

SENATE FINANCE COMMITTEE
March 11, 2014
9:05 a.m.

9:05:30 AM

CALL TO ORDER

Co-Chair Kelly called the Senate Finance Committee meeting to order at 9:05 a.m.

MEMBERS PRESENT

Senator Pete Kelly, Co-Chair
Senator Kevin Meyer, Co-Chair
Senator Anna Fairclough, Vice-Chair
Senator Click Bishop
Senator Mike Dunleavy
Senator Lyman Hoffman
Senator Donny Olson

MEMBERS ABSENT

None

ALSO PRESENT

Jordan Schilling, Staff, Senator John Coghill; Heather Schimanski, Self, Juneau; Kathryn Chapman, Juneau Reentry Coalition and Executive Director of the Juneau Affiliate of the National Council on Alcoholism and Drug Dependence, Juneau; Kevin Enloe, Juneau Reentry Coalition, Juneau; Christina Love, Self, Juneau; Ron Taylor, Deputy Commissioner, Department of Corrections; Nancy Meade, General Counsel, Alaska Court System.

PRESENT VIA TELECONFERENCE

Shirley Lee, Chairperson, Tanana Chiefs Conference Justice Task Force, Fairbanks; Chris Nettels, President, Geotek Alaska Inc., National Federation of Independent Businesses, Anchorage; Carmen Guterrez, Self, Anchorage; Lisa Rieger, General Counsel, Cook Inlet Tribal Council, Anchorage; Jeff Jessee, Chief Executive Officer, Alaska Mental Health Trust Authority, Anchorage; Stuart Grenier, Self, Muldoon.

SUMMARY

SB 64 OMNIBUS CRIME/CORRECTIONS BILL

SB 64 was HEARD and HELD in committee for further consideration.

#sb64

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."

[9:06:28 AM](#)

Co-Chair Meyer asked the bill sponsor to provide any additional comments prior to public testimony.

JORDAN SCHILLING, STAFF, SENATOR JOHN COGHILL, stated that he had no additional comments and thanked the committee for opening the bill up for public testimony.

[9:07:01 AM](#)

SHIRLEY LEE, CHAIRPERSON, TANANA CHIEFS CONFERENCE JUSTICE TASK FORCE, FAIRBANKS (via teleconference), spoke in support of SB 64. She stated that the 42 tribal organizations of Tanana Chiefs Conference were having their annual meeting the following week and that concerns and issues that affected its members and people would be discussed; one of the main issues was the disproportionate number of Native Alaskan men who were incarcerated. She recalled the conference's past requests to a build prison in Interior Alaska to help assist with the rehabilitation of tribal members, but noted that the philosophy had recently shifted from building prisons to rehabilitation. She stated that the conference supported any efforts to

shift focus towards rehabilitation and that the bill provided an avenue to that end. The conference liked the legislation's intent and use of innovative programs and thought that it was a good start to much needed criminal justice reform; it also appreciated the diversity on the Alaska Criminal Justice Commission and hoped that it would have greater partnership with tribes regarding justice issues in the future.

9:09:33 AM

HEATHER SCHIMANSKI, SELF, JUNEAU, spoke in support of SB 64. She shared a personal story about her experience in the justice and corrections system. She explained that she was on felony probation and had been sober since October 15, 2008. She stated that while in jail, she had participated in the Residential Substance Abuse Treatment Program (RSAT), which treated and addressed her addiction problems. She discussed various reentry program that were available during her release in 2011, including intensive outpatient treatment, and a women's support group. She related that she also lived in transitional housing after release and observed that since release, she had never had a parole violation. She concluded that reentry programs and assistance were very helpful for someone recently released from incarceration and that without the services that she had been able to access, she would not be where she was today.

9:11:17 AM

Co-Chair Kelly congratulated the previous testifier on her sobriety and observed that society benefitted when people made effort to get their lives together and become well.

KATHRYN CHAPMAN, JUNEAU REENTRY COALITION AND EXECUTIVE DIRECTOR OF THE JUNEAU AFFILIATE OF THE NATIONAL COUNCIL ON ALCOHOLISM AND DRUG DEPENDENCE, JUNEAU, testified in support of SB 64 and related that she was in long-term recovery and had not used drugs or alcohol since 2010. She related that becoming sober had enabled her to finish her master's degree in social work; it had further enabled her to be a productive member of the community. She supported efforts towards implementing and funding programs that assisted ex-offenders to be successful. She offered that the 24-7 Sobriety and the Probation Accountability and

Certain Enforcement (PACE) programs were shown by studies to improve public safety, were cost-effective, and reduced recidivism. She discussed the makeup of the Juneau Reentry Coalition and indicated that it was diverse. She stated that she viewed reentry as recovery and that the top three reoccurring themes of reentry were a lack of safe and sober housing for people coming out of jail, an inadequate amount of long-term residential substance abuse services, and the need for more peer-support services. She offered that many of the state's ex-offenders were people with substance abuse disorders that were often untreated and pointed out that SB 64 had extended risk assessment that would be required for people who were incarcerated for 30 or more days; she thought this aspect of the legislation represented a positive direction to take and that people had different needs. She opined that addiction was the problem and that recovery was the solution. She relayed her own experience in recovery and how it provided her with great insight into the problem with recidivism and its cycle. She stated that she had been lucky and had support systems, but that people who were not really needed the reentry programs in order to succeed. She spoke of how difficult recovery was to maintain and that it was an ongoing process.

