN AT 9:00 AM SENATE FINANCE 532
 03/11/14 (S) Heard & Held
 03/11/14 (S) MINUTE(FIN)
 03/11/14 (S) FIN AT 5:00 PM SENATE FINANCE 532
 03/11/14 (S) Heard & Held
 03/11/14 (S) MINUTE(FIN)
 03/13/14 (S) FIN AT 9:00 AM SENATE FINANCE 532
 03/13/14 (S) Moved CSSB 64(FIN) Out of Committee
 03/13/14 (S) MINUTE(FIN)
 03/14/14 (S) FIN RPT CS 3DP 1NR 3AM NEW TITLE
 03/14/14 (S) DP: KELLY, MEYER, HOFFMAN
 03/14/14 (S) NR: OLSON
 03/14/14 (S) AM: FAIRCLOUGH, DUNLEAVY, BISHOP
 03/14/14 (S) TRANSMITTED TO (H)
 03/14/14 (S) VERSION: CSSB 64(FIN)
 03/17/14 (H) READ THE FIRST TIME - REFERRALS
 03/17/14 (H) JUD, FIN
 03/24/14 (H) JUD AT 1:00 PM CAPITOL 120
 03/24/14 (H) Heard & Held
 03/24/14 (H) MINUTE(JUD)
 03/26/14 (H) JUD AT 1:00 PM CAPITOL 120
 03/26/14 (H) Heard & Held
 03/26/14 (H) MINUTE(JUD)
 03/28/14 (H) JUD AT 1:00 PM CAPITOL 120
 03/28/14 (H) Heard & Held
 03/28/14 (H) MINUTE(JUD)
 03/31/14 (H) JUD AT 1:00 PM CAPITOL 120
 03/31/14 (H) Scheduled But Not Heard
 04/02/14 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

MARC JUNE, Appointee
 Commission on Judicial Conduct
 Anchorage, Alaska

POSITION STATEMENT: Spoke as an appointee to the Commission on Judicial Conduct.

NORA G. BARLOW, Appointee
 Violent Crimes Compensation Board

Anchorage, Alaska

POSITION STATEMENT: Spoke as an appointee to the Violent Crimes Compensation Board.

DARREL BREESE, Staff
to Representative Bill Stoltze
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 375 on behalf of Representative Stoltze, sponsor.

NICOLINE JORDAN
Palmer, Alaska

POSITION STATEMENT: Testified in favor of HB 375.

JOHN VINDUSKA
Palmer, Alaska

POSITION STATEMENT: Testified in favor of SB 375.

QUINLAN STEINER, Public Defender
Public Defender Agency
Alaska Department of Administration
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding HB 375.

BURKE WALDRON, Captain
Alaska Wildlife Troopers
Department of Public Safety
Palmer, Alaska

POSITION STATEMENT: Answered questions regarding HB 375.

RYNNIEVA MOSS, Staff
to Senator John Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented a committee substitute [CS] to SB 171 on behalf of Senator Coghill, sponsor.

JESSICA LAWMASTER, Executive Director
Haven House
Homer, Alaska

POSITION STATEMENT: Spoke in support of SB 171.

BABETTE MILLER
Smart Start of Alaska
Anchorage, Alaska

POSITION STATEMENT: Spoke against any amendment that would allow the use of breathalyzers in place of ignition interlock devices in SB 64.

QUINLAN STEINER, Public Defender
Alaska Department of Administration
Anchorage, Alaska

POSITION STATEMENT: Spoke in favor of raising the value threshold between misdemeanor and felony theft in SB 64 and against Amendment 7.

JEFF JESSE, Chief Executive Officer
Alaska Mental Health Trust Authority
Juneau, Alaska

POSITION STATEMENT: Spoke in support of SB 64.

TED MADSEN, Staff
to Representative Max Gruenberg
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented an amendment to SB 64 on behalf of Representative Gruenberg.

ERNEST PRAX, Staff
to Representative Wes Keller
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented amendments to SB 64 on behalf of Representative Keller.

JORDAN SHILLING, Staff
to Senator John Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Commented on amendments to SB 64 on behalf of Senator Coghill, sponsor.

DOUG GARDNER, Attorney
Legislative Legal Counsel
Legislative Legal and Research Services
Legislative Affairs Agency (LAA)
Juneau, Alaska

POSITION STATEMENT: Answered questions as the drafter of Amendment 5 to SB 64.

ACTION NARRATIVE

1:08:15 PM

CHAIR WES KELLER called the House Judiciary Standing Committee meeting to order at 1:08 p.m. Representatives Lynn, LeDoux, Millet, and Keller were present at the call to order. Representatives Foster, Pruitt, and Gruenberg arrived as the meeting was in progress.

CONFIRMATION HEARINGS:
Commission on Judicial Conduct

1:09:16 PM

CHAIR KELLER announced that the first order of business would be confirmation hearings.

MARC JUNE, Appointee, Commission on Judicial Conduct, said he has been an Alaska lawyer for 30 years and he has served in a variety of positions with the Alaska Bar Association, including the Board of Governors, Disciplinary Panel, and Arbitration Panel, and he is currently on the Ethics Committee. He said he also serves on the Alaska Civil Rules Committee. Outside of professional work, he is on the Brother Francis Shelter Advisory Committee and on the Board of Directors of Alaska Legal Services. He told the committee that he has appeared in 95 percent of the courtrooms in Alaska, and this morning he was at the Palmer Courthouse. The appointment to the Commission on Judicial Conduct is important to him. At times there is debate about the selection process, but Alaska has a strong judiciary, and once judges are selected, the Commission on Judicial Conduct is the mechanism to make sure judges act the way that the canons of judicial conduct require, he explained. He said it is an important body and has public members as well as judiciary members, and he looks forward to contributing in any way he can.

1:12:07 PM

REPRESENTATIVE MILLETT asked him when he finds time to sleep.

REPRESENTATIVE LEDOUX said she has known Mr. June for up to 20 years and he would make an excellent addition to this board.

REPRESENTATIVE GRUENBERG said he knows Mr. June and he has a good reputation. Mr. June went to Stanford and UCLA law school, which is where Representative Gruenberg went, he added.

REPRESENTATIVE LYNN made a motion to advance the confirmation of Marc June, appointee to the Alaska Commission on Judicial Conduct, to the joint session for consideration. There being no objection, the confirmation was advanced.

CONFIRMATION HEARINGS:
Violent Crimes Compensation Board

[1:14:00 PM](#)

NORA G. BARLOW, Appointee, Violent Crimes Compensation Board, said she is an attorney in Anchorage and has been serving on the Violent Crimes Compensation Board for some time. This is her third confirmation hearing, she added. The board is a three-member panel with an attorney, doctor, and layperson. She said it is important work and she enjoys participating.

[1:15:11 PM](#)

REPRESENTATIVE GRUENBERG said he has known Ms. Barlow for a number of years, and she has great qualifications and a lot of experience.

CHAIR KELLER noted that she has an impressive resume.

REPRESENTATIVE LYNN made a motion to advance the confirmation of Nora Barlow, appointee to the Violent Crimes Compensation Board, to the joint session for consideration. There being no objection, the confirmation was advanced.

HB 375-CRIMINAL TRESPASS ON PRIVATE PROPERTY

[1:16:36 PM](#)

CHAIR KELLER announced that the next order of business would be HOUSE BILL NO. 375, "An Act relating to the crime of trespass."

DARREL BREESE, Staff, to Representative Bill Stoltze, Alaska State Legislature, said HB 375 is simple and yet complex. It repeals two sections of the criminal trespass statute in the definition section, eliminating the requirement to give notice of trespass in a specific manner. He said that in the Matanuska Valley last year there were two incidences where trespass occurred but could not be enforced due to the specific definitions in statute. In August, a constituent of Representative Stoltze had his tame pet turkey shot and killed in his driveway by bow hunters. Since there were no signs

clearly posted, there was nothing that could be done, he explained. In November, there were people trapping on Nicole Jordan's gravel pit without permission, but because there were no signs posted to say trapping was prohibited, the trappers were allowed to trespass.

MR. BREESE stated that "this isn't about hunting or trapping; this about clearly defining property owners' rights to declare what can happen and cannot happen on their property." The bill repeals AS 11.46.350 (b) and (c):

(b) For purposes of this section, a person who, without intent to commit a crime on the land, enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, is privileged to do so unless

(1) notice against trespass is personally communicated to that person by the owner of the land or some other authorized person; or

(2) notice against trespass is given by posting in a reasonably conspicuous manner under the circumstances.

(c) A notice against trespass is given if the notice

(1) is printed legibly in English;

(2) is at least 144 square inches in size;

(3) contains the name and address of the person under whose authority the property is posted and the name and address of the person who is authorized to grant permission to enter the property;

(4) is placed at each roadway and at each way of access onto the property that is known to the landowner;

(5) in the case of an island, is placed along the perimeter at each cardinal point of the island; and

(6) states any specific prohibition that the posting is directed against, such as "no trespassing," "no hunting," "no fishing," "no digging," or similar prohibitions.

[1:20:47 PM](#)

MR. BREESE stated that in the case in Matanuska Valley, the property owners had a no-trespassing sign that was not large enough and was not posted on each point of access, so it was determined that the individuals who were trapping were not in violation of the law.

REPRESENTATIVE LEDOUX asked if he said that the owner can give specific notice and the trespass will be illegal. "I gather from the newspaper article that the owner said 'hey, you shouldn't be here.'" She asked why they were not prosecuted.

MR. BREESE answered that the law requires that the signs be posted in a clear and concise manner.

