

HOUSE FINANCE COMMITTEE

April 18, 2016

1:41 p.m.

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CALL TO ORDER

Co-Chair Thompson called the House Finance Committee meeting to order at 1:41 p.m.

MEMBERS PRESENT

Representative Mark Neuman, Co-Chair
Representative Steve Thompson, Co-Chair
Representative Dan Saddler, Vice-Chair
Representative Bryce Edgmon
Representative Les Gara
Representative Lynn Gattis
Representative Scott Kawasaki
Representative Cathy Munoz
Representative Tammie Wilson

MEMBERS ABSENT

Representative David Guttenberg
Representative Lance Pruitt

ALSO PRESENT

Senator John Coghill, Sponsor; Jordan Shilling, Staff,
Senator John Coghill.

SUMMARY

CSSSSB 91(FIN) AM

OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS

CSSSSB 91(FIN) AM was HEARD and HELD in committee
for further consideration.

Co-Chair Thompson discussed the meeting agenda.

#sb91

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 91(FIN) am

"An Act relating to criminal law and procedure; relating to controlled substances; relating to immunity from prosecution for the crime of prostitution; relating to probation; relating to sentencing; establishing a pretrial services program with pretrial services officers in the Department of Corrections; relating to the publication of suspended entries of judgment on a publicly available Internet website; relating to permanent fund dividends; relating to electronic monitoring; relating to penalties for violations of municipal ordinances; relating to parole; relating to correctional restitution centers; relating to community work service; relating to revocation, termination, suspension, cancellation, or restoration of a driver's license; relating to the excise tax on marijuana; establishing the recidivism reduction fund; relating to the Alaska Criminal Justice Commission; relating to the disqualification of persons convicted of specified drug offenses from participation in the food stamp and temporary assistance programs; relating to the duties of the commissioner of corrections; amending Rules 32, 32.1, 38, 41, and 43, Alaska Rules of Criminal Procedure, and repealing Rules 41(d) and (e), Alaska Rules of Criminal Procedure; and providing for an effective date."

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SENATOR JOHN COGHILL, SPONSOR, thanked the committee for hearing the bill.

Representative Wilson asked what version of the bill he would discuss. Senator Coghill relayed that the bill before the committee was the House Judiciary Committee version.

Representative Gara suggested that the sponsor speak to any concerns over the way the bill changed during the committee process.

Senator Coghill provided a high level overview of the legislation. He referred to a sectional analysis color coded chart (copy on file) that matched the topic to the related bill sections. He explained that SB 64 Omnibus Crime/Corrections/Recidivism (CHAPTER 83 SLA 14 - 07/16/2014) established a commission [Alaska Criminal Justice Commission] that examined criminal justice issues

defined by the legislature. The commission discovered that the recidivism rate was extremely high and a cause for concern. The issue was so broad that the commission was tasked with further studies of recidivism. Subsequently, the commission developed 21 recommendations that were contained in the bill in some form. He related that formulating the recommendations was a consensus driven process. The commission was comprised of public defenders, judges, victims' advocates, police, and others. He voiced that the process had been very thorough. The commission was "housed" in the Judicial Council. He delineated that the council examined the issue for years but only related to court rules and procedures, the impact on probation officers, etc. Many of the same individuals from the council were members of the commission and brought beneficial information and experience on the issue. He noted that the state had "shortcomings" with its criminal justice data. Throughout the nation a move to work on judicial reform called "reinvestment reform" was already in progress in many states that explored how to reinvest money within the criminal justice system. The Pew Foundation and Council of States Governments West had facilitated data driven studies. He recounted that the governor, House, and Senate requested that Pew closely examine the state's criminal justice system and formulate data specific to Alaska. He remarked that it was the first time the state had taken a hard look at the issue.

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Senator Coghill deemed that due to the discovery process he described the commission's recommendations were data driven; researched and outcome based programs that worked in other states. In the process, he and Senator Johnny Ellis examined the "Right On Crime" resources that had turned the corner on reducing cost, recidivism, and crime in Texas. The Right On Crime information was provided to the commission. He discussed the recommendation's categories the commission developed that were listed on the color coded sectional as follows: pretrial, sentencing, community supervision and other areas. The goals were to improve pre-trial procedures. The sentencing recommendations were developed out of the examination of what worked from felony, drug, and parole related issues. The community supervision recommendations attempted to hold individuals accountable but produce better outcomes. He stressed that if sentencing changed accountability should

not change. He expounded that there were several recommendations that did not fit into the first three categories. He provided the example in Alaska that subsequent to the release of a person convicted of committing a violent crime the individual was eligible for food stamps however convicted drug offenders were not. He noted that the issue fell into the other category. Issues regarding license revocation for drinking and driving were dealt with in the bill. He further explained the sectional analysis chart that associated the provisions in the bill by category, policy, recommendation number and bill sections. He detailed that the bill sections contained the "code of law." He related how he performed his own personal study of the statutes relating to the bill versions.