[9:16:08 AM](#)

Senator Hoffman noted that there was a provision in the legislation that dealt with monetary values of stolen property regarding when it became a felony; the range for the felony threshold in the U.S. was between \$200 and \$2,500. He inquired if Ms. Chapman had an opinion on what the felony threshold for stolen property should be in Alaska. Ms. Chapman inquired if the proposal was to raise the threshold to \$2,500.

Senator Hoffman responded that the range was from \$500 in Virginia to \$2,500 in Indiana. He believed that the threshold in the bill was \$500 for Alaska. Co-Chair Meyer interjected the proposal in the bill was for \$750. Ms. Chapman replied that it was her opinion that the threshold should be increased; based on her knowledge, the amount had been set years prior. She thought that the value of things had increased since then.

[9:16:57 AM](#)

KEVIN ENLOE, JUNEAU REENTRY COALITION, JUNEAU, spoke in support of SB 64 and related that he was also in long-term recovery and had been clean since December 12, 2010. He related that he had extensive experience with drug usage and incarceration that stretched back about 20 years. He stated that he had 4 felony charges, 12 misdemeanor charges, and 55 dropped charges, all of which were drug related; this spanned back to a minor consuming that he received at the age of 13. He related that he was never offered or ordered to take a treatment program after a drug offense and spoke of the lack of follow up and aftercare for drug offenders.

Mr. Enloe stated that he had served about 12 years at Lemon Creek Correctional Facility and that the prior year had been the first time that there had been a substance abuse treatment program available to him; he had taken the class, but it did not seem long enough to him. Based on his experience with reentry assistance, treatment was too short and lacked follow-up or checks and balances. He discussed the difficulties and time it took to change your entire lifestyle; additionally, there was stigma involved with being an offender that tended to prevent someone from moving forward. He supported investing more money in reentry and treatment programs for the long-term. He stressed that getting sober was only one small aspect of the road to recovery; all the work that came after sobriety took years and there needed to be assistance available. He explained that there was a small window where someone decided to ask for help and if it was not available, that person slid back into their subculture. He thought that it would be nice if all the services were held under one umbrella corporation; he had been responsible for searching out and his own aftercare. He thought that more interactive classes were important. He stated that his support group had become corrections officers and maintenance workers. He recalled having left jail many times with nowhere safe place go, which had resulted in repeat offences.

[9:22:37 AM](#)

CHRISTINA LOVE, SELF, JUNEAU, testified in support of SB 64. She related that in her experience with the AWARE shelter. She related that she had attempted suicide because she did not think that there was a way out of addiction;

she was too shameful to talk about her problems with substance addiction and her family did not talk about it either. She related that she did not make it to a detox program for another year after her suicide attempt and that at the time, the waiting list to get to get into treatment was too long; as result she had relapsed. She observed that after relapsing, she went to outpatient services and stated that those did help because they planted the seed of a way out. She learned in recovery that sobriety was the catalyst for recovery and that it was not a moral issue; furthermore, addiction was a disease that could be arrested. She stated that the Tenant-Based Rental Assistance *Program* (TBRA) had helped her significantly to find a safe home. She stated that community and support were critical for her recovery. She spoke of how the timing of getting an addict into treatment was very important and related that after getting out of detox, there had been a 30-day wait for her to get into treatment. She related that assistance for substance abuse was a life or death issue for her and the addicts that she helped. She supported funding for increased substance abuse programs.

Senator Bishop commented that the testifiers had been very articulate and applauded people for being able to discuss their issues with addiction.

Co-Chair Kelly requested the previous testifiers to stop by his office to discuss a program called Set Free Alaska that had a very high success rate with addiction counseling. He related that the program was probably based on a slightly different premise than the testifiers had heard before. He recalled that each of the previous testifiers had identified themselves as an addict or an alcoholic and that although he understood and supported the 12-step programs, he invited them to believe that the label was a deception; they were not addicts or alcoholics but were children of god who would beat their addiction.

[9:29:15 AM](#)

CHRIS NETTELS, PRESIDENT, GEOTEK ALASKA INC., NATIONAL FEDERATION OF INDEPENDENT BUSINESSES, ANCHORAGE (via teleconference), stated that he was against the felony threshold for theft being raised any higher than \$750. He pointed out that he was originally against the threshold

being raised to \$750, but that the National Federation of Independent Business (NFIB) had compromised. He believed that raising the threshold any higher than \$750 would be a mistake that would cost small businesses money and spoke of increased instances of theft at businesses in Anchorage. He believed that raising the threshold would increase theft even further.

Co-Chair Meyer noted that business theft was a concern that impacted everyone because it forced businesses to raise prices to cover the losses. He inquired if a shoplifter knew the difference between a felony and misdemeanor and planned their theft accordingly. He wondered if a criminal rationalized the threshold in their own mind.