REPRESENTATIVE LEDOUX said she heard him say that the landowner can personally tell people not to trespass.

MR. BREESE said she is correct based on his interpretation, but the courts determined that signs needed to be clearly posted.

[1:22:19 PM](#)

REPRESENTATIVE LEDOUX asked about the turkey. It was a pet with a name, so why was there no prosecution?

MR. BREESE said that is a question for the Department of Law, but his understanding is that the owner did not want to [press charges], but he was disappointed that someone is allowed to come on his property and "take such severe action."

[1:22:51 PM](#)

REPRESENTATIVE LEDOUX said HB 375 sounds like a great bill, but she does a lot of hiking, and if she does not see a sign when she is out, she could be guilty of a misdemeanor by crossing someone's land.

MR. BREESE noted that there are easements that exist across lands with historic trails in rural areas. The incidents he referred to were just outside of Palmer and not in wilderness where there is more hiking. It was clearly in someone's driveway, he added. Easements are "allowed if you're crossing an existing easement and existing trails." If a person is blazing a trail on someone's property, it could be trespassing.

[1:24:34 PM](#)

MR. BREESE said that HB 375 will place the burden on the person to get permission to access someone's property, as opposed to the property owners, who, "if they do not post signs currently, they basically say anyone who wants to have access to my property has access to my property." If a person wants to hike or trap, maps are available from government entities, he stated.

In rural areas of Alaska it is more difficult to know who the landowners are, but that information is becoming more available, he added. "We need to look out and protect the personal property rights and put the burden on those who want to access people's land to acquire the permission rather than just opening [the land] up for anyone and everyone who wants to access someone's land," he stated.

[1:25:37 PM](#)

REPRESENTATIVE FOSTER said he has the same concern as Representative LeDoux. He said he does a lot of hiking, but he understands the need to protect the private landowner, especially when there is the killing of pets and such. There are times when he hikes without a planned direction; "I just start walking." He does not envision people going to get maps, he added, but he understands both sides and it is a little bit of a conundrum.

REPRESENTATIVE GRUENBERG said he has the same concerns, although his hiking consists of walking from the refrigerator to the couch.

REPRESENTATIVE LEDOUX noted that it is probably far-fetched, but she gave the example of turning around in someone's driveway, and asked if that would be a misdemeanor.

[1:27:27 PM](#)

MR. BREESE said that the statute refers to a person "who enters or remains unlawfully," so someone turning around in a person's driveway will probably not run the risk of prosecution unless he or she remains there. He said that may refer to hiking as well, so if a person is just walking across.... He said "most landowners would understand if they see you out there and don't want you there, they would say 'hey, could you please stay off my property in the future.'" He added that he cannot envision a large number of cases being filed just because of HB 375. The enforcement issues will be in more urban areas and places where people clearly do not want people accessing their property and conducting activities such as trapping and hunting, he stated.

[1:28:29 PM](#)

CHAIR KELLER said this is a big issue considering all the different types of land in Alaska. There is a big difference between a lot and land held by a Native corporation, he stated.

NICOLINE JORDAN stated that she was the lessor of the property where the trappers were operating. She said she filed a civil suit against the trappers and "they gave us an offer of judgment of \$250." It cost her quite a bit of money to bring this forward to begin with, she noted. The trappers were there for the second year and they entered through an access point that was blocked with logs and rocks, so it was obvious that she did not want anyone in there. The trappers brought in moose carcasses as bait, and one of the trappers was an Alaska wildlife trooper and should have known better, she said. She opined that the law needs to be rewritten "because if the troopers can't understand it, then obviously the general public is having a hard time with it too." She said she went to the borough just to determine land ownership in the valley, and the time it took her was only four minutes. On an electronic device, property ownership can be determined within minutes—a person does not have to gather maps, she noted.

MS. JORDAN said there were no trespassing signs around the property, but it is 160 acres. Her biggest concern is keeping out the four-wheelers and dirt bikes so that she will not go to work one morning and find out that someone is dead at the bottom of one of her gravel banks. She said "the trapping thing" was a big surprise, and it is not hard to figure out who the owner of a property is today. She said it is important to protect the rights of property owners, and it should not be their burden to prosecute [trespassers]. It is not right to be on anyone's property "unless you're dying ... and you need to use somebody's cabin to stay alive, then that's OK," she added.

[1:32:48 PM](#)

JOHN VINDUSKA said he is the person whose turkey was shot at the end of his driveway. He has lived in his residence for 40 years and has always had free-ranging chickens on his property, but four years ago he incubated four turkey eggs. He said he could not eat the turkeys because they were friendly, followed him around like a dog, and were a heritage breed. They were like little members of his community, he stated, but one day one of them turned up missing and then another one. He found a bloody arrow and later a neighbor came over and told him that someone just shot one of his turkeys. The neighbor said there was a car parked at the end of Mr. Vinduska's driveway and three kids were headed toward the chicken coop with bows, and the neighbor told them that the owner would not like them hunting there. Mr.

Vinduska confronted them and they said they had killed a "wild" turkey.

[1:36:08 PM](#)

MR. VINDUSKA called the troopers, and a trooper came and said the driveway was not posted with a no hunting sign. He noted that he owns 120 acres and has the same problems that Ms. Jordan has with four-wheelers. He stated that his property is pretty well posted, and there is a sign about 100 feet from his driveway, but it was not properly placed on his driveway and was not the correct size. The trooper said it was wrong what the kids did, but the turkey is not a native game animal and the land was not posted, so the kids did not commit a crime. He asked what would happen if a dog, cat, or horse was shot—they are not native animals. He was told that a chicken or turkey does not meet the value of the other animals. He expressed his belief that most landowners would not prosecute a person for just walking through their properties. The intent of this bill is stop people from causing trouble on private property, he concluded.

[1:38:13 PM](#)

REPRESENTATIVE LEDOUX suggested asking someone from the Department of Law why the killing of a pet would not be prosecuted.

QUINLAN STEINER, Public Defender, Public Defender Agency, Alaska Department of Administration, said he did not research that particular issue but he is not sure why it would not be a crime. He spoke of criminal trespass.

REPRESENTATIVE LEDOUX interjected and said even if it is not criminal trespass, why would it be perfectly fine to take out a bow and arrow and shoot a pet?

[1:41:10 PM](#)

MR. STEINER said he assumes it would be, at the very least, criminal mischief, if a pet is somebody's property.

BURKE WALDRON, Captain, Alaska Wildlife Troopers, Department of Public Safety, in response to being asked if the trooper had given the correct message, said that he does not feel comfortable answering that question until he can find out more information. He will get back to the committee later.

CHAIR KELLER set HB 375 aside.

SB 171-MULTIDISCIPLINARY CHILD PROTECTION TEAMS

[1:42:29 PM](#)

CHAIR KELLER announced that the next order of business would be CS FOR SENATE BILL NO. 171(JUD), "An Act relating to multidisciplinary child protection teams; and relating to investigation of child abuse or neglect."

[1:43:03 PM](#)

REPRESENTATIVE LYNN moved to adopt the CS for SB 171, label 28-LS1416\P as the working document. Hearing no objections, Version P for before the committee.

RYNNIEVA MOSS, Staff, to Senator John Coghill, Alaska State Legislature, said that the Alaska Children's Justice Act taskforce had a luncheon about six weeks ago, and it presented some issues that are facing agencies that deal with child abuse and sexual abuse. The state has multidisciplinary teams (MDT) that work together to prevent children who are victims of abuse from being interviewed multiple times by the different agencies that are involved in the investigations, she explained. Under current statute, the Office of Children's Services is the only agency that can establish a multi-disciplinary child protection team. She said that SB 171 expands that so any state or municipal agency of law enforcement or a tribe can establish a multi-disciplinary child protection team. Secondly, SB 171 adds people to the MDT, including someone who is versed in the Indian Child Welfare Act (ICWA) and who is designated by a tribe that is involved in the case. The measure also adds a person from the Division of Juvenile Justice and a medical provider who has received training in child abuse assessment, she explained.

[1:45:31 PM](#)

MS. MOSS stated that the MDT does not always meet often enough to keep abreast of what is happening with the child, so SB 171 mandates that the team meets monthly. The MDT is beneficial; instead of having one social worker making all the decisions, there are many experts who can discuss the child's needs. She said this bill will make sure that a child not involved in an Office of Children's Services (OCS) case, but who has been a

victim of abuse, will get the same treatment as a child going through the process with OCS.

[1:46:24 PM](#)

CHAIR KELLER asked if the team includes any community members or anyone with significant [relations] with the child.

MS. MOSS answered that during a "mediation" there are family members, teachers, friends, and nurses who attend. It is a different process, she explained.

CHAIR KELLER closed public testimony.

REPRESENTATIVE MILLETT said this is a well written and well thought out bill. She moved to report the CS for SB 171, labeled 28-LS1416\P out of committee with individual recommendations and the accompanying fiscal notes.

[1:47:54 PM](#)

CHAIR KELLER objected in order to reopen public testimony.

JESSICA LAWMASER, Executive Director, Haven House, said Haven House is a domestic violence and sexual assault resource center that administers free child advocacy for the Kenai Peninsula. She said she is also the chair of the Alaska Children's Alliance, which represents all of the child advocacy centers in the state, and, on behalf of all of the centers, she expressed support for SB 171.

REPRESENTATIVE MILLETT asked if Ms. Lawmaster has seen the "Erin's Law" bill, and Ms. Lawmaster said she testified on that legislation this morning. The two bills complement each other, Representative Millet opined.