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Co-Chair Thompson thought the sponsor's personal information paper would be helpful for the committee members and requested copies for distribution. Senator Coghill related that he had not updated his information for the new bill version, but offered to provide it.

Representative Gara asked why some of the bill sections related to recommendations and policies on the sectional analysis sheet were highlighted and other were not. Senator Coghill answered that the highlighted area were the main places where the policy was impacted and the non-highlighted section references designated conforming provisions. He noted that his office had done a sectional analysis for the most recent version and would provide further information to the committee. Senator Coghill explained that the presentation provided reform statistics and proven practices. He voiced that things were not working at their optimal level in the state's current correctional system. He spoke to high recidivism. He referred to pre-trial accountability and reported that the bill contained new policies. The new policy established a risk assessment tool that did not grant individuals determined to be a high risk bail and low risk individuals would be monitored in a different way. He continued that the bill changed the way probation/parole was done so that the higher the risk the more accountability and lower accountability ascribed to low risk individuals. He emphasized that reductions in prison sentences provided cost savings to reinvest in programs that would eventually reduce the crime rate and change behaviors.

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Co-Chair Thompson noted that the committee had one hour to hear the presentation. He noted that the bill would come before the committee multiple times.

JORDEN SHILLING, STAFF, SENATOR JOHN COGHILL, provided a PowerPoint presentation titled "SB 91: ACJC Recommendations" dated April 15, 2016 (copy on file). He spoke to slide 2 titled "Prison Population Up 27% Over Last Decade" and relayed that the chart depicted that the state's prison population had grown 27 percent over the past decade and was "significantly" faster than the residential population that grew at one third of the prison growth rate. He detailed that prisons were over capacity and without reforms would jail an additional 1,300 inmates by 2024. Despite all of the spending the state experienced very low return for the money and was spending on things that did not work or change criminal behavior. The situation spurred the legislature to create the Criminal Justice Commission. He turned to slide 3 titled "Prison Population is Half Sentenced Offenders, Half Supervision Violators and Pretrial Defendants" that identified the main drivers of the increased prison population.

Pretrial - 28 percent
Supervision Violator - 22%
Sentenced - 50%

Mr. Shilling reported that three-quarters of offenders entering prison post-conviction were convicted of a non-violent felony offense and their length of stay was up 31 percent.

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Mr. Shilling relayed that probation violators made up one-fifth of the prison population that only committed a technical violation of probation. The commission developed a comprehensive set of reforms that addressed the three population divers. The reforms were proven factors that other states had used successfully while protecting the public, hold offenders accountable, and reduced the daily prison population. The savings could be reinvested in programs proven to reduce crime. He noted the pretrial population grew 81 percent in the last decade. He moved to

slides 4 through 6 and addressed pretrial recommendations.
Slide 5:

Pretrial Recommendations

1. Expand the use of citations in place of arrest for lower-level nonviolent offenses
2. Utilize risk-based decision-making
3. Implement pretrial supervision
4. Focus supervision resources on high-risk defendants

Mr. Shilling presented slide 6:

The Commission recommended expanding the use of citations in place of arrest for lower level non-violent offenses.

- 76% of pretrial admissions to prison are for misdemeanor charges.
- 56% of pretrial admissions to prison are for non-violent misdemeanor charges.

Mr. Shilling turned to slides 8 and slide 9.

Slide 8:

Growth in Pretrial Population Linked to Large Number of Nonviolent Offenders Held Pretrial, Longer Stays Behind Bars

- Half of pretrial defendants are detained on nonviolent charges, including misdemeanors
- Defendants staying longer pretrial than they used to

Slide 9:

Research Shows: Detention Should be Linked to Risk, Limited for Low-Risk Defendants
Source: Alaska Criminal Justice Commission

- Pretrial risk assessment can help predict likelihood of pretrial failure (far better than a defendant's ability to pay bail); and
- Pretrial detention can lead to worse outcomes, particularly for low-risk defendants.