Mr. Nettels replied that he thought criminals were well aware of the threshold, but the theft that occurred in his business was not shoplifting. He related that his business conducted construction work and people would take tools. He offered that it was fairly common for people to come on a Saturday night when no one was working and steal stuff off of the yard. He asserted that thieves were active on weekend nights in Anchorage, knew what they were doing, and would know the difference between a misdemeanor and a felony; however, attempts on his business had been significantly higher than \$500-\$750. He concluded that there were professional thieves who certainly knew what the felony threshold was. He offered that while the prices of some things had gone up, computers and other items had come down in price. He thought that stealing a computer or a TV was still theft and ought to be dealt with in a strict manner.

[9:33:04 AM](#)

Vice-Chair Fairclough remarked that as the state was about to draw \$2 billion from its savings account, one of its challenges was assessing state investments. She noted that Alaska was in the lower one-third of states where the threshold was \$500, but understood the perspective of businesses.

Vice-Chair Fairclough inquired if it was Mr. Nettels' experience as a business owner that a theft was typically over \$500. Mr. Nettels replied he had instances of theft both over and under the threshold. He believed that based

on the sheer number of thefts, the majority were below the threshold; however, there had also theft attempts on things like trailers. He recalled a recent attempt where a perpetrator trying to steal one of his trailers had escaped after being caught in the act. He added that the hoods of trucks in his parking lot had been into and that the catalytic converter had been stolen. He was unaware of the street value of a catalytic converter, but observed that those types of theft were occurring at an increasing rate over the last two to three years.

Vice-Chair Fairclough noted that theft over or under the threshold would still be a crime. Her only issue was whether the act was a felony and would go through felony courts versus a misdemeanor.

[9:35:12 AM](#)

CARMEN GUITERREZ, SELF, ANCHORAGE (via teleconference), testified in support of SB 64. She discussed her background of 25 years working in the criminal justice system; most recently, she had served as deputy commissioner for the Department of Corrections (DOC). She related that with the department, her responsibilities had been to work on prisoner rehabilitative programs and to improve prisoner reentry outcomes. She stated that the people behind the scenes who were working on SB 64 had been doing so since the fall of 2012 and related that intent behind the bill was to do what policy makers could to improve the value that Alaskans were receiving for state's criminal justice dollars. She believed that when two out three Alaskans returned to prison within three years of their release from custody, it was safe to assume that the state was not getting enough value from its dollars that were spent in the criminal justice system. She stated that when she had been at DOC, the issue had revolved around figuring out what could be done to try to provide better outcomes in the state's criminal justice system.

Ms. Gutierrez reported that many other states had also started looking at their criminal justice system to determine if they could get better value; as a result, a lot of research had been conducted on programs. She stated that proven, evidence-based approaches were implemented all over the country. She thought that Jordan Schilling from Senator Coghill's office had presented substantial

information about many of the programs that other states had implemented that were not only reducing recidivism and criminality. She discussed the PACE and Sobriety 24-7 programs and offered that rehabilitative programs worked if they were constantly reassessed for quality control and implementation. She stated that DOC's rehabilitative programs were starting to show some very positive outcomes. She referenced prior testimony and asserted that recovery worked if there were aftercare and support programs in place for people upon their release. She remarked that without the Alaska Criminal Justice Commission she was unsure who would be taking a leadership role in trying to present to policy makers evidence and research regarding what was and was not working. She believed that the commission could serve a great role and stated that every successful reentry into the community essentially meant one less victim. She recalled recently hearing in another committee that the Goose Creek Correctional Facility was already at 96 percent capacity. She was concerned that the prison population would continue to grow at a very high rate if the state did not implement new, proven strategies. She opined that the strategies in SB 64 had been proven in other communities to reduce recidivism and concluded that reducing recidivism would better serve Alaska's criminal justice dollars that were spent.

[9:43:35 AM](#)

LISA RIEGER, GENERAL COUNSEL, COOK INLET TRIBAL COUNCIL, ANCHORAGE (via teleconference), spoke in support of SB 64. She stated that the Cook Inlet Tribal Council had been operating an alternative program for prisoner reentry for the past six or seven years and spoke of her service on the statewide reentry task force. She discussed the PACE and 24-7 Sobriety Programs, as well as the establishment of the recidivism reduction fund to promote transitional reentry programs. She emphasized that her experience was that it was much harder to go to a program and change than it was to serve time in prison. She offered that the council had saved the state millions of dollars by offering treatment that had kept people out of jail; most importantly, the program changed lives in the community. She stated that the council supported allowing alternative programs to substitute for prison time.