[1:49:47 PM](#)

REPRESENTATIVE GRUENBERG noted that there is mention of a prosecutor on page 2, lines 22-23 [of the bill]. "Then we have an attorney who specializes in child protection in the Attorney General's Office," he said. He explained that he has been a family law practitioner for many years, and it is his understanding that the person who takes the civil cases is a member of the Attorney General's Office. He assumed that the attorney mentioned on lines 22-23 is a criminal prosecutor, so both attorneys are in the Department of Law, but one handles the

civil issues and the other takes up the criminal prosecution. He asked if he was correct.

[1:52:00 PM](#)

MS. MOSS expressed her belief that the first team in subsection (b) is the MDT. The second section includes those who are invited by consensus, "so a prosecutor could be a tribal court—it doesn't necessarily have to be through the state court."

[1:52:48 PM](#)

REPRESENTATIVE GRUENBERG noted that the bill refers to a criminal prosecutor, regardless of working for a tribe or the state. He said he is concerned that there is no one to represent the defense, like a public defender or someone from OPA [Office of Public Advocacy]. "If this is a child protection team and they're developing procedures and stuff...that they don't have both sides represented. Am I missing something?"

MS. MOSS said she guessed it is because MDT is focused on healing the child; this team is not concerned with the prosecution of a defendant, but it is concerned with getting this child's life and the family's life back in order and getting them the counseling that they need. "I think it's completely separate from the criminal process," she added.

[1:54:26 PM](#)

REPRESENTATIVE MILLETT said that she does not understand why there should be anyone who caused the harm to have any representation on this team. "You're trying to heal the child...that would be inflicting more wound onto more wound. This is to get the child healthy again, so I think the make-up of it is absolutely perfect," she stated.

REPRESENTATIVE LEDOUX said that even if it were an investigative team, since when does a defense counsel sit at the prosecutors table and help them develop strategy?

[1:55:26 PM](#)

REPRESENTATIVE GRUENBERG said he stands corrected.

CHAIR KELLER closed public testimony and removed his objection to moving the CS for SB 171, labeled 28-LS1416\P out of committee with individual recommendations and the accompanying

fiscal notes. There being no objection, HCS CSSB 171(JUD) was reported from the House Judiciary Committee.

The committee took an at-ease from 1:55 p.m. to 2:00 p.m.

SB 64-OMNIBUS CRIME/CORRECTIONS/RECIDIVISM BILL

[2:00:18 PM](#)

CHAIR KELLER announced that the next order of business would be SENATE BILL NO. 64, "An Act establishing the Alaska Sentencing Commission; relating to jail-time credit for offenders in court-ordered treatment programs; allowing a reduction of penalties for offenders successfully completing court-ordered treatment programs for persons convicted of driving while under the influence or refusing to submit to a chemical test; relating to court termination of a revocation of a person's driver's license; relating to limitation of drivers' licenses; relating to conditions of probation and parole; and providing for an effective date."

[2:01:05 PM](#)

CHAIR KELLER opened public testimony.

The committee took an at-ease from 2:01 p.m. to 2:03 p.m.

[2:03:38 PM](#)

CHAIR KELLER said the committee will not be taking testimony on amendments at this time. "This is a difficult amendment that has to do with the ignition lock and the 24/7 [program] and how they fit together and who's afraid of losing something," he said. He added that he has to learn about the amendment himself, and he is moving it "to the bottom of the pile."

[2:04:22 PM](#)

REPRESENTATIVE LEDOUX asked if people will be able to testify before the amendment related to the interlock is adopted.

CHAIR KELLER said he has not made up his mind. Testimony will be allowed when the CS is adopted. He asked if the next witness is planning to testify on the bill or the amendment.

BABETTE MILLER, Smart Start of Alaska, said she would like to speak about in-home breathalyzer tests and the ignition interlock device.

[2:06:16 PM](#)

The committee took an at-ease from 2:06 p.m. to 2:08 p.m.

[2:08:26 PM](#)

CHAIR KELLER said that under existing law a person can get a temporary license with an ignition lock system, and "what we're contemplating is potentially amending it so there's another option there." He told Ms. Miller to go ahead and testify.

[2:09:02 PM](#)

REPRESENTATIVE GRUENBERG asked if the topic relates to a particular amendment.

CHAIR KELLER said Representative Gruenberg has the amendment in front of him; it is labeled L.2, and it will not be addressed for a while.

[2:10:05 PM](#)

MS. MILLER said she is referring to the amendment that would allow an individual to get a limited license and have an in-home breathalyzer device instead of an interlock device. She opined that a breathalyzer is a great addition for a person who is violating the ignition interlock device, but she does not believe that it can prevent a person from drinking and driving. At this time, "the ignition interlock violations are not used as an enhancement to prevent the person from continuing to drink," she stated, and the ignition interlock prevents an individual from drinking and driving. The proposal allows a person to choose between an in-home breathalyzer and an interlock system, and she noted that the interlock system prevents a vehicle from starting, and the in-home breathalyzer does not and should not be used as a replacement for the interlock.

[2:11:35 PM](#)

QUINLAN STEINER, Public Defender, Alaska Department of Administration, said he would like to comment on property crime levels and raising the threshold that distinguishes felonies from misdemeanors. The threshold has not been raised since

1978, and, as a result, conduct that was once a misdemeanor is now a felony because of inflation over the years. More and more crimes are being punished as felonies, he added, and this results in a disparity in how these crimes are prosecuted across the state. In some places, the crimes are prosecuted right at the \$500 level, while in other areas, crimes involving items worth under \$1,000 get reduced, he said. It is not consistent among prosecutors and jurisdictions, and he stated that he expects that raising the threshold level will diminish that disparity. The change will also have the benefit of reducing the cost of prosecutions for the lower level property crimes. Misdemeanors are much less expensive to process, he explained. It would also promote restitution to the individuals who have been harmed or suffered a loss, because misdemeanants have a greater ability to get work in the future; whereas, felonies can preclude people from employment, he said. For misdemeanors, there is a lower likelihood that offenders will be taken out of the system so long that they will not be able to get immediate treatment for the issues that relate to their conduct.

[2:14:38 PM](#)

MR. STEINER said a person can get referrals under misdemeanors for assessments for treatment and to engage in treatment right away, unlike felons. He referred to the people who steal frequently and noted that multiple instances of a misdemeanor can become a felony. He said he would also like to share his concerns about an amendment dealing with unlawful evasion.

[2:15:38 PM](#)

CHAIR KELLER decided to "stay with the standard we set." Once the committee has voted on amendments, there will be a committee substitute bill. People can testify on the amendments when and if they become part of the bill, he stated.

[2:16:58 PM](#)

JEFF JESSE, Chief Executive Officer, Alaska Mental Health Trust Authority, said he is pleased to testify in support of SB 64. It is timely and strategic as "there is a lot going on right now around criminal justice and recidivism and our growing prison population." He said the Criminal Justice Working Group and the Reentry Task Force are working diligently on these issues, and the House Finance Committee has included intent language in the budget directing the court system, AHFC, the Mental Health Trust, and the Departments of Corrections, Labor, and Health and

Social Services to develop a plan to reduce recidivism and avoid building another prison. He said that SB 64 is an important first step. Raising the felony threshold, creating the Criminal Justice Commission, establishing the 24/7 sobriety program, and creating the Recidivism Fund are all important first steps. He urged the committee to be very judicious in consideration of amendments, because the bill is at the stage where it might look as though it is going somewhere, but then it attracts all kinds of good ideas. He said he has been working with Representative Gruenberg on a very good idea, but the two of them have decided not to get it into SB 64, because the bill needs to pass.

[2:18:58 PM](#)

CHAIR KELLER said he agreed with Mr. Jesse. He then closed public testimony and announced that he is setting aside amendment L.2. He will be offering it on Friday and will have people go through the amendment and give the committee an idea of what it does. He wants to avoid a lot of public testimony and hear from the experts, he said. He told the committee to "call your experts now so that when we have this decision in front of us on Friday, it's a clean decision and we can press on." He announced that the committee will discuss an amendment by Representative Millett.

[2:20:49 PM](#)

REPRESENTATIVE MILLETT moved to adopt Amendment 1, labeled 28-LS0116\L.4, Gardner, 3/22/14, as follows [original punctuation provided]:

Page 3, line 3:
Delete "\$1,200"
Insert "\$750"

Page 3, line 11:
Delete "\$1,200"
Insert "\$750"

Page 3, line 27:
Delete "\$1,200"
Insert "\$750"

Page 4, line 10:
Delete "\$1,200"
Insert "\$750"

Page 4, line 12:
Delete "\$1,200"
Insert "\$750"

Page 4, line 23:
Delete "\$1,200"
Insert "\$750"

Page 5, line 3:
Delete "\$1,200"
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Page 5, line 6:
Delete "\$1,200"
Insert "\$750"

Page 5, line 12:
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Page 5, line 15:
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Page 5, line 21:
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Page 5, line 24:
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Page 6, line 1:
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Page 6, line 3:
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Page 6, line 26:
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Page 6, line 28:
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Page 7, line 17:
Delete "\$1,200"
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Page 8, line 2:
Delete "\$1,200"
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Page 8, line 28:
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Page 8, line 30:
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Page 9, line 4:
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Page 9, line 7:
Delete "\$1,200"
Insert "\$750"

Page 9, line 10:
Delete "\$1,200"
Insert "\$750"

Page 9, line 13:
Delete "\$1,200"
Insert "\$750"

REPRESENTATIVE GRUENBERG objected.