Mr. Shilling elaborated that most pretrial defendants were misdemeanants in order to stem the number of pretrial arrests. He discussed the pretrial risk assessment tool and highlighted that the tools were found to be highly predictive. Research indicated that pretrial detainment of low risk individuals made them more like to commit new crimes and recidivate. Based on a bail review study, low risk defendants were in prison with very low bail amounts of \$500 and \$1000 while high risk defendants were being released if the bail requirement was met.

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Mr. Shilling relayed statistics from Kentucky that employed a similar type of pretrial risk assessment tools. In Kentucky 70 percent of pretrial defendants were releases of which 90 percent appeared at all of their hearings and 92 percent completed pretrial without any new arrests. He referred back to the remaining two pretrial recommendations and turned to slide 11:

Implement Pretrial Supervision

- Minimal supervision with court date reminders
- Basic supervision (in-office appointments, phone calls, field visits)
- Enhanced supervision (higher frequency contacts, drug and alcohol testing, electronic monitoring)

Research shows that enhanced supervision should be focused on those who are most likely to fail pretrial.

Representative Wilson spoke to the risk assessment. She asked whether all defendants were required to participate in risk assessment, even if the individual could meet bail requirements. Mr. Shilling answered that following arrest the individual would receive a pretrial assessment and would apply to every defendant which approximated 35 thousand each year. The risk score would be used as a tool for the judge to make an informed release decision. Representative Wilson asked whether a person could make bail and avoid jail and risk assessment. Mr. Shilling stated that the bill envisioned eliminating bail schedules entirely and the option to be released on bail could not be exercised until the state determined the risk to public

safety. Representative Wilson spoke to another bill HB 15 Elect Monitoring Credits; Mitigating Fctrs. [Chapter 20 SLA 15 - 05/14/2015 Sponsored by Representative Wilson]. She asked whether the provisions for electronic monitoring under HB 15 would be eliminated with passage of SB 91 and the pretrial supervision provisions. Mr. Shilling answered that the bill would not affect the option of electronic monitoring since the assessment occurred before arraignment. Representative Wilson wondered how the bill fit in with pretrial supervision. Mr. Shilling reiterated that credit for electronic monitoring always occurred after arraignment and would not be affected by SB 91.

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Representative Kawasaki asked about the risk assessment. He cited information from slide 9 regarding risk assessment and prediction of pretrial failure and asked for backup data. Mr. Shilling answered that the research was out of Kentucky and offered to provide it. He added that the research showed that the pretrial actuarial tool was better than professional judgement alone. Representative Kawasaki wondered about enhanced supervision and asked how the provisions differed than current practices. Mr. Shilling responded that currently the state did not supervise any one on a pretrial basis and viewed the provision as one of the larger public safety enhancements of the bill. He added that the Department of Corrections (DOC) would determine what supervision level each defendant received based on their assessment. He indicated the program carried costs to the state.

Vice-Chair Saddler asked whether there was any evidence about the effectiveness of citations in lieu of an arrest as a deterrent. Mr. Shilling would follow up with specific data.

Representative Gara understood that leaving low level offenders in jail for too long made them "better criminals." He asked whether research back up his assertion. Mr. Shilling answered in the affirmative. He noted that a large body of research was available on the issue. He relayed that pretrial low risk defendants that were detained for more than 24 hours led to worse outcomes. He deduced that detrimental results happened when the individual was removed from his community for a long enough period of time to lose the stabilizing elements in his

life. In addition, data pointed out that mixing low and high risk offenders led to "criminogenic" effects on the low risk offenders.

Representative Munoz referred to the graph on slide 2 of the presentation that depicted to main spikes in the prison population in 2007 and again in 2011. She asked whether the sponsor had analyzed any changes in law that occurred. Mr. Shilling replied that a number of laws the legislature enacted affected the prison population. He indicated that following the Blakely Decision [2004] by the United States Supreme Court the legislature increased sentencing ranges as well as increased sex offender sentences in the mid-2000s and many conditions on probation and parole. Representative Munoz asked for a listing of the statute changes. She asked for examples of technical probation violations. Mr. Shilling replied that some common technical violations were a missed appointment, changing an address without notifying a probation officer, and substance use.

