

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

February 5, 2014

1:35 p.m.

MEMBERS PRESENT

Senator John Coghill, Chair
Senator Fred Dyson
Senator Donald Olson
Senator Bill Wielechowski

MEMBERS ABSENT

Senator Lesil McGuire, Vice Chair

COMMITTEE CALENDAR

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."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 64

SHORT TITLE: OMNIBUS CRIME/CORRECTIONS 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)

WITNESS REGISTER

M. RANKINE FORRESTER, CEO
Intoximeters Inc.
St. Louis, Missouri
POSITION STATEMENT: Testified on SB 64.

KELLY FREDERICK, representing herself
Anchorage, Alaska
POSITION STATEMENT: Testified on SB 64.

MIKE MILLER, representing himself and
National Federation of Independent Business (NFIB)
North Pole, Alaska
POSITION STATEMENT: Testified on SB 64 to voice concern with
raising the felony theft thresholds.

ANDY PEVEHOUSE, representing himself
Fairbanks, Alaska
POSITION STATEMENT: Testified on SB 64.

MARTHA KINCAID, representing herself
Palmer, Alaska
POSITION STATEMENT: Testified in support of SB 64.

JANET KINCAID, representing herself
Palmer, Alaska
POSITION STATEMENT: Testified on SB 64.

MARY GEDDES, representing herself
Anchorage, Alaska

POSITION STATEMENT: Testified on SB 64.

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

POSITION STATEMENT: Provided information related to a proposed amendment to SB 64.

CHUCK KOPP, Staff, Senator Fred Dyson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided information related to a proposed amendment to SB 64.

ACTION NARRATIVE

[1:35:00 PM](#)

CHAIR JOHN COGHILL called the Senate Judiciary Standing Committee meeting to order at 1:35 p.m. Present at the call to order were Senators Wielechowski, Dyson, Olson, and Chair Coghill.

SB 64-OMNIBUS CRIME/CORRECTIONS BILL

[1:35:27 PM](#)

CHAIR COGHILL announced the consideration of SB 64. [The committee was considering CSSB 64, Version G.]

CHAIR COGHILL opened public testimony.

[1:39:04 PM](#)

M. RANKINE FORRESTER, CEO Intoximeters Inc., St. Louis, Missouri, informed the committee that Alaska uses his company's hand held devices for DUI enforcement. He explained that Intoximeters got involved in the 24/7 program about seven years ago and found the early results in South Dakota to be impressive.

MR. FORRESTER said he watched the 24/7 program in North Dakota, South Dakota, and Montana and learned that the program's strength for reducing recidivism is the immediacy of the sanction. The Rand Study and the Mountain Plains Evaluation from South Dakota proved that. Both showed a dramatic reduction in recidivism, and he attributes those results to the twice-a-day breath testing in a central location. In this model, the person

immediately faces the consequence of arrest if he/she tests positive.

In both North Dakota and Montana, geography limited some people from getting to and from a central testing site, he said. In that circumstance, an ankle bracelet with a transdermal alcohol detection device was used. The Rand Study documented that about 15 percent of the test subjects were tested on the remote testing device and 85 percent were tested twice-a-day.

MR. FORRESTER noted that data from the South Dakota 24/7 program was presented at a recent highway safety meeting in San Diego. It showed that the remote testing had very little impact on long-term recidivism compared to the twice-a-day central location testing. The point, he said, is that if the goal is to reduce recidivism, there's more bang for the buck with twice-a-day testing. The problem with remote testing is that an immediate sanction is less likely. The other issue with relying on remote testing as the backbone of a 24/7 program is that there's a bit of an unfunded mandate; there's a cost attached to sending somebody out to arrest an offender that isn't covered under the program.

MR. FORRESTER urged the committee to consider twice-a-day testing as the backbone of the 24/7 program; the evidence shows it has a greater effect on recidivism.

[1:45:42 PM](#)

SENATOR DYSON commented that twice-a-day testing would make it difficult for a person to be productive.