[9:46:14 AM](#)

JEFF JESSEE, CHIEF EXECUTIVE OFFICER, ALASKA MENTAL HEALTH TRUST AUTHORITY, ANCHORAGE (via teleconference), testified in support of SB 64 and related that the bill contained a number of targeted strategies that focused on what the state could do in the short-term to try to improve its rate of recidivism and incarceration. He thought that it was hard to improve on the earlier testimony regarding the effectiveness of treatment programs and other supports in the community. He stated that the Alaska Mental Health Trust Authority (AMHTA) liked the expansion of the PACE program and related that it was a proven evidence-based strategy that had originated in Hawaii; the program ensured a short leash on individuals on probation. He offered that the expanded risk/needs assessment was also very important and that it allowed the state to get a better idea of what a prisoner's situation was; it would enable the state to more finely tune strategies. He stated that the Recidivism Reduction Fund was an innovative strategy to create a funding mechanism to support transitional reentry programs, which were critical to reducing recidivism. He explained that the bill would also expand the 24-7 Sobriety Program, which was also an evidence based program that assisted people with staying sober. He understood that there was some controversy surrounding raising the felony theft threshold and stated that he could sympathize with businesses that were faced with thefts and other crimes against their businesses; however, at some point, how various levels of criminal behavior were handled should be looked at. He was doubtful that many criminals looked at a potential theft and pondered whether it would come in over or under the \$500 threshold for felony theft.

Mr. Jessie continued to offer his testimony and thought that because the value of items had risen with inflation, the statute should be changed to keep pace. He noted that the bill also created a commission. He asserted that creating the commission was a worthwhile investment and referenced testimony that the state was on pace to have to build another prison in short order. He offered that the only way to avoid having to build another prison was to invest in a series of strategies that would drive down the recidivism rate and avoid the need to further incarcerate an increasing rate of people over time. He stated that the House Finance Committee was considering intent language that would encourage a number agencies that already

collaborated on recidivism issues to develop more of a long-term plan and a portfolio of strategies; these organizations would include the Department of Labor and Workforce Development, the Alaska Housing Finance Corporation, the Department of Health and Social Services, DOC, and AMHTA. He supported the intent language and encouraged the committee to consider similar language. He stated that in his 34 years of working in the field, he had never before seen the synergy that existed currently in the state, particularly regarding the impact of alcohol or alcohol abuse. He spoke of the Rasmuson Foundation's Recover Alaska Initiative and related that AMHTA had identified alcohol and substance abuse as a focus area; the Mat-Su health foundation had identified alcohol and its effects as a number one health problem in the region. He pointed out that Co-Chair Kelly was leading the Empowering Hope Campaign and that the trust's tribal partners had worked diligently on this effort over time. He concluded that the trust believed that SB 64 was a great start towards looking at a comprehensive approach to the issues.

[9:53:49 AM](#)

STUART GRENIER, SELF, MULDOON (via teleconference), requested that language be added to SB 64 that would increase the penalties for those providing alcohol through sale or other methods to people restricted from having alcohol. He thought that the best way to accomplish this was to make the legal code the same for people with "red stripes" and for underage drinking with equal penalties. He thought that the change was necessary because it would facilitate an expanded use of issuing alcohol restrictive IDs to members of the community that were prone to public inebriation. He noted that in Anchorage, people who drove under the influence were issued red stripes and experienced the full force of the law; however, people without resources to own a vehicle were allowed to purchase alcohol and become intoxicated in wooded or public areas; these people became a problem to themselves and people attempting to use public areas. He thought that strengthening the language for alcohol restrictive licenses and posting it on the doors for the sales points would get the system ready for expanded use of those licenses for chronic inebriates; it would give communities a better handle on the problem. He discussed his personal history on the issue and a murder that occurred next to his condo. He

asserted that public inebriates were access points to alcohol for underage drinkers. He supported a more conspicuous billing of the red striped license concept. He discussed another case in his neighborhood where a police officer was killed by an underage drunk driver who was provided alcohol by someone outside of a liquor store. He recalled that four years prior in Anchorage, almost 70 percent of the electorate had voted to approve universal carding for alcohol purchases and thought that tools like the red stripe need to be worked on.

Mr. Grenier continued to provide his testimony and related that it was discriminatory to throw the full force of the law at people who could afford a car and drove drunk, while people were allowed to be inebriated in public. He wondered how many people were freezing to death due to public inebriation. He thought it was time to revisit the law related to public inebriation and thought that the state was not caring to its chronic inebriates. He hoped that SB 64 could address some of the issues he had mentioned.

[9:59:43 AM](#)

Co-Chair Meyer CLOSED public testimony on SB 64.

Co-Chair Meyer noted that a lot of the components that made up the financial costs of the program were for probation officers, as well as PACE and the 24-7 Sobriety program. He thought that unless a person was willing and accepting of treatment, it was really just a waste of money. He wondered if his assumption accurate.

Ms. Chapman replied that it was true for some people, but that it was pressure from the criminal justice system that had pushed her into recovery. She communicated that investing in the programs would offer an intervention for many people, which would get them headed in the right direction.

Co-Chair Meyer understood the expense that came with an absence of treatment programs, but he thought that people did not always take treatment seriously because they had no desire to make the necessary lifestyle change for a full recovery. He noted that Ms. Chapman was in full recovery and was wondering if she could offer help to the committee

to ensure that the state would get the maximum value of its dollars spent.

Ms. Chapman understood that the bill was looking to fund programs that had many components in addition to treatment. She thought that providing safe and sober housing, peer support, and getting people connected to social activities and jobs were all important aspects of reentry programs.

[10:03:35 AM](#)

Co-Chair Meyer recalled that Ms. Chapman has stated that she had earned her master's degree while she was in jail. Ms. Chapman clarified that she had earned her degree in a halfway house.