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Co-Chair Neuman referred to an editorial by Martin M. Moody from the Juneau Empire. He noted that the editorial was written by an inmate. He asked Mr. Shilling how the sentences would change. He read from the editorial:

In response to Kara Nelson's column in the Juneau Empire on March 31, I wish to tell you the dark side of Senate Bill 91 and House Bill 205.

You see, your wife, girlfriend and daughter will all do their first shot of heroin, crystal meth, crack cocaine or whatever other drugs because they are offered for free. This is how drug dealers get them hooked. Over the next couple of weeks or months, drug dealers will sell her the drug she needs to get by from day to day. At some point she will eventually run out of money to support her habit.

It is at this point drug dealers will break her will to perform sexual acts for a hit. She will be shot up with a large dose to make her sick. While she is puking out her guts in the toilet or in some other state of debilitation, she will be sexually violated. If she resists, she will be physically abused until she submits. She will be emotionally wrecked, but if

she behaves she will be rewarded with another hit to make her feel good.

Afterward, your wife, girlfriend or daughter, who is lying there on the bathroom floor, will be offered to any man who is present at the time as a party favor.

At this point, the drug dealer owns your wife, girlfriend or daughter. He has broken her physically, mentally, emotionally and spiritually. He will have her selling herself to support not only her drug habit but his as well. She will steal, harm children and walk away from her marriage. She will commit crimes, go to prison and may even contract STDs. Your daughter will have what seems like teenage behavioral problems, but the truth is she will not tell you what is going on. They both will always go back to the drug dealer for another hit, no matter how demeaning the dealer is to her or how degrading he is to her sexually.

The dealer does not care about her feelings, nor does he view her as a human being with value. Your wife, girlfriend or daughter are nothing more than a party favor.

The drug dealer does not care about the harm he will cause her, family members or friend or if he destroys her life. The drug dealer will not care about her children because when the time is right he will turn the children into future drug dealers and prostitutes. The more she comes back to the dealer, the more he controls her. She will lose her self-worth and self-esteem. The last thing the drug dealer will take is her self-respect.

You see, SB 91 and HB 205 award extra time off credits for people who will only get out and return within a few months. Since my arrival at Lemon Creek Correctional Center in September 2014, I have watched the same one-third of the prison population get out and come back. And their return is always for the same thing: dealing drugs or dirty urinalysis tests. They will do a small amount of time and be returned to the streets or be given the opportunity to go to the halfway house, only to return to prison again in a few days, weeks or months on new charge or for probation violations.

I am happy for Ms. Nelson and she deserves the support of the community. She has overcome her demons and moved forward in life. I commend her for the work she has done. I have never met her, however, I have seen her here at Lemon Creek. What I have written about is what I hear day in and day out in various conversations between inmates. And I really would not call it "conversation," it is more "bragging" than conversing. There are three women here right now who have been involved in the very situations I just described above involving five inmates who openly brag about "turning these women out."

By the way, I am a convicted sex offender, so please explain to me, who is the real boogeyman in society? Since being a sex offender is more demonized by society, law enforcement, Department of Corrections, social services and legislative policymakers, I am a little confused on the matter. Because from what I heard every day for the past 18 years, there seems to be very little difference between what I did and what a drug dealer will do to a woman in order to "turn her out."

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Co-Chair Neuman asked how SB 91 would sentence drug dealers and sex offenders and whether any funds were available in the bill for Alaskans like the one in the article and what it would do for victims and vulnerable Alaskans. Mr. Shilling replied that SB 91 would not change any presumptive sentencing for sex offenders. He communicated that the editorialist was correct, but the bill did seek to address rampant theft, rampant substance abuse and other crimes that were driven by addiction. He relayed that the state's current response to drug addiction "absolutely" did not work. He specified that sentence reduction and sentence increases did not deter drug use and related crime. He restated that justice reinvestment was about halting spending money on policies that did not work and reinvesting it in the correct intervention.

Co-Chair Neuman spoke to Recommendation 11: Incentivize Completion of Treatment for Sex Offenders with an Earned Time Policy from the "Alaska Criminal Justice Commission

Justice Reinvestment Report" from December 2015 (copy on file). He read the following:

Specific Action Recommended: To incentivize participation in and completion of sex offender treatment, the Commission recommends:

a. Implementing an earned time policy for sex offenders who are currently ineligible for mandatory parole, whereby offenders are able to earn up to one-third off their sentence if they complete in-prison treatment requirements set forth by the DOC.

b. Expanding the DOC's capacity to provide residential, long-term sex offender treatment that focuses on ensuring the offender is held responsible for harmful behavior and teaches cognitive behavioral strategies to end patterns of abuse.

