

HOUSE FINANCE COMMITTEE
April 20, 2016
8:38 a.m.

8:38:38 AM

CALL TO ORDER

Co-Chair Thompson called the House Finance Committee meeting to order at 8:38 a.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 David Guttenberg
Representative Scott Kawasaki
Representative Cathy Munoz
Representative Lance Pruitt
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Senator John Coghill, Sponsor; Jordan Shilling, Staff,
Senator John Coghill; Representative Lora Reinbold.

SUMMARY

CSSSSB 91(FIN) AM

OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS

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

8:39:19 AM

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."

[8:39:58 AM](#)

AT EASE

[8:40:17 AM](#)

RECONVENED

Co-Chair Thompson relayed that the bill sponsor would address changes made by a prior committee.

SENATOR JOHN COGHILL, SPONSOR, discussed his intent to outline the major differences between the bill version that passed the Senate [CSSSSB 91(FIN) AM] and the House Judiciary Committee version [HCS CSSSSB 91(JUD)].

Co-Chair Thompson noted that Representative Pruitt had joined the meeting.

Senator Coghill addressed a sectional analysis "cheat sheet." He spoke to differences in the sentencing provisions and explained most of the pretrial provisions were so similar there was no change worth mentioning. Misdemeanors had a presumptive sentencing range from zero to 30 days and additional aggravators of up to one year; however, the Senate version included sentencing for assault in the fourth degree of zero to one year, but the House Judiciary Committee had limited the longer sentencing range to domestic violence offences. He relayed the Senate had included a felony threshold of \$2,000 with no inflation proofing; the House Judiciary Committee had changed the provision to \$1,000 and had included inflation proofing. He believed the change was reasonable and acceptable to the Senate.

Senator Coghill explained the sentencing changes that would be difficult for some Senate members to agree to relate to sex offender issues. For example, the House Judiciary Committee had included the age of 55 for geriatric parole with some good time available, whereas, the Senate version had included a minimum age of 60 with no good time (a person was required to serve a certain sentence before there was any good time). The Senate had specified there would be no good time earned for sex offenders, whereas the House Judiciary Committee had allowed it. He believed the Senate would prefer to see no good time for sex offenders.

Senator Coghill specified that sex offenders had been excluded from the cap on technical violations. For example, there were caps on how long a person could be put in jail for a technical violation and under the Senate version the provision would apply to everyone but sex offenders. A list of conditions had been included by the Senate (e.g. a person could not have a computer); there were a variety of things that may be enforced on a sex offender that could not be reasonably put on other offenders. He wanted to see sex offenders excluded from the cap as the Senate version had intended.

[8:45:16 AM](#)

Vice-Chair Saddler for clarification on which bill version contained caps and which did not.

Senator Coghill explained that caps on technical violations were included in both bill versions. The Senate version

excluded sex offenders from the cap and the House Judiciary Committee extended the cap to sex offenders. For example, failure to appear at an appointment constituted a technical violation. Under that violation the bill specified an offender could only go back to jail for a certain number of days for the violation. He explained the Senate had excluded sex offenders from that jail time cap.

Representative Gara understood the difficulty in dealing with sex offence crimes. He relayed that when he had practiced law there had sometimes been very lengthy conditions. He provided a scenario where a sex offender did not receive a benefit because they had not gone to treatment. He surmised other conditions could mean a person was not allowed to drive or do many other things, which had nothing to do with the person's crime. He understood the idea of not giving someone a benefit for not doing sex offender treatment, for showing up at a victim's house, and for other things related to the crime. He wondered if it made sense to allow the removal of the cap for items that had nothing to do with the offense.

Senator Coghill relayed that the conversation related to sex offenders was so difficult that the Senate opted to exclude the individuals [from the cap]. The Senate had sent the commission [Alaska Criminal Justice Commission] a request to look at the issue. There was some cleanup needed in the bill language because there were about six things the commission had been asked to do (some of the items could be rolled into one request). He referred to Senate and House requests and noted they could probably be combined. He did not want to give the commission tasks that were related but just slightly different. He asked the committee to consider the issue and he offered to have his staff show where it could be done better. He continued that because the Senate wanted the commission to look at the issue and due to the Senate's reluctance to deal with the [sex offender] issue, it would be best for the bill to remain as close to the Senate's version as possible (to prevent a conference committee on the legislation). He relayed the Office of Victims' Rights had been very active in the discussion and he believed the agency should be honored to whatever degree possible. He detailed the office acted as the legislative arm of victims' advocates and had made some strong cases he believed the legislature needed to pay attention to. However, he agreed with Representative Gara that the band of possibilities would become harder and

harder to debate. He had asked the commission to help, which he believed would be a better way of doing it (as opposed to getting it all "hammered out" in the current bill).