Co-Chair inquired if it was the criminal justice system that had encouraged her to get treatment and the help she needed. Ms. Chapman replied that the impetus had been her fear over what would happen if she did not comply.

Ms. Chapman stated that she was not a good representation of the majority of people who were incarcerated. She thought that she was higher functioning, that she had support systems in place, and was plugged in to a 12-step program. She explained that when she was in the halfway house, she was not at a phased level that would allow her to attend Alcoholics Anonymous (AA) meetings; as a result, her AA fellowship had visited her for support. She had used services that were not very accessible, but she did not believe everyone was as resourceful.

Co-Chair Kelly inquired if there was a way to separate the felony theft threshold from property damage in the bill. Mr. Schilling responded in the affirmative.

[10:06:17 AM](#)

Senator Hoffman requested the sponsor to address the concerns raised by businesses that increasing the threshold would increase the crime rates. He inquired what the crime rates were in the states that had a higher monetary threshold for felony theft because he did not believe that it was uniformly the case those states had increased rates of theft. He wanted to see crime rates on theft and property values by those states and thought it would help

the committee make its decision. He pointed to the chart that Mr. Shilling had previously presented that showed western states and the thresholds (copy on file). He noted that Alaska's threshold of \$500 was set in 1978 and that if it was set at \$750, it would still be \$1,000 lower than the inflation rate in 2011; accounting for inflation, the adjusted \$500 would be \$1,730. He thought that the issue was critical particularly in Alaska where the costs were so high. He offered that there were currently people in prison for a felony who would not be there if the state had kept the threshold up with the rate of inflation.

Co-Chair Meyer wondered how the value of something was determined and wondered if the wholesale or retail price was used. He noted that a store paid wholesale, but they marked it up at retail. Co-Chair Kelly noted that Co-Chair Meyer raised a good point.

[10:08:26 AM](#)

Vice-Chair Fairclough wondered if the committee needed information from an insurance company and recalled testimony from NFIB had indicated that there might be a threshold that an insurance company uses to reimburse the actual business. She referenced an NFIB letter that notified her about the money coming directly out of the pocket of the business owners. She wondered if what the insurance company was actually covering played into the bill. She wondered if an insurance company would reimburse fully for a felony, but would not fully cover a misdemeanor. She was uncertain of the accuracy, but recalled reading the information.

Vice-Chair Fairclough hoped that the committee was considering adding an audit provision with a sunset date in a CS in order to allow the Legislative Budget and Audit Committee to examine the commission instead of standing up another organization.

Co-Chair Meyer thought that Vice-Chair Fairclough raised a good point. He related that the state already had a lot of boards and commissions and wondered what the committee's thoughts were on creating another board and commission.

[10:10:16 AM](#)

Vice-Chair Fairclough stated that one of the tasks of drawing money from savings was to review how Alaska invested its dollars to get the highest possible use out of its investments. She wondered if there was another organization currently working with recidivism and corrections that might be able to handle the task instead of starting another commission

Co-Chair Kelly thought that the committee might consider a task force that had a limited timeline, worked towards a specific outcome, and was dissolved after that outcome was reached.

Co-Chair Meyer discussed the DOC fiscal note and stated that 31 positions were a lot to add. He understood that the bill would require a multitude of new positions; he did not want to reduce the number of positions to the point where the bill would be ineffective. He inquired what the sponsor's thoughts were on the issue.

Mr. Schilling stated that DOC could probably speak better to what its needs would be, but that from his perspective the salary and benefits that were required for a probation officer would pay for themselves if the officer could keep two people out of jail for a year. The sponsor hoped to see savings from additional personnel.

[10:12:17 AM](#)

Co-Chair Meyer stated that he believed the sponsor, but that the committee heard many times that increasing funding would result in savings.

Vice-Chair Fairclough stated that one of the things that struck her through listening to testimony was that Alaska wanted DOC and its officers to do things differently. She was not opposed to a one or two-time increment, but that the idea was to change the direction instead of permanently adding another layer of government. She believed sometimes money had to be spent in order to make improvements; however, the legislature wanted DOC to use the money it was receiving to provide genuine rehabilitation inside of a correctional facility or divert people from those facilities instead of using it to lock people up. She was in support of the one-time funding and thought that DOC had to change the way it did business.

Co-Chair Meyer agreed, but noted that when people were hired, it was hard to let them go.

Co-Chair Kelly thought that the legislature had a frustration with the corrections system and that it was an issue that never seemed to be solved. He recalled that overly harsh punishments did not seem to work and that being too lenient did not either. He recalled speaking with a previous testifier, Kevin Enloe, who had indicated that an inmate could not get treatment in a facility until their release date was in sight. He thought that there were all kinds of hiccups in the system that did not make sense. He thought that these kinds of questions would be very difficult to deal with and that there would need to be more legislation to delve into different aspects of corrections and treatment.

10:15:50 AM

Senator Bishop thought that a benchmark of the programs' success hinged on whether a new prison would be needed in a few years' time.