Co-Chair Neuman stressed that legislation he previously worked on established ineligibility from mandatory parole because the recidivism rate of sex offenders was 92 percent. He strongly disagreed with the recommendation in light of the high recidivism rate of 92 percent. Mr. Shilling concurred that recommendation 11 incentivized completion of sex offender programming through establishing a one-third credit. He explained that the Senate Judiciary committee reduced the credit to one-fifth and that the Senate removed the credit entirely. He remarked that the sponsor favored the Senates response to the recommendation. Co-Chair Neuman requested that addressing the recommendation was a very high priority for the committee.

Mr. Shilling moved to slide 13:

Sentencing Recommendations

5. Limit the use of prison for lower-level misdemeanor offenders

6. Revise drug penalties to focus the most the severe punishments on higher-level drug offenders

7. Utilize inflation-adjusted property thresholds

8. Align non-sex felony presumptive ranges with prior presumptive terms

9. Expand and streamline the use of discretionary parole

10. Implement a specialty parole option for long-term geriatric inmates

11. Incentivize completion of treatment for sex offenders with an earned time policy

Mr. Shilling briefly addressed slide 14 titled "Vast Majority of Admissions to Prison are Misdemeanants." He noted that most of the offenders and crimes were non-violent. The commission recommended a variety of sentencing changes including:

Reducing low level Class B misdemeanor to violations

Changing how driving with a suspended license was addressed and differentiate between suspension for DUI or a point's revocation

Reduce disorderly conduct to a maximum 24 hour hold

Mandatory electronic monitoring for first time DUI offenders

A new presumptive range for Class A misdemeanors of zero to thirty days with the exception of Assault IV

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Mr. Shilling noted sentencing Recommendation 6: Revise Drug Penalties to Focus The Most the Severe Punishments on Higher-Level Drug Offenders and turned to slide 16:

Over Last Decade, More Offenders Entering Prison for Drug Crimes, and Staying Longer

Over past 10 years-

- admissions to prison for felony drug offenses has grown by 35%, driven in large part by a 68% increase in admissions for MICS 4 offenders; and
- length of stay for Alaska's felony drug offenders has increased by 16%.

Mr. Shilling moved to slide 17:

Research Shows: Long Prison Sentences for Drug Offenders Have Low Deterrent Value

- There is no significant effect of longer prison stays on recidivism rates (i.e. staying in prison longer does not make an offender less likely to recommit a crime).

- In addition, some studies find that severe punishments such as felony convictions and prison terms may have criminogenic effects, causing offenders to be more likely to commit crimes in the future.

Mr. Shilling explained that the commission recommended establishing a 2.5 gram threshold whereby more than 2.5 grams of a 1A, 2A, or 3A substance was prosecuted for a higher level felony and under 2.5 grams was a lower level felony. He spoke to slide 18 that listed sentencing Recommendation 7: Utilize Inflation-Adjusted Property Thresholds. He reported that the legislature established the dividing line between misdemeanor and felony theft in 1978 at \$500. Inflation had eroded the value and the commission recommended raising the value to \$2000 that was close to the \$500 value adjusted for inflation. He moved to slide 19 that included a chart titled "Felony Theft Threshold in Alaska has not Kept Pace with Inflation." He discussed slide 20:

Research Shows: Raising the Felony Theft Threshold Has No Impact on Crime

- Between 2001 and 2011, 23 states raised their felony theft thresholds. In these 23 states, the change in threshold had no impact, up or down, in the state's overall property crime rate.

- In fact, property and larceny crime rates fell slightly more in the 23 states that raised their thresholds from 2001 to 2011 than the 27 states that did not.