REPRESENTATIVE MILLETT said Amendment 1 is offered by Millet, Pruitt, and Keller, and it deals with theft in the second degree and makes the possession of stolen property a felony if valued over \$750. The Amendment lowers the threshold by deleting \$1,200 and inserting \$750, she explained. She opined that a threshold of \$1,200 is much too high, and "we need to make sure that our small businesses and our small business owners...." Amendment 1 strikes every \$1,200 in the bill and inserts \$750, she noted.

[2:21:43 PM](#)

REPRESENTATIVE GRUENBERG said he would like to add himself as a sponsor.

REPRESENTATIVE LYNN said he would like to add his name to Amendment 1, and he would prefer that the threshold to be \$500, not \$750, but that is a good compromise.

REPRESENTATIVE LEDOUX said she feels uncomfortable reducing the threshold to \$750, but she "can read the tea leaves."

REPRESENTATIVE GRUENBERG removed his objection.

There being no further objections, Amendment 1 was adopted.

[2:23:11 PM](#)

CHAIR KELLER said he had an amendment in front of him and asked Representative Gruenberg to explain it and then he will put the amendment at "the bottom of the pile."

REPRESENTATIVE MILLETT suggested moving the amendment first.

REPRESENTATIVE GRUENBERG moved to adopt Amendment 2, labeled 28-LS0116\L.5, Gardner, 3/22/14, as follows [original punctuation provided]:

Page 2, line 1, following "**Services**,":

Insert "**relating to a report on social impact financing as a means to reduce recidivism;**"

Page 22, following line 31:

Insert a new bill section to read:

"* **Sec. 34.** The uncodified law of the State of Alaska is amended by adding a new section to read:

SOCIAL IMPACT FINANCING STUDY AND REPORT ON RECIDIVISM REDUCTION. (a) The Board of Trustees of the Alaska Mental Health Trust Authority, in cooperation with the commissioner of health and social services and the commissioner of corrections, shall study whether social impact financing may be used for the

purpose of funding programs that reduce recidivism for persons charged with violations or offenses under state law, including grant programs under AS 47.38.100(c) and contracts for services. The board and the commissioners shall prepare a report for the governor and the legislature with findings and recommendations.

(b) The study and report prepared under (a) of this section shall include an evaluation of whether social impact financing can be used to reduce recidivism rates by identifying and evaluating

(1) grant programs, contracts, and services of the Department of Health and Social Services and the Department of Corrections that may be suitable for social impact financing;

(2) private sector investors providing social impact financing;

(3) guarantors that provide guarantees for funds invested by private sector investors;

(4) programs operated by nonprofit corporations that could be funded through a social impact financing mechanism;

(5) independent evaluators that could determine whether performance targets for a nonprofit corporation funded by social impact financing are met at the end of an agreed on time frame;

(6) whether federal funding is available for independent evaluators participating in social impact financing; and

(7) the cost savings to the state from reductions in recidivism.

(c) The report shall be submitted to the governor and the legislature not later than February 15, 2015."

Renumber the following bill sections accordingly.

Page 23, line 17:

Delete "30 - 34"

Insert "30 - 35"

Page 23, line 22:

Delete "30 - 34"

Insert "30 - 35"

Page 23, line 23:

Delete "30 - 34"

Insert "30 - 35"

Page 24, line 13:

Delete "Section 36"

Insert "Section 37"

Page 24, line 14:

Delete "30 - 34"

Insert "30 - 35"

REPRESENTATIVE MILLET objected.

[2:24:44 PM](#)

TED MADSEN, Staff, to Representative Max Gruenberg, Alaska State Legislature, said that Amendment 2 has to do with a Social Impact Financing Mechanism, which is a way to bring market forces to bear on public sector problems through an innovative

policy instrument that was developed a couple of years ago by a group called Social Finance UK and the Rockefeller Foundation in the United Kingdom. It invites private sector capital, from an investment banking institution or private sector investors, and takes that money to buy a contract put out by a government agency, he explained. The proceeds of the sale of the contract fund a suite of nonprofit programs "that are all marching toward the same goal," he said, and in this case it would go to reducing recidivism.

[2:25:55 PM](#)

MR. MADSEN said if the goals of those nonprofits are met—for example, reducing recidivism by 10 percent amongst the target population—then the investor gets paid back along with an agreed upon interest rate. The outcomes are evaluated by an independent evaluator—a wholly neutral party—to decide if outcomes have been achieved, he stated. He said that Amendment 2 is not setting up a social impact financing mechanism, as that would be a very large policy call. The amendment "looks for the pieces of the puzzle and it directs the Mental Health Trust Authority Board of Trustees to come back with the pieces of the puzzle for presentation to the legislature and say these are the components that we see fitting in here." This would occur on February 15, [2015], which is the same date that the Recidivism Reduction Plan, which was inserted into the operating budget, as mentioned by Mr. Jesse, is due, he stated.

[2:26:46 PM](#)

MR. MADSEN said he has a few handouts, which he can discuss. He offered to explain the first seven paragraphs under subsection (b) of Amendment 2. He said (b)(1) looks into currently operating grant programs, contracts, and services of both DHSS [Department of Health and Social Services] and the Department of Corrections (DOC) that may be suitable for social impact financing. "These are the nonprofit programs that are all marching towards the same direction," he noted. Paragraph (b)(2) looks for private sector investors that could provide social impact financing, whether that is Goldman Sachs, Bank of America, Merrill Lynch, or an institutional investor of a similar type, he explained, and (b)(3) looks for guarantors that provide guarantees for funds invested by private sector investors. He said these would be philanthropic backers, such as the Bloomberg Foundation or, maybe, the Rasmussen Foundation, that could guarantee a portion of the private sector's capital. He provided the example of the Rikers Island Social Impact bond,

which is not a traditional bond but a contract. The Bloomberg Foundation backed up \$7.2 million of Goldman Sachs' \$9.6 million investment, so if the outcomes are not achieved according to the neutral evaluator, Goldman Sachs will not lose everything that it has invested—they will only lose \$2.4 million, he said. He turned to paragraph (b)(4), which looks into the programs operated by nonprofit corporations that could be funded through a social impact financing mechanism. There are a number of nonprofits operating within and outside of the DOC institutions that really could have a very strong impact, he noted.

[2:29:14 PM](#)

MR. MADSEN gave the scenario of nonprofit "A" with the capacity to help 40 former prisoners a month get back into the Anchorage community. The Anchorage Correctional Complex releases around 200 prisoners a month, so if the capacity of the nonprofit were scaled up, it could have a greater impact, he stated. Paragraph (b)(5) discusses the independent evaluators who come in at the end of the agreed upon time horizon to determine if the outcomes have been achieved. "This is an outcome-based idea," he said. He explained that paragraph (b)(6) asks the Mental Health Trust Authority, working in concert with DOC and DHSS, to determine whether federal funding is available for independent evaluators participating in social impact financing evaluation. In the FY2015 federal budget there is about \$350 million available for social impact financing mechanisms (called "pay-for-success contracts" at the federal level), he noted. He said (b)(7) looks at the cost savings to the state for the reductions in recidivism.

[2:30:36 PM](#)

MR. MADSEN referred to a handout showing the contract that the city of New York signed with Goldman Sachs and nonprofit service providers to say that if recidivism is reduced by 20 percent, then the city will pay Goldman Sachs \$11.7 million, which is a profit of \$2.1 million. At the same time, the projected long-term savings to New York City will be 20.5 million dollars. "It's an innovative concept; it's an innovative policy instrument; it's great way to bring market forces to bear on public sector problems, and [it is] really bringing the market's expertise in analyzing what is a good idea and what is a bad idea to bear on these pernicious social ills that you all are facing as a state," he opined.

[2:31:37 PM](#)

CHAIR KELLER noted that the Mental Health Trust is involved and asked if Mr. Madsen has been working with people from the trust.

MR. MADSEN said he has spoken with Mr. Jesse and believes that his organization has the capacity to do this sort of operation.

CHAIR KELLER noted that "this is taking [Mr. Jesse's] words to heart—we want to be judicious about handling SB 64. This is obviously an exciting and fun thought to explore, and we're not going to have a whole lot of time to vet the issue like we normally would." He suggested that committee members who are interested in Amendment 2 speak with Mr. Madsen, Mr. Jesse, and the Commissioner of DHSS.

[2:32:41 PM](#)

REPRESENTATIVE MILLETT asked about a fiscal note. She added that it seems like it does not fit within SB 64 and should be a stand-alone bill rather than in a complicated omnibus bill that is already setting up a sentencing commission.

MR. MADSEN said he is not certain about fiscal costs in creating the study, but he does not believe it will impact the bottom line of the Mental Health Trust, because it could work in concert with the Recidivism Reduction Plan that is within the operating budget. The Recidivism Reduction Grant Fund currently in SB 64 will go a long way in reducing recidivism, and this is another avenue that could really drive down Alaska's recidivism rate, he stated. The two options can operate in concert.

[2:34:37 PM](#)

REPRESENTATIVE LEDOUX stated that she is not sure the amendment belongs in this bill at this late stage of the game. It is an utterly fascinating idea, she opined, and if it does not happen this session, she would like to work on it in the future.

CHAIR KELLER said he is of the same opinion. It is a great idea that needs to be explored, "but we aren't making a decision right now on whether or not we're going to act on the bill."

REPRESENTATIVE GRUENBERG said that when Mr. Jesse spoke a few minutes ago, he was not aware of Chair Keller's recent conversation with Representative Gruenberg. He added that Mr. Madsen is in a Master's Degree program and is responsible for this amendment.

[2:35:50 PM](#)

CHAIR KELLER stated that he wants to hear from Jordan [Shilling] and Senator Coghill for what to do on Friday. He asked Representative Gruenberg to withdraw his motion in order to put Amendment 2 on the bottom of the list.