Senator Bishop inquired if the 24-7 Sobriety Program included a provision that a DUI offender would be able to get a conditional license to drive to work. Mr. Shilling replied that the limited license provisions had been removed in the Senate Judiciary Committee's CS and were not in the current version of the bill.

Senator Bishop thought that the removal of the limited license provisions represented another barrier to employment and that the provision should be added back into the bill. He pointed to instances where a spouse had to make lengthy drives to get their partner to work. He expressed displeasure at the removal of the limited license provision.

Mr. Schilling agreed. He stated that the sponsor had worked hard on the provisions, but had run into some workability and drafting issues regarding how the courts and the Division of Motor Vehicles synced up. He added that sponsors supported the provisions and were open to their reinsertion; however, due to limited time, the sponsor had opted to drop the provisions from the bill.

Co-Chair Meyer thought that the courts had the option of letting someone drive with the ignition interlock. Mr. Schilling replied that there were mandatory interlock laws, but the sponsor had run into an issue related to how administrative license revocations versus court ordered revocations would be cancelled or terminated.

[10:18:51 AM](#)

Vice-Chair Fairclough asked DOC to come forward. She stated that in 2008, Alaska had passed legislation to create a task force to review domestic violence and sexual assault in Alaska. She stated that one of the recommendations that she had contacted DOC about for the last five years but continued to linger related to the ability to provide treatment services while people were incarcerated. She stated that she had received different responses as to why this could not happen; the response from DOC had been that there was a lack of funding. She noted that the judiciary system had relayed to her that the issue was not funding, but that someone had to actually be charged with a crime before they could enter into treatment; this assertion was backed by previous testifier, Kevin Enloe.

Vice-Chair Fairclough wanted to know the answer for the record and inquired if it was money or a judicial issue that was keeping people from entering treatment. She expressed frustration that the recommendation had not been implemented since 2009 and that people had not received needed treatment when they were inside a state correctional facility. She thought that these people, particularly rural Alaskan's, should have the opportunity to succeed and noted that treatment should be available to rural Alaskans when they were in an urban correctional facility.

[10:21:04 AM](#)

Co-Chair Kelly thought that Vice-Chair Fairclough was referencing the courts inability to impose treatment on someone who had not been sentenced yet. He reported that there could be 18 months where someone wanted and needed treatment, but the courts could not impose it because they were going through negotiations. He relayed that his explanation was the short-term answer, but that he was unsure what long-term answer was.

Vice-Chair Fairclough wondered why the programs could not be part of a judge's determination to allow people the option of going into treatment prior to conviction; it could be a retrospective for good time served.

Co-Chair Meyer noted that Nancy Meade from the court system was also present and requested her to join Mr. Taylor.

NANCY MEADE, GENERAL COUNSEL, ALASKA COURT SYSTEM, stated that the court could not impose certain things on people before they were convicted; however, people wanted to be released on bail and it was already a practice for people to propose some treatment during that bail period in order to get credit at a later time towards their sentence. She added the bill did address the issue and that the sponsor had the intent of broadening which sorts of treatment would qualify for credit as time served; she thought that the language could be found in Section 23 of the bill. She stated that until someone was proven guilty, the court did not order the person to do something; however, it could do so as a condition of bail. She concluded that there were programs available to people before they were convicted.

[10:24:28 AM](#)

Vice-Chair Fairclough inquired if the only time that a person would remain in jail before conviction was if they had not made bail or were not allowed bail. Ms. Meade replied in the affirmative and added that there was a constitutional right to bail and that the judicial officer set bail by weighing things like the severity of the crime and the threat to public safety versus the person's right to be out on bail. She related that a common condition of bail was a third-party custodian to watch a person and ensure that they made they court dates and did not violate other conditions of bail.

Vice-Chair Fairclough noted that two things came to mind, one of which was from a different bill that the committee had considered. She wondered why Alaska did not mandate inmates to file for their Permanent Fund Dividend. Ms. Meade replied that there was a court rule that required people in felony judgments to apply every year they were eligible. She believed that there was a state statute specifying that if a person was incarcerated for a felony,

they were not eligible. She understood that felons' Permanent Fund Dividends went to a fund that was used by DOC for some of the programs. She related that felons would be required to use that Permanent Fund Dividend money to pay their share of an appointed counsel if they had a public defender and stated that Alaska had over a 90 percent rate of felons using public defenders.

10:26:33 AM

Vice-Chair Fairclough thought that felons should not have to fill out the dividend application every year and be denied. She appreciated the court's perspective on the issue and requested the DOC's perspective on the availability of treatment. She stated that the issue inside of the taskforce had been that treatments provided in courts were sometimes either too short to be meaningful or too long. She wanted DOC to talk about alignment and how the state would provide more services to meet the needs of incarcerated individuals in order to allow them assist them with rehabilitation and reentry to life.

RON TAYLOR, DEPUTY COMMISSIONER, DEPARTMENT OF CORRECTIONS, replied that unless the parole board or the court had directed people into treatment, DOC did not have the authority to force people do so. He stated that there were a number of provisions in the bill that would give DOC ways to incentivize people to enter treatment programs and stated that 24-7 Sobriety Program as a bail condition and PACE would help the department in that regard. He stated that the risk/needs assessment was a big component that would help DOC determine who was best suited to go to treatment.