Mr. Shilling moved to slides 21 and 22. He addressed sentencing Recommendation 8 Align Non-Sex Felony Presumptive Ranges with Prior Presumptive Terms. He moved to slide 22 titled "In 2005, Alaska Moved From Presumptive Terms to Presumptive Ranges." The chart depicted how the legislature raised sentences in 2005. He explained that due

to the Blakely Decision in 2005, states were required to mandate sentencing differently in response to the Supreme Court case. Alaska moved from a presumptive term system to a presumptive range system. The legislature used the entire presumptive term as the floor of the new presumptive range. The legislature added intent language at the time that the legislature was not attempting "to bring about an overall increase in active imprisonment time." However, using the previous term as the floor of the new range increased prison time significantly. He turned to slide 23:

Change in Felony Sentencing Led to Increases in Length of Stay Behind Bars

From 2004 to 2014, average length of stay for:

- Class A felonies grew 80 percent;
- Class B felonies grew 8 percent; and
- Class C felonies grew 17 percent

Vice-Chair Saddler pointed to slide 22 and asked what the 20 years meant on the presumptive terms for a Class A felony. Mr. Shilling answered that the 20 years was the maximum hard cap for sentencing if an aggravator was proven.

Mr. Shilling moved to slide 24 titled "Align Ranges with Prior Terms" that contained the sentencing range chart with the commission recommendations.

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Mr. Shilling turned to slides 25 and 26. He referenced the sentencing Recommendation 9: Expand and Streamline the Use of Discretionary Parole. He turned to slide 26 titled "Parole Eligibility Applied Inconsistently" He indicated that currently eligibility for discretionary parole was restricted for the most serious crimes of unclassified felonies including murder and kidnapping or the lowest level felonies and not for any felonies that fell within the two extremes. The bill expanded the eligibility. He addressed slide 27:

For Those Who are Eligible, Parole Underutilized.

- On any given month in 2014, an average of 463 inmates were eligible for discretionary parole, and an average of only 15 parole hearings were held.

Mr. Shilling detailed that the commission wanted everyone eligible for parole to receive a hearing. The commission also established an administrative parole provision; currently not in statute. Administrative parole presumptively granted parole to first time B and C Felons by restricting hearings only to individuals that failed to comply with their case plan did not obey institutional rules, or to individuals that requested a hearing.

Mr. Shilling addressed slides 28 and 29. He discussed sentencing Recommendation 10: Implement a Specialty Parole Option for Long-Term Geriatric Inmates. He presented slide 29 titled " Population of Oldest Offenders Has More than Doubled in Past 10 Years" and detailed that the elder population was the fastest growing age group and was due to the significant increase in sentences in the past decade. Currently, the state had no parole option for the older offenders. He moved to slide 30 titled "Alaska's Oldest Offenders Least Likely to Recidivate Upon Release." He added that the elder inmates were the costliest to the state. The recommendation offered an opportunity to receive a hearing if the inmate was 55 or older and served a minimum of 10 years of their sentence. It was notable that the age ranges were expanded in the Senate and some types of offenders were excluded. The current policy reflected the commission's recommendations and did not reflect changes made in the Senate. He opined that the elderly were the safest inmates to release and were the costliest inmates by two to three times.

Mr. Shilling addressed slide 31 that listed sentencing Recommendation 11: Incentivize Completion of Treatment for Sex Offenders with an Earned Time Policy. He skipped the data and mentioned that the policy mitigated one-third off of a sex offender's sentence subsequent to treatment. He highlighted to slide 35:

Community Supervision Recommendations

12. Implement graduated sanctions
13. Cap incarceration time for technical violations of supervision
14. Establish a system of earned compliance credits
15. Reduce maximum lengths for probation terms and standardize early discharge proceedings
16. Extend good time eligibility to offenders serving sentences on electronic monitoring

17. Focus ASAP resources to improve program effectiveness
18. Improve treatment offerings in CRCs and focus use of CRC resources on high-need offenders

Mr. Shilling addressed slide 36 titled: "Almost Two-Thirds of Offenders Released Return to Prison Within Three Years." He voiced that graduated sanctions were tools probation officers used to gain compliance by addressing bad behavior quickly or eliciting good behavior through incentives. He turned to slides 37:

Swift, Certain, and Proportional Sanctions Effective at Changing Offender Behavior

- Research shows that responding to violations quickly, certainly, and proportionally is the most effective way to change offender behavior. Key elements of a successful system include.

Mr. Shilling moved to slide 38 that listed Community Supervision Recommendation 13: Cap Incarceration Time for Technical Violations of Supervision. He restated that one-fifth of Alaska's prison population was comprised of individuals that did not commit a new crime.