REPRESENTATIVE GRUENBERG requested unanimous consent to withdraw the motion to adopt Amendment 2.

The committee took an at-ease from 2:36 to 2:37.

[2:38:05 PM](#)

CHAIR KELLER announced the discussion of Amendment 3, which he believes came from Quinlan Steiner [of the Alaska Public Defender Agency].

REPRESENTATIVE MILLETT moved to adopt Amendment 3, labeled 28-LS0116\L.10, Gardner, 3/31/14, as follows [original punctuation provided]:

Page 12, line 29:

Delete "residents are"

Insert "the resident is"

Page 12, line 31:

Delete "residents are"

Insert "resident is"

REPRESENTATIVE PRUITT objected.

[2:38:50 PM](#)

ERNEST PRAX, Staff, to Representative Wes Keller, Alaska State Legislature, stated that Amendment 3 was recommended by Mr. Steiner and deals with the Nygren credit language. Mr. Steiner felt that the language is a bit ambiguous and could be interpreted to mean that an assessment of all residents, and not just the applicant, was called for. Amendment 3 changes the terms to the singular to make it absolutely clear that it refers to the particular individual, not the behavior of everyone.

[2:40:32 PM](#)

JORDAN SHILLING, Staff, to Senator John Coghill, Alaska State Legislature, said, "Any time we discuss changing this section, Section 23, it always makes us a little bit uneasy because of how arduous of a process it was to get to this language." He noted that the language succeeds in getting the Department of Law (DOL) and the Public Defenders Agency in agreement, which was difficult, and he was reluctant to make changes, but this is a reasonable change and prudent.

REPRESENTATIVE MILLETT removed the objection.

There being no other objections, Amendment 3 was adopted.

[2:41:35 PM](#)

REPRESENTATIVE GRUENBERG asked if Mr. Shilling was going to comment on Amendment 1.

REPRESENTATIVE MILLET said she received approval from the sponsor for Amendment 1.

CHAIR KELLER moved to adopt Amendment 4, labeled 28-LS0116\L.11, Gardner, 3/31/14, as follows [original punctuation provided]:

Page 1, line 3, following "**date;**":

Insert "**relating to electronic monitoring for certain persons convicted of driving while under the influence;**"

Page 13, following line 31:

Insert a new bill section to read:

"* **Sec. 26.** AS 28.35.030(k) is amended to read:

(k) Imprisonment required under (b)(1)(A) of this section shall be served by electronic monitoring, or at a community residential center. If electronic monitoring or [OR, IF] a community residential center is not available, imprisonment required under

(b)(1)(A) of this section may be served at another appropriate place determined by the commissioner of corrections. Imprisonment required under (b)(1)(B) - (F) of this section may be served at a community residential center or at a private residence if approved by the commissioner of corrections. Imprisonment served at a private residence must include electronic monitoring. The cost of imprisonment resulting from the sentence imposed under (b)(1) of this section shall be paid to the state by the person being sentenced provided, however, that the cost of imprisonment required to be paid under this subsection may not exceed \$2,000. Upon the person's conviction, the court shall include the costs of imprisonment as a part of the judgment of conviction. Except for reimbursement from a permanent fund dividend as provided in this subsection, payment of the cost of imprisonment is not required if the court determines the person is indigent. For costs of imprisonment that are not paid by the person as required by this subsection, the state shall seek reimbursement from the person's permanent fund dividend as provided under AS 43.23.065. While at the community residential center or other appropriate place, a person sentenced under (b)(1)(A) of this section shall perform at least 24 hours of community service work. A person sentenced under (b)(1)(B) of this section shall perform at least 160 hours of community service work, as required by the director of the community residential center or other appropriate place, or as required by the commissioner of

corrections if the sentence is being served at a private residence. In this subsection, "appropriate place" means a facility with 24-hour on-site staff supervision that is specifically adapted to provide a residence, and includes a correctional center, residential treatment facility, hospital, halfway house, group home, work farm, work camp, or other place that provides varying levels of restriction."

Renumber the following bill sections accordingly.

Page 23, line 17:

Delete "secs. 1 - 28 and 30 - 34"

Insert "secs. 1 - 29 and 31 - 35"

Page 23, line 18, following "Act,":

Insert "AS 28.35.030(k), as amended by sec. 26 of this Act,"

Page 23, line 19:

Delete "sec. 26"

Insert "sec. 27"

Delete "sec. 27"

Insert "sec. 28"

Page 23, line 20:

Delete "sec. 28"

Insert "sec. 29"

Page 23, line 21:

Delete "sec. 32"

Insert "sec. 33"

Page 23, line 22:

Delete "secs. 1 - 28 and 30 - 34"

Insert "secs. 1 - 29 and 31 - 35"

Page 23, line 23:

Delete "secs. 1 - 28 and 30 - 34"

Insert "secs. 1 - 29 and 31 - 35"

Page 23, line 27:

Delete "sec. 30"

Insert "sec. 31"

Page 23, line 29:

Delete "sec. 30"

Insert "sec. 31"

Page 24, line 3:

Delete "sec. 26"

Insert "sec. 27"

Page 24, line 6:

Delete "sec. 27"

Insert "sec. 28"

Delete "sec. 28"

Insert "sec. 29"

Page 24, line 9:

Delete "sec. 32"

Insert "sec. 33"

Page 24, line 12:

Delete "Section 29"

Insert "Section 30"

Page 24, line 13:

Delete "Section 36"

Insert "Section 37"

Page 24, line 14:

Delete "Sections 1 - 28 and 30 - 34"

Insert "Sections 1 - 29 and 31 - 35"

REPRESENTATIVE MILLET objected.

MR. PRAX said that Amendment 4 relates to electronic monitoring for first-time DUI [driving under the influence] offenders. There was a drafting error that took the language out of SB 64, he explained, and Amendment 4 reinserts it. He recalled a judiciary hearing in Fairbanks in, perhaps, November, and he said that a legislative research report looked at the potential cost savings between keeping the first-time offender in jail or a half-way house for three days versus using an electronic monitor. The cost savings was estimated to be between \$800,000 and \$1 million each year, and that is why electronic monitoring is in SB 64, he stated.

MR. SHILLING said that is exactly right—it was a drafting error. He added that Anchorage is already operating under this policy; the Assembly implemented it several years ago, and the bill attempts to put the rest of the state under the same guidelines.

[2:44:22 PM](#)

REPRESENTATIVE MILLET removed her objection.

Hearing no further objections, Amendment 4 was adopted.

[2:44:33 PM](#)

CHAIR KELLER moved to adopt Amendment 5, labeled 28-LS0116\L.12, Gardner, 3/31/14, as follows [original punctuation provided]:

Page 17, line 16, following "more":

Insert "and provide to the legislature, by January 15 during the first regular session of each legislature, a report summarizing the findings and results of the program"

REPRESENTATIVE MILLETT objected.

[2:44:55 PM](#)

MR. PRAX explained that Amendment 5 refers to the Commissioner [of the Department of Corrections] establishing a program to conduct the assessments of the risks and needs of offenders sentenced to a term of incarceration of 30 days or more. He noted that one draft of SB 64 had a requirement to create a report for the legislature, which was taken out, and Amendment 5 would put the report requirement back in. If the DOC is going to conduct the assessment in the effort to better address recidivism, it should be stated explicitly that the legislature wants to be notified and to read about it, he stated.

CHAIR KELLER asked when this bill goes into effect if it passes this session.

MR. SHILLING said some of the sections of the bill go into effect later than the overall effective date, and this specific section goes into effect on January 1, 2016. It requires the DOC to conduct many more assessments than it currently conducts, he explained, and Amendment 5 [directs DOC] to provide a report on the results of the assessments, he said.

CHAIR KELLER said, "We don't want to get into a position of forcing them to report before anything is up and running."

[2:48:28 PM](#)

DOUG GARDNER, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency (LAA), said that that portion of the act does not take effect until January 1, 2016, so it would seem to allow for the time necessary to get ready to do the report. "If the committee

wanted to, it could say by January 15 or another date that the committee feels is appropriate." He said the logical thing to do would be to set the date at January 15, 2017.

REPRESENTATIVE MILLETT offered a conceptual amendment to use January 15, 2017, as the date the first report is due.

[2:49:08 PM](#)

REPRESENTATIVE GRUENBERG objected.

REPRESENTATIVE MILLETT said that her conceptual amendment adds "2017" after "15" on line 2 of Amendment 5.

REPRESENTATIVE GRUENBERG suggested taking time to determine the best date and make a separate amendment on Friday after everyone confers. "You can't just have it effective on the date that the thing is due. They have to have enough time to be doing the work," he stated.

[2:50:09 PM](#)

REPRESENTATIVE MILLETT noted that Mr. Gardner suggested 2017.

REPRESENTATIVE GRUENBERG said he understands that she is talking about when the first report is due. "If you look at the last page, it doesn't take effect until January 1, 2016."

REPRESENTATIVE MILLETT said it is a yearly report, so it coincides with the effective date.

CHAIR KELLER said the effect will be that 2017 will go in the bill and there will be a chance to review it.

REPRESENTATIVE GRUENBERG withdrew his objection to amend Amendment 5.

REPRESENTATIVE MILLET withdrew her objection to Amendment 5.

Being no further objections, Amendment 5, as amended, was adopted.

[2:52:02 PM](#)

CHAIR KELLER moved to adopt Amendment 6, labeled 28-LS0116\L.13, Gardner, 3/31/14, as follows [original punctuation provided]:

Page 20, line 26:

Delete "June 30"

Insert "January 1"

REPRESENTATIVE MILLETT objected.