MR. FORRESTER responded that there is a bit of a burden, but it has not been an issue in any of the programs he's worked with in Montana or South Dakota.

CHAIR COGHILL thanked Mr. Forrester.

[1:48:12 PM](#)

KELLY FREDERICK, representing herself, Anchorage, Alaska, said she was calling to comment on the amendment regarding custodial interference. She explained that on January 14 a man walked into an Anchorage elementary school and asked for her daughter by first and last name. Falsely claiming to be her father, he said he was there to pick her up. When staff disputed his claim, he said he was there to pick up a different girl. Office staff identified him and asked him to leave. Ms. Frederick said the school called her and she immediately called the police. When

she met the police at the school, she was told there wasn't a charge for what the man had done. Later she was told that the man had been arrested and that he was going to be charged with criminal trespass and two counts of contributing to a minor.

MS. FREDERICK said she was disturbed and concerned because the man's intent was to take the girls from the school. She questioned why there isn't a law to protect children in this circumstance.

CHAIR COGHILL asked Senator Wielechowski to explain the amendment he drafted to address some of Ms. Frederick's concerns.

[1:51:01 PM](#)

SENATOR WIELECHOWSKI said he heard from a number of constituents about this issue and called the prosecutor's office. John Skidmore returned the call and said that what the man did doesn't meet the statutory definition of attempted kidnapping and that it will be difficult to prove criminal trespass. He noted that the person who was ultimately arrested in this case has a long history of crimes.

SENATOR WIELECHOWSKI explained that the amendment, which was a collaborative effort, is an attempt to put something in statute to make schools and kids a little bit safer.

CHAIR COGHILL said the committee would consider the amendment after public testimony.

[1:52:48 PM](#)

MIKE MILLER, representing himself and National Federation of Independent Business (NFIB), North Pole, Alaska, said he was testifying to voice concern about raising the felony theft threshold from \$500 to \$1,000. For larger businesses it's the cost of doing business, but for small businesses \$500 is a lot of money, he said. The NFIB in Alaska was polled and a majority of the members do not support doubling the limit at this time.

[1:55:41 PM](#)

SENATOR DYSON asked Mr. Miller if he's seen evidence that shoplifters or burglars are paying attention to the dollar limit between a misdemeanor and felony when they're contemplating a crime.

MR. MILLER said no, but many small businesses feel that increasing the limit rewards the person who perpetrates the crime.

SENATOR DYSON asked if he's implying that NFIB members have been comfortable with the \$500 limit for the past 20 years.

MR. MILLER replied small business owners probably are comfortable with the law because they're accustomed to it.

SENATOR DYSON pointed out that \$500 probably had three times the value when the limit was established. He asked if small businesses thought it was excessive at that time.

MR. MILLER replied they probably did feel it was excessive 22 years ago. He reiterated that NFIB isn't comfortable doubling the limits.

CHAIR COGHILL asked Mr. Miller if he's found that misdemeanor charges are ignored in court.

MR. MILLER said his business hasn't experienced much theft, but some members have expressed frustration about losing higher value items.

CHAIR COGHILL said he would entertain amendments, but he needed to know if the misdemeanor charges that could result in a year in jail [and] \$10,000 fine have been so misused that the felony hammer is necessary.

He asked Mr. Miller if a \$750 threshold would be acceptable.

MR. MILLER answered that in his particular case it would, but a lot of businesses would probably still find it difficult to accept. He reiterated that doubling the amount was particularly unpalatable.

CHAIR COGHILL requested an opportunity to address NFIB on what happens when a felony charge is levied.

[2:03:50 PM](#)

ANDY PEVEHOUSE, representing himself, Kenai, Alaska, stated support for increasing the felony theft thresholds. Clarifying that he was not speaking as a public defender, he disputed the notion that small business owners would not be protected by making theft a class A misdemeanor versus a class C felony. He maintained that it potentially would benefit NFIB members

because it is easier for a misdemeanant to pay restitution. Whereas a convicted felon has many doors closed and is severely hampered in his/her ability to reenter society, get a job and pay back the dollar value of the theft.