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Mr. Shilling turned to slide 39 titled "Petitions to Revoke Take a Month to Resolve." He addressed slide 40 titled "Once Sentenced, Nearly Half of Revocations Staying More than One Month." He noted that the graph also depicted that some individuals spent over a year in prison for a technical violation. The commission had recommended creating a cap for the violations as follows:

- The first revocation received 3 days in prison.
- The second revocation received 5 days in prison.
- The third revocation received 10 days in prison.
- The fourth plus revocation was left to judicial suspension allowing imposition of the remaining sentencing time.

Mr. Shilling spoke to slide 41 that listed the Community Supervision Recommendation 14: Establish a System of Earned Compliance Credits. He noted that currently offenders were kept on probation and parole for long periods of time; even

those considered low risk. Almost all violations happened in the first year and repeat violators were easily identified early on. He added that Parole and Probation Officers caseloads "were out of control" and averaged over 50. He spoke to slide 42:

To Change Offender Behavior, Rewards More Effective than Sanctions

- Research shows that states achieve higher successful supervision rates when rewards outnumber sanctions.

- Successful supervision programs provide incentives for meeting case-specific goals (for example, rewarding an offender with a drug addiction for participating in an out-patient drug treatment program), thereby enhancing supervisees' motivation.

Mr. Shilling voiced that the commission recommended a month for month compliance credit that was intended to achieve sustained compliance and lessen recidivism.

Mr. Shilling discussed Community Supervision Recommendation 15: Reduce Maximum Lengths for Probation Terms and Standardize Early Discharge Proceedings. He examined slides 44 through 46. He briefly mentioned slide 44 titled "Average Length of Stay on Community Supervision Up 13% Over Past Decade." He cited the data depicted on the graph on slide 45 titled:

"Failure Most Likely to Happen Within Three Months" that clearly demonstrated that the majority of probation or parole violations occurred within the first three months [62 percent]. He spoke to slide 46: Frontload and Focus Supervision Resources

- Research shows that supervision resources provide the greatest public safety returns when focused on those most likely to reoffend: high-risk offenders and those recently released from prison. Key elements of a successful system include:

- Identifying offenders who warrant enhanced supervision and those who do not, including reducing reporting requirements for those who are succeeding; and

- Deterring future crime and technical violations by changing offender behavior in the first few days, weeks, and months after release.

Mr. Shilling furthered that in order to reduce probation or parole violations and new crimes it was important to frontload the states resources and focus limited resources on those likely to offend. The commission recommended limiting probation term lengths and discharging individuals on probation or parole after one year of perfect sustained compliance. He spoke to Community Supervision Recommendation 16: Extend Good Time Eligibility to Offenders Serving Sentences on Electronic Monitoring. He moved to slide 48:

Unlike Those in Prison, Offenders on EM Unable to Earn Good Time

- The ACJC found that, while most offenders who are housed within an institution have the opportunity to earn "good time" up to one-third off their sentences in acknowledgement of positive behavior, offenders on electronic monitoring are currently banned from earning this incentive.

Mr. Shilling elaborated that currently most inmates often choose to remain incarcerated in order to accumulate good time.

Representative Wilson asked whether inmates who accumulated good time had "the choice to take the full sentence." Mr. Shilling answered in the affirmative and added that an inmate could refuse electronic monitoring. Representative Wilson reiterated her question and clarified that she wondered whether an inmate could refuse probation. Mr. Shilling believed she was referring to mandatory parole. He understood that an individual could not deny mandatory parole.

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Mr. Shilling spoke to slide 49 that listed Community Supervision Recommendation 17: Focus ASAP Resources to Improve Program Effectiveness. He discussed slide 50:

Increases in Referrals to ASAP Have Limited Program's Effectiveness

- Alaska's Alcohol Safety Action Program ("ASAP") provides needed screening and treatment referral services for thousands of misdemeanor offenders who are referred by the court.

- However, the Commission found that increases in the number of referrals to ASAP have not correlated with increased funding for the program, resulting in limited program effectiveness.

- In fiscal year 2015, ASAP received nearly 7,250 referrals. 57% of which were statutorily mandated referrals (DUI and MCA). The remaining 43% were referrals that were not mandated by statute.