MR. SHILLING pointed out that the Alaska Criminal Justice Commission members will serve a three-year term. Currently, the commission has a four-year sunset, so rather than adjust the term length, Senator Coghill suggested shortening the sunset term by about six months.

REPRESENTATIVE MILLET withdrew her objection.

There being no further objections, Amendment 6 was adopted.

[2:53:43 PM](#)

The committee took an at-ease from 2:53 p.m. to 2:54 p.m.

CHAIR KELLER noted that the committee is not passing two amendments: the one regarding the ignition interlock and Amendment 1. The committee will try to act on them on Friday, he added. He said it puts a load on legal services to continually draft amendments.

REPRESENTATIVE MILLET asked if the only amendment that the committee has not yet taken up is Amendment 1, because Representative Gruenberg withdrew Amendment 2 on the Social Impact Financing Study.

CHAIR KELLER said Amendment 1 was the Millet amendment that passed.

The committee took an at-ease from 2:56 p.m. to 2:59 p.m.

[2:59:15 PM](#)

CHAIR KELLER said he believes that the numbering system [for the amendments] is sorted out.

The committee took an at-ease from 3:00 p.m. to 3:01 p.m.

REPRESENTATIVE GRUENBERG moved to adopt Amendment 7, labeled 28-LS0116\L.15, Strasbaugh, 4/1/14 as follows [original punctuation provided]:

Page 1, line 2, following "**offenses;**":

Insert "**relating to the crime of unlawful evasion;**"

Page 9, following line 14:

Insert new bill sections to read:

"* **Sec. 20.** AS 11.56.335(a) is amended to read:

(a) A person commits the crime of unlawful evasion in the first degree if, while charged with or convicted of a felony,

(1) the person fails to return to official detention within the time authorized following temporary leave granted for a specific purpose or limited period, including leave granted under AS 33.30.181; [OR]

(2) while on furlough under AS 33.30.101 - 33.30.131, the person fails to return to the place of confinement or residence within the time authorized by those having direct supervision over the person; or

(3) while assigned to a treatment or residential facility as a condition of probation or parole

(A) the person fails to return to the facility within the time authorized by those having direct supervision over the person;

(B) the person leaves the facility without permission of those having direct supervision over the person; or

(C) the person is in transit to or from the

facility, and the person leaves the conveyance without the permission of those having direct supervision over the person.

* Sec. 21. AS 11.56.340(a) is amended to read:

(a) A person commits the crime of unlawful evasion in the second degree if, while charged with or convicted of a misdemeanor,

(1) the person fails to return to official detention within the time authorized following temporary leave granted for a specific purpose or limited period, including leave granted under AS 33.30.181; [OR]

(2) while on furlough under AS 33.30.101 - 33.30.131, the person fails to return to the place of confinement or residence within the time authorized by those having direct supervision over the person; or

(3) while assigned to a treatment or residential facility as a condition of probation or parole,

(A) the person fails to return to the facility within the time authorized by those having direct supervision over the person;

(B) the person leaves the facility without permission of those having direct supervision over the person; or

(C) the person is in transit to or from the facility, and the person leaves the conveyance without the permission of those having direct supervision over the person."

Renumber the following bill sections accordingly.

Page 23, line 14:

Following the first occurrence of "Act,":

Insert "AS 11.56.335(a) as amended by sec. 20 of
this Act, AS 11.56.340(a), as amended by sec. 21 of
this Act,"

Delete "sec. 20"

Insert "sec. 22"

Page 23, line 15:

Delete "sec. 21"

Insert "sec. 23"

Delete "sec. 22"

Insert "sec. 24"

Page 23, line 16:

Delete "sec. 23"

Insert "sec. 25"

Page 23, line 17:

Delete "secs. 1 - 28 and 30 - 34"

Insert "secs. 1 - 30 and 32 - 36"

Page 23, line 18:

Delete "sec. 24"

Insert "sec. 26"

Page 23, line 19:

Delete "sec. 26"

Insert "sec. 28"

Delete "sec. 27"

Insert "sec. 29"

Page 23, line 20:

Delete "sec. 28"

Insert "sec. 30"

Page 23, line 21:

Delete "sec. 32"

Insert "sec. 34"

Page 23, line 22:

Delete "secs. 1 - 28 and 30 - 34"

Insert "secs. 1 - 30 and 32 - 36"

Page 23, line 23:

Delete "secs. 1 - 28 and 30 - 34"

Insert "secs. 1 - 30 and 32 - 36"

Page 23, line 27:

Delete "sec. 30"

Insert "sec. 32"

Page 23, line 29:

Delete "sec. 30"

Insert "sec. 32"

Page 24, line 3:

Delete "sec. 26"

Insert "sec. 28"

Page 24, line 6:

Delete "sec. 27"

Insert "sec. 29"

Delete "sec. 28"

Insert "sec. 30"

Page 24, line 9:

Delete "sec. 32"

Insert "sec. 34"

Page 24, line 12:

Delete "Section 29"

Insert "Section 31"

Page 24, line 13:

Delete "Section 36"

Insert "Section 38"

Page 24, line 14:

Delete "Sections 1 - 28 and 30 - 34"

Insert "Sections 1 - 30 and 32 - 36"

REPRESENTATIVE MILLETT objected.

[3:01:32 PM](#)

REPRESENTATIVE GRUENBERG explained that Amendment 7 is the same as a bill that was introduced and suggested by Legislative Legal counsel. It deals with a case of someone being transported from one treatment or residential facility to another and walks away from the van, he explained. The amendment is supposed to just cure a loophole, he stated.

[3:02:13 PM](#)

MR. QUINLAN STEINER said Amendment 7 extends a criminal penalty to what is traditionally handled as a parole or probation violation, which is the favored policy for handling such conduct

violations as espoused in various arenas including the model penal code. It is not a loophole in that somebody will get away with walking away and violating the condition of parole or probation; it is handled by a violation report—a swift, certain, and proportional manner, he added. He said [the consequences] could include jail time, but it would not be a full prosecution of a crime. In effect, the amendment would undermine the function of parole and probation to a significant degree, which is to promote rehabilitation and reentry, he stated, and that is best accomplished with a relationship between a parole officer and a probation officer. It would elevate the conduct to a criminal prosecution on some undefined language, he said. What exists now for criminal prosecutions, like in a furlough, for example, "you have direct orders; you're committed to corrections; and then you're given leave through statute. Here, you just have language like 'assigned to a treatment facility.' Assigned by who? And how formal is that assignment? And what kind of residential facility are you talking about?" He surmised that Amendment 7 would have the unintended consequence of undermining rehabilitation.

[3:04:26 PM](#)

REPRESENTATIVE GRUENBERG said in light of that, he will withdraw Amendment 7 and confer with Mr. Steiner and others.

CHAIR KELLER moved on to Amendment 8.

[3:04:59 PM](#)

REPRESENTATIVE LEDOUX said she will move the amendment for discussion, but she plans on withdrawing the motion in order to speak with the bill's sponsor. She moved to adopt Amendment 8, labeled 28-LS0116\L.16, Gardner, 4/1/14, as follows [original punctuation provided]:

Page 1, line 1, following "**Act**":

Insert "**relating to persons restricted from purchasing alcoholic beverages;**"

Page 2, following line 2:

Insert new bill sections to read:

"* **Section 1.** AS 04.06.090 is amended by adding a

new subsection to read:

(f) The board shall, on a quarterly basis, provide to licensees the list maintained by the Department of Public Safety under AS 18.65.085(d) of persons who are restricted from purchasing alcoholic beverages under AS 04.16.160. A licensee may not use the information obtained from a list prepared by the Department of Public Safety under AS 18.65.085(d) for a purpose not specified in this title.

* **Sec. 2.** AS 04.21.050(a) is amended to read:

(a) If a licensee or an agent or employee of the licensee questions or has reason to question whether a person entering licensed premises, or ordering, purchasing, attempting to purchase, or otherwise procuring or attempting to procure alcoholic beverages,

(1) has attained the age of 21 years or is entering without consent in violation of AS 04.16.049(a)(3) and has not attained the age of 16 years, that licensee, agent, or employee shall require the person to furnish proof of age acceptable under (b) of this section or proof of consent in a form determined by the board; if the person questioned does not furnish proof of age acceptable under (b) of this section, or if a licensee, agent, or employee questions or has reason to question the validity of the proof of age furnished, the licensee, employee, or agent shall require the person to sign a statement that the person is over the age of 21 or 16 years, as appropriate; this statement shall be made on a form prepared by and furnished to the licensee by the board;

(2) is restricted from purchasing alcoholic beverages under AS 04.16.160, the licensee, agent, or employee shall

(A) consult the list of restricted persons provided under AS 04.06.090; and

(B) if the person is not on the list, may, but has no duty or obligation to, require the person to furnish proof acceptable under (b) of this section that the person is not restricted from purchasing alcoholic beverages or require the person to sign a statement that the person is not restricted from purchasing alcoholic beverages under AS 04.16.160; this statement shall be made on a form prepared by and furnished to the licensee by the board."

Page 2, line 3:

Delete "**Section 1**"

Insert "**Sec. 3**"

Renumber the following bill sections accordingly.

Page 13, following line 27:

Insert a new bill section to read:

"* **Sec. 27.** AS 18.65.085 is amended by adding a new subsection to read:

(d) The Department of Public Safety shall, on a quarterly basis, provide to the Alcohol Beverage Control Board a list of persons who are restricted from purchasing alcohol under AS 04.16.160, including, if available, each person's name, age, date of birth, height, weight, and photographic image."

Renumber the following bill sections accordingly.