He agreed with Senator Dyson that theft is typically a crime of opportunity and the person who commits the crime isn't necessarily thinking about whether the crime is a misdemeanor or a felony. The same logic applies to criminal mischief; the offender doesn't necessarily consider the value of the property damage. He opined that most people would agree that the potential penalty of up to a year in jail, a \$10,000 fine and paying restitution is a fairly significant deterrent as it is.

MR. PEVEHOUSE also stated strong support for the minor changes to drug treatment in the bill. He said drug and alcohol treatment options are limited in Kenai, and anything that helps increase the ability to get into treatment and resolve a person's legal problems through incentivizing treatment is worthwhile.

[2:07:58 PM](#)

CHAIR COGHILL asked if the fines and jail time penalties for theft valued under \$500 had been enough of a deterrent to show that it could be used in the \$50 to \$1,000 category as well.

MR. PERVEHOUSE offered his belief that business owners absolutely are protected under the current statute. He also pointed out that the recidivist theft statute provides that multiple misdemeanor thefts aggravate on the third offense to a class C felony.

CHAIR COGHILL said the committee was alerted to that when the bill was introduced, and the Department of Law (DOL) questioned how that would be implemented.

SENATOR DYSON encouraged the Chair to stick to thresholds and make the second offense a felony.

[2:12:35 PM](#)

H. THOMPSON PRENTEZEL III, representing himself, said he was testifying from a halfway house/jail in Ester to offer suggestions about the cost and ineffectiveness of the prison system. He urged the committee to think about the philosophy of punishing crime and opined that the biggest problem relates to legislating morality and the creation of victimless crime. He cited statistics that show that in Alaska about 6 percent of the

population annually gets brought into a jail, and that this state is number one for recidivism.

He offered the following suggestions: get rid of mandatory parole, get rid of presumptive sentencing, allow parole for people who don't admit their guilt, offer juries a third option of a not proven verdict, review the number of felony cases that are brought and dropped, and look into why so many people flat-time their sentences.

CHAIR COGHILL asked him to submit his suggestions in writing.

[2:20:21 PM](#)

MARTHA KINCAID, representing herself, Palmer, Alaska, said she supports SB 64, but has additional comments. First, a proactive approach of redeeming, restoring, and instilling hope should be the goal of the proposed commission. Second, in convictions where there is no damage to persons or property, the felony should be reduced to a misdemeanor. Third, the current DUI laws impose a life-long sentence that is inappropriate for the infraction, especially if no damage to person or property has occurred. There is no incentive to become well. Fourth, the Alaska Sentencing Commission is missing the voice of the offender. She concluded that the state can do better by achieving a balance between correction, redemption, and restoration.

[2:22:54 PM](#)

JANET KINCAID, representing herself, Palmer, Alaska, echoed her daughter's comments and added that the state needs to improve ways to help people who are released from prison and have alcohol problems. She noted that the Salvation Army and Set Free Alaska help people with alcohol problems and both have long waiting lists. These people need hope and to be given a chance to become tax paying citizens who support their families and communities.

[2:23:56 PM](#)

MARY GEDDES, representing herself, Anchorage, Alaska, said she is a retired public defender who served 28 years in both state and federal courts. She said she would address two issues that were touched upon in previous testimony: the retroactivity of the changes in the theft statutes and the type of commission.

She offered three suggestions related to retroactivity of the changes in the theft statutes, and noted that she submitted language to address this issue. The first suggestion was that

for those cases for which there is not a guilty, a no contest plea or a verdict, the prosecutor can simply amend any charging documents; for those defendants who have already been found guilty but have not been sentenced, the trial court should be authorized to vacate the plea or verdict.