Mr. Shilling informed the committee that the program was housed in the Department of Health and Social Services (DHSS). He highlighted the last Community Supervision Recommendation 18: Improve Treatment Offerings in Community Residential Centers (CRCS) And Focus Use of CRC Resources on High-Need Offenders. He turned to slide 52:

CRCS Mixing High-and Low-Risk Offenders; Not Providing Evidence-Based Treatment

- The Commission found that CRCS, otherwise known as halfway houses, are likely mixing high-and low-risk offenders, which research has shown can lead to increased recidivism for low-risk offenders.

- Additionally, the Commission found that CRCS would be more effective at reducing recidivism if the facilities offered evidence-based treatment for offenders in addition to supervision.

Mr. Shilling mentioned that the recommendation included requiring treatment when housed in a CRC and prohibited the mixing of low and high risk offenders.

Mr. Shilling spoke to the concept of reinvestment beginning on slide 53. He briefly cited slide 54 titled "Absent Reform, Prison Population Projected to Grow by Additional 27% over Next Decade, Costing at Least \$169 Million." He moved to slide 55:

Reinvestment Directive to the Commission

"In this budget climate, investments that expand treatment and services only become possible with a reform package that results in substantial, real net savings to the state."

•Letter to Alaska Criminal Justice Commission from Finance co-Chairs, Senate President, and Speaker of the House

Mr. Shilling shared that the letter directed the commission to "think big" and requested recommendations that resulted in "real systemic change." He illuminated that the commission had met for months and had provided recommendations that were projected to reduce the average daily prison population by 21 percent over the next decade. The commission's recommendations were projected to save the state \$424 million over the next ten years that included averting future prisoner growth and savings to current population and marginal offender costs. The savings did not take into account the possible closure of DOC facilities and the changes in the new version reduced the savings due to reductions to the prison population of only 18 percent. He addressed slide 57:

"Justice Reinvestment" concept

Free up funds by focusing prison beds on serious violent offenders, and reinvest a portion of the savings into the services needed to reduce recidivism and protect the public.

Mr. Shilling related that more than 30 states had gone through the process. He reiterated that the approach was data driven, analyzed the state's spending, and allocated offender populations in a more cost effective manner. He listed the steps necessary as a state moved through justice reinvestment as follows:

1. Establish a working group. The state created the commission in 2014.
2. Analyze the drivers.
3. Develop policy recommendations
4. Work on codifying recommendations. The work was currently in progress.
5. Reinvest savings in things that reduced crime.

Mr. Shilling presented slide 58:

Reinvestment Priorities

- Pretrial supervision;
- Violence prevention and victims' services;
- Community-based treatment; and
- Reentry and support services

Mr. Shilling referred to the fiscal notes and relayed that there was money appropriated to the Council on Domestic Violence and Sexual Assault (CDVSA) for victims' services.

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Co-Chair Neuman asked how the bill addressed the need for treatment after arrest. Mr. Shilling replied that reinvestment was really only possible if savings were found from items that were not working and spent on programs that achieved results. The committee had its own reinvestment decisions to make. He detailed that the Senate Finance Committee emphasized DOC treatment, halfway house treatment, and community based treatment. He noted the effectiveness of the treatment programs he mentioned.

Senator Coghill added that one of the new concepts was the risk assessment in pretrial with its resulting "diversionary potential." A treatment option could be mandated instead of jail time. He believed the new pretrial services offered a valuable new tool. Co-Chair Neuman thought the sponsor had stated that the biggest problem in delivering treatment after arrest was the lack of funding. Mr. Shilling responded in the affirmative.

Senator Coghill interjected that was exactly the problem. He believed that doing things differently saved costs and freed up money for treatment, which could be mandated through pretrial.

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Vice-Chair Saddler spoke to the aim of modifying the behaviors of individuals to change the outcomes in the criminal justice system. He wondered to what extent modifying behaviors within the correctional institutions were "individuated" versus categorized. Mr. Shilling answered that DOC currently did a number of assessments to determine inmate needs.

Senator Coghill elaborated that COC employed the LSIR [Level of Service Inventory - Revised], which was an assessment tool. The bill directed the use of new and different assessments that currently were employed. The risk assessment in the bill morphed into individualized re-entry planning as the inmate neared release.

CSSSSB 91(FIN) AM was HEARD and HELD in committee for further consideration.

Co-Chair Thompson discussed the schedule for the following morning. He recessed the meeting to a call of the chair [Note: the meeting never reconvened].

#

ADJOURNMENT

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The meeting was adjourned at 3:01 p.m.