Mr. Taylor addressed Vice-Chair Fairclough's original question and asserted that DOC had improved regarding offering treatment availability. He stated that over the past few years, the department had expanded treatment significantly. He stated that there were a number of problems that still existed with the department's treatment delivery system in custody. He reported that there were a number of areas in the state where DOC was not able to offer certain types of programming and that there was limited programming in terms of the Life Success and Substance Abuse and Treatment (LSSAT) and RSAT Programs. He reported that DOC had a consultant examine its programs

overall to find ways to expand the department's treatment capacity and expand the way that services were delivered in custody. He relayed that the department looked at the risk and needs of the individual and did its best to align its services and programs based on need; aside from the past year or two, part of DOC's problem was that it had not aligned the two. He concluded that aligning the risk and needs of individuals with DOC's services was something the department was doing now. He offered that he would be happy to provide the committee with further information regarding DOC's treatment services in its institutions, as well as the services it provided in the community itself.

[10:30:42 AM](#)

Vice-Chair Fairclough appreciated the response and thought that department was just as frustrated as anyone with ongoing issues. She stated that another item she discussed with DOC year-after-year was reentry into the job market and providing someone who was coming out of the prison system with a job. She thought that people were struck by economics, they tended to stick with the behavior that got them there.

Vice-Chair Fairclough inquired if the state was starting to look at a work reentry program where the state took the first risk on the inmate that was being released. She wondered if there was some safe place within the state where inmates could work six months or a year, so that the state was the first employer. She offered that the state could bet on its own correctional system that the inmate would stay clean and would not steal; this person could be given a living wage so that they could see what that looked like and state could be the trial ground for reentry.

Mr. Taylor replied that Vice-Chair Fairclough was referencing apprenticeship programs that the department had expanded over the last several years and its work with the Department of Labor and Workforce Development to look at pilot programs with the seafood industry. He reported that DOC had taken minimum security prisoners down to Kenai and Seward to conduct work with the seafood industry so that the inmates were able to make a living wage before they were released and were able to support their families, pay restitution and child support, and have a first or a second month's rent while they were out on the street. He

concluded that the department was beginning to look at the types of work programs that Vice-Chair Fairclough was speaking to.

10:33:02 AM

Co-Chair Meyer inquired if DOC had written the fiscal note and noted that the 24-7 Sobriety Program had a cost of \$10 per day. He thought that the committee had heard that the cost of the same program in South Dakota was \$4 per day. Mr. Taylor responded that South Dakota would probably say that it was \$2 per day and that the department had been looking at the program to find ways to reduce its cost. He stated when DOC had submitted the fiscal note, it was based on the current contract that were in place, working through its community jails and its electronic monitoring. He relayed that the department could go back and look at ways to reduce that cost. He added that the note was the maximum amount and was based on if the court had ordered all 2,400 people into that program.

Co-Chair Meyer understood that the costs in Alaska were higher but thought that a cost that was five times the cost in South Dakota seemed excessive and requested that the number be reworked. He requested an explanation of the 14 new positions in the PACE program.

Mr. Taylor replied that before he spoke to the PACE program, he wanted the committee to understand that the programs in other states were not connected to a community jail or DOC's electronic monitoring; the programs in reference in other states were using a private entity. He related that primarily, the clients were paying for the services and the department was not asking for \$4 million; the \$4 million was actually from receipt supported services where the client was actually paying for the majority of the money.

Mr. Taylor addressed Co-Chair Meyer's question regarding the PACE program and related that the initial pilot programs in Anchorage and Palmer were conducted with existing resources. What was in the bill was a statewide expansion of that program to probation and parole. He related that DOC would be going into all of its communities where there were probation offices and anywhere a parole board had ordered someone to reside that required a

probation to monitor that in order to ensure that the same type of swift, certain, and proportionate sanctions were being applied in those areas as well.

10:36:49 AM

Co-Chair Meyer noted that people in recovery needed support and that a lot of times they did not have a family. He understood that corrections was a very people intensive business.

Co-Chair Meyer spoke to Recidivism Reduction Grant Fund and observed that there were six new positions in the fiscal note. He inquired what types of grants would be issued and wondered if six new positions would be too many. Mr. Taylor replied that if DOC had to write the grants, it had no infrastructure to do so and was not a granting agency.

Co-Chair Meyer asked if another agency could write the grants. Mr. Taylor replied that there were probably other departments that did grants that would be available to help. Co-Chair Meyer noted that the committee would discuss the issue with the sponsor.

Co-Chair Kelly noted that the 24-7 Sobriety Program envisioned having the offenders pay for the cost of the programs, which was not necessarily a bad idea; however, he was thinking about the cost in terms of someone who had just gotten out of jail. He thought that the \$10 cost per day seemed high and inquired what it would cost someone to take the program for a month. Mr. Taylor replied that it would depend on how long someone was on the program but that at \$10 per day, it would have a cost of \$300 per month.