The second suggested change provides retroactive relief to those whose judgments are final and don't have an appeal pending. In order to obtain this relief, the offender would have to file a post-conviction action based upon the change in law. The bill could specify one year to file and the trial court could then be authorized to resentence the offender. She explained that this is a matter of fairness. Not extending retroactive effect to this group denies relief to those defendants who readily pleaded guilty and accepted their penalty without filing any appeal.

The third suggestion is to give retroactive relief to defendants who entered guilty or no contest pleas pursuant to agreements with the state. She said she submitted proposed language that allows a defendant to be resentenced under the revised law with notice that the plea agreement is not otherwise voidable by either of the parties.

[2:32:24 PM](#)

MS. GEDDES addressed the issue of whether or not the commission ought to be a sentencing commission as opposed to a criminal justice commission. She suggested sticking with the sentencing commission as originally envisioned because the duties and methodologies set in the legislation are more specifically geared to sentencing. She also recommended including at least one defense attorney on the commission who is the public defender, the public advocate, or their designee because most private attorneys lack the specific expertise of a criminal defense attorney.

She said the previous draft recommended that the Judicial Council provide staffing for the commission, but she believes that a commission comprised of so many busy professionals requires the coordination, direction, and leadership of an executive director. In light of the duties assigned to the commission, she recommended the executive director be a licensed attorney.

CHAIR COGHILL commented that Mr. Steiner would agree.

[2:35:29 PM](#)

CHAIR COGHILL asked Mr. Shilling to present the ideas in Amendment G.2.

SENATOR OLSON noted that he had an amendment to offer.

[2:37:33 PM](#)

JORDAN SHILLING, Staff, Senator John Coghill, explained that Amendment 28-LS0116\G.2 addresses some of the concerns that the Department of Law expressed on the Nygren credit section. Subparagraph (C) clarifies that a person may leave the facility for employment, vocational training, or community volunteer. Subparagraph (D) still expressly limits it to time and purpose but adds oversight by the director of the treatment program.

AMENDMENT G.2

OFFERED IN THE SENATE

TO: CSSB 64(), Draft Version "G"

Page 11, lines 8 - 27:

Delete all material and insert:

"(c) To qualify for credit against a sentence of imprisonment for time spent in a treatment program, the treatment program and the facility of the treatment program must impose substantial restrictions on a person's liberty that are equivalent to incarceration, including the requirement that a participant in the program

(1) must live in a residential facility operated by the program;

(2) must be confined at all times to the grounds of the facility or be in the physical custody of an employee of the facility, except for

(A) court appearances; [,]

(B) meetings with counsel;

(C) employment, vocational training, or community volunteer [, AND] work required by the treatment program [AND APPROVED IN ADVANCE BY THE COURT]; and

(D) periods during which residents are permitted to leave the facility for rehabilitative purposes directly related to the person's treatment plan, so long as the periods during which the residents are permitted to leave the facility are

expressly limited as to both time and purpose by the director of the treatment program;

(3) is subject to disciplinary sanctions by the program if the participant violates rules of the program and facility; sanctions must be in writing and available for court review; and

(4) is subject to immediate arrest, without warrant, if the participant leaves the facility without permission."

CHAIR COGHILL asked about oversight by the Department of Corrections (DOC).

MR. SHILLING replied the amendment doesn't mention DOC.

CHAIR COGHILL expressed interest in getting an answer to the question.

SENATOR WIELECHOWSKI commented that the amendment offers a reasonable compromise.

CHAIR COGHILL asked Senator Dyson to provide an explanation of Amendment G.9.

SENATOR DYSON summarized that the amendment provides judicial discretion in the waiver of certain juvenile cases to adult court.

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CHUCK KOPP, Staff, Senator Fred Dyson, explained that the proposed Amendment G.9 introduces a safeguard into the juvenile auto waiver law that sends a 16 or 17-year-old into the adult system when the crime is an unclassified felony, a class A felony in which it is a crime against a person, a class B felony in which it is a crime against a person and a deadly weapon is used or alleged to be used, or arson in the first degree. The amendment would allow a judge to make a determination, based on a risk needs assessment, that the juvenile is amenable to treatment under the juvenile justice system and does not need to be waived into the adult system.