Page 13, following line 31:

Insert a new bill section to read:

"* **Sec. 29.** AS 28.15.151 is amended by adding a new subsection to read:

(g) Notwithstanding another provision of this title, the department shall, upon request, provide to the Department of Public Safety a person's name, age, date of birth, height, weight, and photographic image for the list maintained under AS 18.65.085(d)."

Renumber the following bill sections accordingly.

Page 22, following line 30:

Insert a new bill section to read:

"* **Sec. 37.** AS 04.16.047(c) is repealed."

Renumber the following bill sections accordingly.

Page 23, line 3:

Delete "sec. 1"

Insert "sec. 3"

Page 23, line 4:

Delete "sec. 2"

Insert "sec. 4"

Delete "sec. 3"

Insert "sec. 5"

Page 23, line 5:

Delete "sec. 4"

Insert "sec. 6"

Page 23, line 6:

Delete "sec. 5"

Insert "sec. 7"

Delete "sec. 6"

Insert "sec. 8"

Page 23, line 7:

Delete "sec. 7"

Insert "sec. 9"

Delete "sec. 8"

Insert "sec. 10"

Page 23, line 8:

Delete "sec. 9"

Insert "sec. 11"

Delete "sec. 10"

Insert "sec. 12"

Page 23, line 9:

Delete "sec. 11"

Insert "sec. 13"

Page 23, line 10:

Delete "sec. 12"

Insert "sec. 14"

Delete "sec. 13"

Insert "sec. 15"

Page 23, line 11:

Delete "sec. 14"

Insert "sec. 16"

Delete "sec. 15"

Insert "sec. 17"

Page 23, line 12:

Delete "sec. 16"

Insert "sec. 18"

Delete "sec. 17"

Insert "sec. 19"

Page 23, line 13:

Delete "sec. 18"

Insert "sec. 20"

Page 23, line 14:

Delete "sec. 19"

Insert "sec. 21"

Delete "sec. 20"

Insert "sec. 22"

Page 23, line 15:

Delete "sec. 21"

Insert "sec. 23"

Delete "sec. 22"

Insert "sec. 24"

Page 23, line 16:

Delete "sec. 23"

Insert "sec. 25"

Page 23, line 17:

Delete "secs. 1 - 28 and 30 - 34"

Insert "secs. 3 - 26, 28, 30 - 32, and 34 - 39"

Page 23, line 18:

Delete "sec. 24"

Insert "sec. 26"

Page 23, line 19:

Delete "sec. 26"

Insert "sec. 30"

Delete "sec. 27"

Insert "sec. 31"

Page 23, line 20:

Delete "sec. 28"

Insert "sec. 32"

Page 23, line 21:

Delete "sec. 32"

Insert "sec. 36"

Page 23, line 22:

Delete "secs. 1 - 28 and 30 - 34"

Insert "secs. 3 - 26, 28, 30 - 32, and 34 - 39"

Page 23, line 23:

Delete "secs. 1 - 28 and 30 - 34"

Insert "secs. 3 - 26, 28, 30 - 32, and 34 - 39"

Page 23, line 27:

Delete "sec. 30"

Insert "sec. 34"

Page 23, line 29:

Delete "sec. 30"

Insert "sec. 34"

Page 24, line 3:

Delete "sec. 26"

Insert "sec. 30"

Page 24, line 6:

Delete "sec. 27"

Insert "sec. 31"

Delete "sec. 28"

Insert "sec. 32"

Page 24, line 9:

Delete "sec. 32"

Insert "sec. 36"

Page 24, line 12:

Delete "Section 29"

Insert "Section 33"

Page 24, line 13:

Delete "Section 36"

Insert "Sections 1, 2, 27, 29, 37, and 41 of this Act
take"

Page 24, line 14:

Delete "Sections 1 - 28 and 30 - 34"

Insert "Sections 3 - 26, 28, 30 - 32, 34 - 36, 38, and
39"

CHAIR KELLER objected.

REPRESENTATIVE LEDOUX said that there is a huge problem in Northeast Anchorage with derelicts purchasing liquor. "The red stripe in the driver's license just doesn't seem to be working." Amendment 8 requires the Alcohol Beverage [Control Board] to provide a list of people who are on a "no sale list," because they have either driven drunk or they have done some other thing while intoxicated, she explained, and give that list to the liquor dispensers. This will keep those people from populating public parks and "do all of the things that people do when they are intoxicated," she noted. She added that she would like to chat with the bill's sponsor "to see whether or not we can do something about it this year."

[3:05:48 PM](#)

REPRESENTATIVE MILLETT said she thinks it is great idea; it is like the sex offender list and can be accessed through a computer base that liquor stores and bars could have on hand.

REPRESENTATIVE LEDOUX said that she cannot say for sure that this [amendment] provides for computer use, but if there is a way to do it by computer, then that is the way it would be done.

REPRESENTATIVE LYNN stated that he likes the idea, but he wants to look at it from the point of view of the liquor store owner. "How many of these people are we talking about running around the place?" Every time someone buys a bottle of liquor, the store owner will have to go to a book or a computer, he offered. It is not like the sex offender list—something that a person can check periodically without 20 customers waiting.

[3:07:59 PM](#)

REPRESENTATIVE LEDOUX stated that if the system is on the computer, "all it would mean is sticking the name into the computer and up it pops."

CHAIR KELLER suggested speaking to the sponsor.

3:08:28 PM

REPRESENTATIVE PRUITT asked about a "Joe Smith" whose name is flagged. The FBI takes three days to come back if a person's name is flagged, he said. There may be 15 people called Joe Smith. The problem with the red stripe is people use passports instead of driver's licenses [to buy liquor]. He said he does not know if this would solve the red stripe problem, and it may put honest citizens in a place of not being able to purchase [alcohol]. It is a great idea because the problem is rampant, but the law might hit snags and hurt the honest people. He added that he would be frustrated if he was told to come back in three days.

REPRESENTATIVE LEDOUX said that Section 27 of the bill provides that the Department of Public Safety provide the person's name, age, date of birth, height, weight, and photograph. That would help to keep the honest purchaser of liquor from getting confused with a John Smith who has a string of DUIs.

3:10:29 PM

REPRESENTATIVE PRUITT asked if every liquor store will have to have the ability to look up this information. That puts a burden on the business owner. If that is the policy decision, the legislature needs to be cognizant that there will be a burden and maybe some push back. "If we're going to mandate something on them and not pay for it, I would expect some sort of push back." He said it is a good idea and maybe it should be considered in the interim.

3:11:30 PM

REPRESENTATIVE FOSTER said this is his favorite amendment out of all of the amendments, but he noted the questions raised and offered that there are some Mom and Pop liquor stores in Nome, and some stores have poor or no internet connection.

REPRESENTATIVE MILLETT suggested that it could be a voluntary system. "I know people in Fairview would love to have it," as would other communities. She said she would love to work on it. By the way, she stated, a passport is not an appropriate ID to buy a drink, as she recently found out when she tried to buy a drink using her passport as an ID.

3:12:58 PM

REPRESENTATIVE LYNN pointed out that there are people with serious alcohol problems all over town and all over the state.

CHAIR KELLER asked if Representative LeDoux would like to withdraw her amendment now that she has that input.

REPRESENTATIVE LEDOUX withdrew her motion to adopt Amendment 8.

3:13:39 PM

REPRESENTATIVE GRUENBERG said he would like the next amendment to go to the bottom of the pile.

CHAIR KELLER said he will do that, but he noted that the committee needs to be judicious. He said he likes the idea of the amendment, but "it fills the saddlebags on this bill."

REPRESENTATIVE MILLETT stated that she thinks there is a [similar] bill in the hopper somewhere in the legislature, "so I don't think we can pull a bill out of another committee..."

REPRESENTATIVE GRUENBERG interjected and said the bill was in this committee.

CHAIR KELLER noted that the amendment will not be offered, and he moved to adopt Amendment 10, labeled 28-LS0116\L.20, Gardner, 4/2/14, as follows [original punctuation provided]:

Page 18, line 27, following "and":

Insert "criminal justice"

Page 18, line 28:

Delete "sentences"

Insert "those sentencing laws and criminal justice practices"

Page 18, line 29, following "crimes,":

Insert "the rights of the accused and the person convicted,"

Page 18, line 31, following "practices":

Insert "and criminal justice practices, including rehabilitation and restitution"

Page 19, line 2:

Delete "and court rules related"

Insert ", court rules, and court decisions relevant"

Page 19, line 6:

Delete "and proportionality"

Insert "proportionality, and accountability"

Page 19, line 8:

Delete "use"

Insert "efficacy"

Delete "sentencing criminal defendants and to ensure"

Insert "reducing recidivism, achieving rehabilitation, and ensuring"

Page 19, line 16, following "resources;":

Insert "and"

Page 19, line 17:

Delete all material.

ReNUMBER the following paragraph accordingly.

Page 19, line 18:

Delete "effectiveness"

Insert "usability"

Page 19, line 19:

Delete "dissemination"

Insert "extrapolation"

Page 19, line 20, following "may":

Insert "select and retain the services of consultants."

Page 19, lines 21 - 26:

Delete all material.

Page 19, line 31:

Delete "criminals"

Insert "and administering justice"

Page 20, line 6, following "confine":

Insert "violent"

Page 20, lines 14 - 15:

Delete "the resources available to agencies in the criminal justice system; and"

Insert "the sufficiency in state agency resources to administer the state's criminal justice system;"

Page 20, line 16:

Delete "sentencing"

Insert "criminal justice laws and practices"

Page 20, line 17, following "state":

Insert ";

(K) peer reviewed and data-driven research;

(L) the effect of over-classification of prisoners; and

(M) the effects of evidence-based restorative justice initiatives on persons convicted of criminal violations and offenses, the victim, and the community"

REPRESENTATIVE MILLETT objected.