Co-Chair Kelly relayed a story about a young man who was married, had 2 kids, and had had just turned 18; he had committed a felony and was sentenced to several years in prison. Since release, the young man had tried everything to reintegrate into society and do the right thing, but could not get a job or a commercial driver's license. He related that the young man had worked for a company that liked him, had promoted him up the ranks to a manager position, but took the position away when they found out about the felony. He thought that someone in this young man's position who had 4 children could not afford \$300 per

month. He thought that it was tough for most middle class people to produce a \$300 per month payment. He agreed to some extent, with the perpetrators paying for the cost of classes, but he preferred for the state to pay for the program. He believed the benefit sobriety programs provided to the state was worth the cost. He communicated that he and Vice-Chair Fairclough were heavily involved in fighting Fetal Alcohol Syndrome in the state. He emphasized that the sobriety program would reach individuals who may not receive help otherwise. He stated that preventing pregnant women from drinking would save a minimum of \$1 million. He reiterated that paying \$300 a month out of pocket was not feasible for many Alaskans.

10:41:36 AM

Co-Chair Meyer remarked on the importance of funding the program. He spoke to the program's expense and hoped to determine a more cost-effective way to provide funding. He referenced testimony that DOC was not in the business of writing grants; however, there were other departments that were. He surmised it may be possible to save money.

Senator Olson referred to Mr. Nettles' testimony that people were aware of the difference between having a misdemeanor versus a felony. He wondered if the department observed that offenders made decisions based on whether a crime was a felony or misdemeanor.

Mr. Taylor responded that some offenders consciously made a decision to commit crimes that did not cross the line from misdemeanor to felony charges.

Senator Olson clarified his question. He wondered if offenders thought about whether a crime would result in a misdemeanor or felony. He was interested in whether a person weighed the risks when committing a crime. Mr. Taylor replied that crimes were based off of timing and opportunity. He was not sure criminals were focused on whether an offence fell under the misdemeanor or felony category.

Senator Olson asked if Mr. Taylor disagreed with Mr. Nettles. Mr. Taylor replied he had not heard from offenders that they contemplated whether a crime was a misdemeanor or felony.

Ms. Meade addressed a question from a prior meeting related to the costs of felonies versus misdemeanors. She referred to a comment by Vice-Chair Fairclough that it was difficult to determine the actual cost of handling felonies versus misdemeanors. She communicated that in general the court had a system for identifying a cost comparison. She detailed that felony offences increased juror costs. For example, there were 12 jurors for felony cases versus 6 for misdemeanor cases and the average trial time for a felony case was 4 days versus 2 days for misdemeanor cases. Additionally, the trial rate for felonies was about 4 percent compared to 1 percent for misdemeanors. She shared that superior court judges and caseloads were different for misdemeanors that were handled in district court. The problem with computing the change in the felony threshold was that presumably a number of cases that were in superior court as felonies (i.e. a stolen item valued between \$500 and \$750) would be moved down into district court for handling as a misdemeanor; however, the charging document data listed the crime as a Class C felony theft, where all that was known was the stolen item was valued between \$500 and \$25,000. The court could not pull out the number of the low value item filings (approximately 1,800 per year). She believed thefts of small dollar items may be plead down or dismissed quicker because they were relatively minor.

[10:46:52 AM](#)

Senator Olson spoke to superior versus district court and asked whether magistrates ever dealt with misdemeanors.

Ms. Meade responded that magistrates were within the statutory jurisdiction of the district court and could deal with misdemeanors and pre-trial proceedings. Additionally, per statute, magistrates could also handle a trial with the written consent of the defendant.

Senator Olson wondered if raising the felony threshold would save the state money because more offenders would go before the magistrate or district court.

Ms. Meade replied that the answer depended on whether theft cases for items valued between \$500 and \$750 were already something the district attorneys decided not to file as a felony; it was not possible to know the facts. She noted

that the implication was that some cases would be handled as misdemeanors instead of felonies.

Co-Chair Meyer wondered whether police had to do more work for felony charges versus misdemeanor charges. Ms. Meade deferred the question to the Department of Public Safety or the Department of Law.

Vice-Chair Fairclough discussed that the fiscal note outlined that receipts would pay for the 24-7 Sobriety Program. She asked if a pay issue raised by Co-Chair Kelly had been discussed. She believed it may be discrimination if people without economic resources to get out on bail were stuck in jail due to their inability to pay for the program cost.

Mr. Schilling believed a person could not be sent back to jail because of an inability to pay. He agreed it would be unfair. He noted that one of the risks of charging offenders \$10 per day was that it was unaffordable for some people. He relayed that the bill included an indigency clause that the department would be responsible for paying the bill in those cases.

[10:50:39 AM](#)

Vice-Chair Fairclough wondered if the term "can't afford" would be defined somewhere. Mr. Schilling responded DOC and the court system were familiar with indigency waivers that were in use at present for other things. He deferred the question to the departments.

Co-Chair Meyer spoke in support of the bill. He remarked on the bill's high cost, but believed it would change lives for the better.

SB 64 was HEARD and HELD in committee for further consideration.

Co-Chair Meyer discussed the schedule for the following meeting.

ADJOURNMENT

[10:51:57 AM](#)

The meeting was adjourned at 10:52 a.m.