AMENDMENT G.9

OFFERED IN THE SENATE

TO: CSSB 64(), Draft Version "G"

Page 2, line 1, following "beverages;":

Insert "relating to waiver of jurisdiction in juvenile cases;"

Page 24, following line 20:

Insert new bill sections to read:

"* **Sec. 33.** AS 47.12.030(a) is amended to read:

(a) When a minor who was at least 16 years of age at the time of the offense is charged by complaint, information, or indictment with an offense specified in this subsection, and, when after a hearing and consideration of the minor's individualized risk and needs assessment, the court determines that the minor is not amenable to treatment under this chapter, this chapter and the Alaska Delinquency Rules do not apply to the offense for which the minor is charged or to any additional offenses joinable to it under the applicable rules of court governing criminal procedure. The minor shall be charged, held, released on bail, prosecuted, sentenced, and incarcerated in the same manner as an adult. If the minor is convicted of an offense other than an offense specified in this subsection, the minor may attempt to prove, by a preponderance of the evidence, that the minor is amenable to treatment under this chapter. If the court finds that the minor is amenable to treatment under this chapter, the minor shall be treated as though the charges had been heard under this chapter, and the court shall order disposition of the charges of which the minor is convicted under AS 47.12.120(b). The provisions of this subsection apply when the minor is charged by complaint, information, or indictment with an offense

(1) that is an unclassified felony or a class A felony and the felony is a crime against a person;

(2) of arson in the first degree;

(3) that is a class B felony and the felony is a crime against a person in which the minor is alleged to have used a deadly weapon in the commission of the offense and the minor was previously adjudicated as a delinquent or convicted as an adult, in this or another jurisdiction, as a result of an offense that involved use of a deadly weapon in the commission of a crime against a person or an offense in another jurisdiction having elements substantially

identical to those of a crime against a person, and the previous offense was punishable as a felony; in this paragraph, "deadly weapon" has the meaning given in AS 11.81.900(b); or

(4) that is misconduct involving weapons in the first degree under

(A) AS 11.61.190(a)(1); or

(B) AS 11.61.190(a)(2) when the firearm was discharged under circumstances manifesting substantial and unjustifiable risk of physical injury to a person.

* **Sec. 34.** AS 47.12.030 is amended by adding a new subsection to read:

(d) For purposes of making a determination under this section, the standard of proof is by a preponderance of the evidence, and the burden of proof that the minor is amenable to treatment under this chapter is on the minor."

Renumber the following bill sections accordingly.

Page 25, line 4:

Delete "and"

Page 25, line 5, following "Act":

Insert ", AS 47.12.030(a), as amended by sec. 33 of this Act, and AS 47.12.030(d) as enacted by sec. 34 of this Act,"

Page 25, line 6:

Delete "36"

Insert "38"

Page 25, line 12:

Delete "36"

Insert "38"

Page 25, line 13:

Delete "36"

Insert "38"

CHAIR COGHILL said he wanted the concept brought forward today and would possibly take testimony on it at a later date.

[2:44:31 PM](#)

CHAIR COGHILL asked Senator Wielechowski to present the ideas in Amendment 28-LS0116\G.10.

2:44:45 PM

SENATOR WIELECHOWSKI explained that this amendment is based on an issue that arose when a man entered an elementary school in his district and attempted to remove two children. The man was arrested and charged with criminal trespass, but there is clearly a gap in the law because even that charge will be difficult to prove. The purpose of SB 64 is rehabilitation and part of that is public safety; this amendment will make communities safer, he said. The essence is on page 1, lines 15-18, of the amendment; if a person who is not a relative and has no legal right, represents to the lawful custodian of a child that he/she has the legal right to take the child that is custodial interference in the second degree.