[3:14:56 PM](#)

CHAIR KELLER noted that Mr. Shilling and Mr. Prax have worked on Amendment 10 and have done a great job clarifying the language. There is one addition, but the language is cleaned up.

MR. PRAX said that originally SB 64 had a sentencing commission, and it has changed to a criminal justice commission, so the language has been modified to reflect the overall intent of the commission. Additionally, new language requires the commission to evaluate the "rights of the accused and the person convicted." There is great concern for the person who has been wronged; however, everyone is to be treated equally, he stated. When the state is prosecuting a person who violates state laws or who commits harm against another person, the rights of the accused should be maintained. He noted that there is language that sharpens the focus on rehabilitation and restitution; it is easy to throw someone in jail, but Alaska also has the problem what to do with the individuals after they get out.

[3:17:30 PM](#)

MR. PRAX turned to page 19, line 2, [of SB 64]. [The bill] now directs the [Criminal Justice] Commission to consider statutes and court rules related to sentencing criminal defendants. At a meeting in Fairbanks, a member suggested adding "relevant court decisions," which is accomplished in Amendment 10. He explained that on page 19, line 17, "truth and certainty in statutes and sentencing practices" is deleted. "It was sort of an ambiguous phrase," and it does not hurt to get rid of it, he added.

3:19:25 PM

REPRESENTATIVE GRUENBERG interjected and said he went through this in some detail and would like to ask questions.

REPRESENTATIVE MILLETT said she had to leave soon and she was the person who objected to the motion. She asked if someone else would make an objection so she does not have to return.

REPRESENTATIVE GRUENBERG objected. He then pointed to page 1, lines 18-20 of Amendment 10, which deletes "and proportionality" and inserts "proportionality and accountability". He asked what is meant by proportionality.

3:20:57 PM

MR. PRAX said he believes that proportionality has been in SB 64 from the beginning. He gave the example of a person given a life sentence for a minor theft and said it is a matter of the punishment fitting the crime.

MR. SHILLING agreed. The punishment must be proportional to the action, he added. The powers, duties, and methodologies that are contained within SB 64 are pulled directly from the exact same powers and duties that the Alaska Sentencing Commission had back in the early 1990s, he stated.

REPRESENTATIVE GRUENBERG asked if it is a term used elsewhere in Alaska law.

MR. SHILLING said he does not know if it is used elsewhere.

REPRESENTATIVE GRUENBERG said he will check that out. He then turned to page 2, lines 13-15, of Amendment 10, which removes "effectiveness" and inserts "usability". He expressed his belief that "effectiveness" is a good term and asked why it was changed.

3:23:27 PM

MR. PRAX answered that he thought "effectiveness" was too broad and vague, but "usability" would go to the heart of the matter of whether the format of the collected data is usable and not just data stored in a computer.

REPRESENTATIVE GRUENBERG said he will suggest leaving "effectiveness" in the bill. On page 19, line 19, [of SB 64] regarding dissemination [of criminal justice data], "normally you would say collection and dissemination. Extrapolation, we certainly can put that in, but dissemination is getting the information out," he stated. He said he has no problem with inserting "extrapolation", but at the appropriate time he will move to leave "dissemination" in the bill.

[3:25:07 PM](#)

MR. PRAX said it is fine either way.

REPRESENTATIVE GRUENBERG referred to page 2, lines 24-25, [of Amendment 10].

MR. PRAX said this section deals with things the commission may do. In the bill, page 19, lines 21-22, states that the commission may select and retain the services of consultants whose advice is considered necessary to assist the commission in obtaining information. He said part of the language was somewhat redundant—that is what is expected and it does not need to be stated in statute. Additionally, on lines 23-24, the bill says the commission may "accumulate and compile information concerning sentencing practices" and "recommend legislative and administrative action on sentencing practices." Those [duties] are already expected of the commission, so they do not need to be stated in statute, he opined.

[3:28:00 PM](#)

MR. PRAX turned to page 20, lines 18-22, of SB 64, which deals with the annual report and recommendations. It is already said in another section of the bill, he stated.

REPRESENTATIVE GRUENBERG opined that the legislature sometimes gets in trouble for hiring high-priced consultants. Lines 21-24 "somewhat specifies what the consultants shall be doing and I think it may eliminate some of the question on whether consultants are necessary, and, frankly, allow good consultants to be hired and make sure there is some accountability," he said. He said he did not realize that the language on recommending legislative and administrative action was on the other page, and he said he will suggest retaining that so people do not have to look under the section on the annual report.

[3:30:08 PM](#)

MR. PRAX said the language seems to read that the commission may do 1, 2, and 3, and it does not say what the consultants can do. He turned to page 19, line 31, of SB 64 and said "criminals" is deleted and "administering justice" is added. With the new language, it will read, "the commission shall solicit and consider information and views from a variety of constituencies to represent the broad spectrum of views that exist with respect to possible approaches to sentencing and administering justice in the state." The change is to further highlight that the commission is a criminal justice commission, not just a sentencing commission, he noted. The language on page 20, lines 14-15, deals with the methodology and what the commission shall base recommendations on. He said that the phrase "the resources available to agencies in the criminal justice system; and" is replaced by "the sufficiency in the state agency resources to administer the state's criminal justice system;". All state agencies have resources, he said, but whether they are sufficient and the agencies are doing what they are supposed to be doing, is a better question to look at.

[3:32:41 PM](#)

REPRESENTATIVE GRUENBERG said the phrase should be "the sufficiency 'of' state agency resources."

MR. PRAX said the next change is on page 20, line 16, of SB 64. He explained that "sentencing" was replaced with "criminal justice laws and practices" to better reflect the goals that the legislature is trying to meet.

MR. PRAX said the final change adds factors that the commission shall base recommendations on, and they are: peer reviewed and data-driven research; the effect of over-classification of prisoners (prisoners can be deemed to be more dangerous to society than they really are, which has an impact on their rehabilitation); and, the effects of evidence-based restorative justice initiatives on persons convicted of criminal violations and offenses, the victim, and the community (a suggestion by Chair Keller). The intent is to focus on making the victim whole. "We don't want to lose sight of just throwing the person in jail and calling it quits after that," he stated. If there has been any harm committed against an individual, part of the punishment is that the perpetrator should restore the damages suffered by the victim, he added.

[3:35:49 PM](#)

CHAIR KELLER said, "It is not just the victim, it's also the perpetrator." There is a lot of evidence that the perpetrator benefits from atonement, he added. He asked the committee if anyone had any suggested changes to Amendment 10.

REPRESENTATIVE GRUENBERG said he will research the changes on page 1, lines 18-20, of Amendment 10. On page 2, lines 13-15, the word "effectiveness" is correct. The term "usability" is less clear to him, and he moved Conceptual Amendment 1 to Amendment 10 to delete lines 13-15 from Amendment 10.

CHAIR KELLER objected. He said he is ambivalent to the change.

[3:37:44 PM](#)

REPRESENTATIVE LEDOUX said Representative Gruenberg is probably correct.

REPRESENTATIVE LYNN said that each word has a meaning, and he is not sure he knows the legal difference between the words.

CHAIR KELLER said it is a description, and he believes that usability sounds better.

REPRESENTATIVE LYNN said his can opener in Juneau is usable, but the one in Fairbanks is far more effective, but are both useful.

[3:39:08 PM](#)

CHAIR KELLER removed his objection, and Conceptual Amendment 1 to Amendment 10 was adopted, which will delete lines 13-15 of Amendment 10.

REPRESENTATIVE GRUENBERG said his [next] conceptual amendment will only relate to deleting line 18, which will retain "dissemination". Conceptual Amendment 2 to Amendment 10 deletes line 18 and makes the appropriate changes to read: "Collection, dissemination, and extrapolation" in SB 64.

[3:40:19 PM](#)

There being no further objections, Conceptual Amendment 2 to Amendment 10 was adopted.

REPRESENTATIVE GRUENBERG said his next suggestion deals with Amendment 10 on page 2, lines 24-25, regarding "that whole

little subsection (b)." He would like to move that discussion to Friday, he said.

CHAIR KELLER objected, "We want to act on this, and if you move to delete lines 24-25, I will object and be firm." If things need to be added, they can be added to the CS, he stated.

[3:41:54 PM](#)

REPRESENTATIVE GRUENBERG agreed. On page 3, line 5, of Amendment 10, he moved [Conceptual Amendment 3] to delete "in" and insert "of".

There being no objection, Conceptual Amendment 3 to Amendment 10 was adopted.

REPRESENTATIVE GRUENBERG withdrew his objection to Amendment 10.

There being no further objection, Amendment 10, as amended, was adopted.

[3:42:36 PM](#)

REPRESENTATIVE GRUENBERG said he received [an amendment] that deals with custodial interference.

MR. PRAX responded that "today we made the decision to not offer that one."

CHAIR KELLER added that the issue had to do with the intent of the parent who was picking up the child. It was a good idea that was not worth pursuing, he said.

[3:44:16 PM](#)

CHAIR KELLER said there is now a CS that the committee can deal with that has several pending amendments. The committee will take up SB 64 at 2:00 PM [in a future hearing].

REPRESENTATIVE GRUENBERG said he will work quickly on getting his other amendments in.

CHAIR KELLER said to expect that some things will not be handled. The goal is to judicially move this important bill, so if the committee does not get to an amendment, it is not a reflection on anyone.

3:45:24 PM

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:45 P.M.