AMENDMENT G.10

OFFERED IN THE SENATE

BY SENATOR WIELECHOWSKI

TO: CSSB 64(), Draft Version "G"

Page 1, line 2, following "Commission;":

Insert "amending the criminal offense of custodial interference in the second degree;"

Page 2, following line 2:

Insert new bill sections to read:

"* **Section 1.** AS 11.41.330(a) is amended to read:

(a) A person commits the crime of custodial interference in the second degree if

(1) [,] being a relative of a child under 18 years of age or a relative of an incompetent person and knowing that the person has no legal right to do so, the person takes, entices, or keeps that child or incompetent person from a lawful custodian with intent to hold the child or incompetent person for a protracted period; or

(2) not being a relative of a child under 18 years of age or a relative of an incompetent person and knowing that the person has no legal right to do so, the person represents to the lawful custodian that the person has a legal right to take, entice, or keep the child or incompetent person.

* **Sec. 2.** AS 11.41.330(b) is amended to read:

(b) The affirmative defense of necessity under AS 11.81.320 does not apply to a prosecution for custodial interference under (a)(1) [(a)] of this

section if the protracted period for which the person held the child or incompetent person exceeded the shorter of the following:

- (1) 24 hours; or
- (2) the time necessary to report to a peace officer or social service agency that the child or incompetent person has been abused, neglected, or is in imminent physical danger. "

Page 2, line 3:

Delete "**Section 1**"
Insert "**Sec. 3**"

Renumber the following bill sections accordingly.

Page 24, line 25, following "(a)":

Insert "AS 11.41.330(a), as amended by sec. 1 of this Act, AS 11.41.330(b), as amended by sec. 2 of this Act,"

Page 24, line 25:

Delete "sec. 1"
Insert "sec. 3"

Page 24, line 26:

Delete "sec. 2"
Insert "sec. 4"
Delete "sec. 3"
Insert "sec. 5"

Page 24, line 27:

Delete "sec. 4"
Insert "sec. 6"

Page 24, line 28:

Delete "sec. 5"
Insert "sec. 7"
Delete "sec. 6"
Insert "sec. 8"

Page 24, line 29:

Delete "sec. 7"
Insert "sec. 9"
Delete "sec. 8"
Insert "sec. 10"

Page 24, line 30:

Delete "sec. 9"
Insert "sec. 11"
Delete "sec. 10"
Insert "sec. 12"

Page 24, line 31:
Delete "sec. 11"
Insert "sec. 13"

Page 25, line 1:
Delete "sec. 12"
Insert "sec. 14"
Delete "sec. 13"
Insert "sec. 15"

Page 25, line 2:
Delete "sec. 14"
Insert "sec. 16"
Delete "sec. 15"
Insert "sec. 16"

Page 25, line 3:
Delete "sec. 16"
Insert "sec. 18"
Delete "sec. 17"
Insert "sec. 19"

Page 25, line 4:
Delete "sec. 18"
Insert "sec. 20"

Page 25, line 5:
Delete "sec. 19"
Insert "sec. 21"

Page 25, line 6:
Delete "secs. 1 - 29 and 31 - 36"
Insert "secs. 1 - 31 and 33 - 38"

Page 25, line 7:
Delete "sec. 20"
Insert "sec. 22"

Page 25, line 8:
Delete "sec. 23"
Insert "sec. 25"

Page 25, lines 8 - 9:
Delete "sec. 24"
Insert "sec. 26"

Page 25, line 9:
Delete "sec. 25"
Insert "sec. 27"

Page 25, line 10:
Delete "sec. 26"
Insert "sec. 28"
Delete "sec. 27"
Insert "sec. 29"

Page 25, line 11:
Delete "sec. 28"
Insert "sec. 30"

Page 25, line 12:
Delete "secs. 1 - 29 and 31 - 36"
Insert "secs. 1 - 31 and 33 - 38"

Page 25, line 13:
Delete "secs. 1 - 29 and 31 - 36"
Insert "secs. 1 - 31 and 33 - 38"

Page 25, line 17:
Delete "sec. 32"
Insert "sec. 34"

Page 25, line 19:
Delete "sec. 32"
Insert "sec. 34"

Page 25, line 21:
Delete "Section 30"
Insert "Section 32"

CHAIR COGHILL asked what happens in legitimate circumstances when somebody is picking up another person's child.

SENATOR WIELECHOWSKI said that would be acceptable.

CHAIR COGHILL said he likes the idea.

[2:48:22 PM](#)

CHAIR COGHILL asked Mr. Shilling to discuss Amendment G.7.

[2:48:57 PM](#)

MR. SHILLING said the first substantive change is found on page 1, lines 16-22, of the amendment. It allows 24/7 sobriety to be applied in pretrial only in certain cases: unclassified felony, class A felony, sexual felony, DUI felony, refusal felony, and crimes of domestic violence, which can be a misdemeanor or felony.

Page 2, lines 1-2, deletes the fiscal analysis Sec. 22 of the bill.

Page 2, lines 6-7, of the amendment removes the requirement that the Department of Corrections (DOC) establish eligibility requirements for the PACE program. The reasoning is that it is not appropriate for the DOC to turn someone away from the program when the court has mandated they enter the program.

AMENDMENT G.7

OFFERED IN THE SENATE

TO: CSSB 64(), Draft Version "G"

Page 1, lines 2 - 3:

Delete **"relating to fiscal notes for bills related to criminal offenses and suspension of offenders;"**

Page 1, line 9:

Delete **"relating to conditions of release and probation;"**

Insert **"relating to conditions of release, probation, and parole;"**

Page 1, line 10, following **"corrections"**:

Insert **"and board of parole"**

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

Insert **"requiring the board of parole to establish programs for persons on parole that require testing for controlled substances and alcoholic beverages;"**

Page 9, lines 18 - 20:

Delete all material and insert:

"(18) require the person to comply with a program established under AS 35.05.020(g) if the person has been charged with an alcohol-related or substance abuse-related offense that is an unclassified felony, a class A felony, a sexual felony, a felony under AS 28.35.030 or 28.35.032, or a crime of domestic violence."

Page 12, line 22, through page 13, line 3:
Delete all material.

Renumber the following bill sections accordingly.

Page 18, line 7:
Delete "and eligibility requirements"

Page 18, line 10:
Following "at":
Insert "moderate to"
Following "probation":
Insert "as identified by a risk-needs assessment"

Page 18, line 17, following "officer;":
Insert "or"

Page 18, line 19:
Delete the second occurrence of "or"
Insert "and"

Page 18, lines 20 - 21:
Delete all material.

Page 18, line 27:
Delete "and eligibility requirements"

Page 19, line 1, following "testing":
Insert "in person if practicable"

Page 19, line 4:
Delete "within 24 hours"
Insert "by the close of the next business day"

Page 19, line 10, following "requirements;":
Insert "or"

Page 19, lines 12 - 13:
Delete "or"

(C) fails to comply with program requirements;"

Page 19, following line 16:

Insert new bill sections to read:

"* **Sec. 29.** AS 33.16.060 is amended by adding a new subsection to read:

(c) The board shall establish a program for a parolee who has conditions of parole that include not consuming controlled substances or alcoholic beverages and who has been identified as being at moderate to high risk as identified by a risk-needs assessment. The program must

(1) include random testing for controlled substance and alcoholic beverage use;

(2) require that a parole officer file a parole violation report by the close of the next business day if a parolee

(A) fails to appear for an appointment as directed by the parole officer; or

(B) tests positive for the use of controlled substances or alcoholic beverages; and

(3) include a means to notify the board by close of business on the next business day that a parole violation report has been filed on a parolee placed in the program by the board.

* **Sec. 30.** AS 33.16.150(b) is amended to read:

(b) The board may require as a condition of special medical, discretionary, or mandatory parole, or a member of the board acting for the board under (e) of this section may require as a condition of mandatory parole, that a prisoner released on parole

(1) not possess or control a defensive weapon, a deadly weapon other than an ordinary pocket knife with a blade three inches or less in length, or ammunition for a firearm, or reside in a residence where there is a firearm capable of being concealed on one's person or a prohibited weapon; in this paragraph, "deadly weapon," "defensive weapon," and "firearm" have the meanings given in AS 11.81.900, and "prohibited weapon" has the meaning given in AS 11.61.200;

(2) refrain from possessing or consuming alcoholic beverages;

(3) submit to reasonable searches and seizures by a parole officer, or a peace officer acting under the direction of a parole officer;

- (4) submit to appropriate medical, mental health, or controlled substance or alcohol examination, treatment, or counseling;
- (5) submit to periodic examinations designed to detect the use of alcohol or controlled substances; **the periodic examinations may include testing under the program established under AS 33.16.060(c);**
- (6) make restitution ordered by the court according to a schedule established by the board;
- (7) refrain from opening, maintaining, or using a checking account or charge account;
- (8) refrain from entering into a contract other than a prenuptial contract or a marriage contract;
- (9) refrain from operating a motor vehicle;
- (10) refrain from entering an establishment where alcoholic beverages are served, sold, or otherwise dispensed;
- (11) refrain from participating in any other activity or conduct reasonably related to the parolee's offense, prior record, behavior or prior behavior, current circumstances, or perceived risk to the community, or from associating with any other person that the board determines is reasonably likely to diminish the rehabilitative goals of parole, or that may endanger the public; in the case of special medical parole, for a prisoner diagnosed with a communicable disease, comply with conditions set by the board designed to prevent the transmission of the disease."

Renumber the following bill sections accordingly.

Page 20, lines 20 - 22:

Delete "**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**"

Page 21, line 5:

Following "provide":

Insert ", on-site or by referral,"

Following "abuse":

Insert "or mental health treatment"

Page 21, line 6:

Delete "full-time"

Following "employment":

Insert ", vocational training, or community volunteer activities"

Page 21, lines 7 - 8:

Delete "150 days"

Insert "one year"

Page 22, line 1, following "two":

Insert "nonvoting members, serving ex officio, who are"

Page 22, line 3, following "two":

Insert "nonvoting members, serving ex officio, who are"

Page 25, line 6:

Delete "secs. 1 - 29 and 31 - 36"

Insert "secs. 1 - 30 and 32 - 37"

Page 25, line 8:

Delete "sec. 23"

Insert "sec. 22"

Page 25, lines 8 - 9:

Delete "sec. 24"

Insert "sec. 23"

Page 25, line 9:

Delete "sec. 25"

Insert "sec. 24"

Page 25, line 10:

Delete "sec. 26"

Insert "sec. 25"

Delete "sec. 27"

Insert "sec. 26"

Page 25, line 11:

Delete "sec. 28"

Insert "sec. 27"

Page 25, line 12:

Delete "secs. 1 - 29 and 31 - 36"

Insert "secs. 1 - 30 and 32 - 37"

Page 25, line 13:

Delete "secs. 1 - 29 and 31 - 36"

Insert "secs. 1 - 30 and 32 - 37"

Page 25, line 17:

Delete "sec. 32"

Insert "sec. 33"

Page 25, line 19:

Delete "sec. 32"

Insert "sec. 33"

Page 25, line 21:

Delete "Section 30"

Insert "Section 31"

CHAIR COGHILL said he'd like to study Amendment G.7 further before going forward. He asked Senator Olson if he had an amendment to offer.

[2:52:16 PM](#)

SENATOR OLSON said the concept was embodied in Senator Dyson's amendment.

CHAIR COGHILL stated his expectation to take public testimony on Friday.

[2:54:20 PM](#)

There being no further business to come before the committee, Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 2:54 p.m.