[8:49:22 AM](#)

Vice-Chair Saddler asked for clarification about the bill versions under discussion

Senator Coghill replied that the "N" version was the Senate's version and the "V" version from the House Judiciary Committee was currently before the committee. The sectional analysis "cheat sheet" referenced version V of the legislation. He pointed out the section for geriatric parole should be Section 123 instead of 105, which was incorrectly listed on the sectional analysis.

Representative Wilson asked if there was currently a cap for technical violations. She asked about the current process. Senator Coghill relayed that currently an individual could serve the required sentence. He deferred to his staff for additional detail.

Representative Wilson reiterated her question about current practice. Senator Coghill requested to have his staff respond to the question.

JORDAN SHILLING, STAFF, SENATOR JOHN COGHILL, responded there were currently no caps in statute. He detailed it was up to unlimited judicial discretion at present. The average jail time currently spent for technical violations was 105 days.

Representative Wilson asked for verification the discussion was about individuals who had been sentenced and made a technical violation while in jail (as opposed to an individual out on probation).

Mr. Shilling answered the provision related to individuals out of prison on probation or parole (active supervision) who broke the conditions of their probation (e.g. failure to show for appointments, violations on prohibition on alcohol and drug use, and other).

[8:51:50 AM](#)

Representative Wilson asked if the courts or the Department of Corrections (DOC) determined the ramifications of the technical violation. Mr. Shilling replied the courts determined the amount of time served after adjudicating the technical violation.

Senator Coghill added that the commission's discussion had revolved around the swift and certain penalty. He specified it was not so much about the time involved as the quick action. The costliness of having a prisoner in jail for lengthy periods of time had been found to be less valuable than the swift and certain element of having someone react to their probation/parole violations.

Representative Gara referred to situations where a technical violation had nothing to do with the sex offense an individual had committed (e.g. a driving violation or other). He would certainly want to run the concept by the Office of Victims' Rights and others, but he wondered about offering a cap for sex offenders in the limited circumstance where a violation had nothing to do with the sex offense. He wondered if the concept would do damage to the bill.

Senator Coghill responded that he had been in 15 to 20 meetings with victims' advocates groups. He detailed the opinions were not unanimous among those groups. He had worked with Senate and House members and no unanimous agreement existed there either. As they had worked to find an answer to the question, the best option available was to ask the Alaska Criminal Justice Commission to look at the issue again. During the Senate process the public condemnation was so high that the rollback was very difficult to obtain. He believed trying to define a technical violations under those conditions was very challenging. He concluded if the item was rolled back it would make the bill more difficult to move forward.

Representative Gara commented on the difference between parole and probation. Senator Coghill replied that after a person had served their sentence they could have a certain amount of time on probation. He knew probation and parole acted close to the same. He continued that a parolee served their sentence in a different manner. He deferred the question to DOC for detail.

Co-Chair Thompson noted DOC would address the committee during the afternoon meeting.

8:55:48 AM

Senator Coghill stated the House Judiciary Committee had inserted three things that he found difficult to handle. He credited the commission and legislature for its extensive work on the legislation. He addressed pretrial credit under the "other" category on the sectional analysis. He detailed the provision had been inserted by Representative Matt Claman; it was a technical issue, but it went in a different direction than had been agreed upon in the Senate. He asked his staff to provide detail on the issue (Sections 64 and 67 of the bill).

Mr. Shilling believed others could speak in more detail to the provisions inserted by Representative Claman. He explained the provisions gave more guidance or direction to the courts in applying pretrial credit to defendants serving time in residential treatment, which was commonly referred to as Nygren credit. He deferred to the Public Defender Agency for further detail.

Senator Coghill explained the provisions [inserted by the House Judiciary Committee] diverted from the bill's original direction. He wanted pretrial accountability, some diversion capacity, and for people to be accountable in various ways. He clarified that Nygren was in reference to a court case, which specified a person could only get credit for being in jail under certain conditions. The House Judiciary Committee bill broadened the condition. People confined in jail could receive some time credit; it was more and more limited for people under monitoring. The Senate version had opened it up a little, but the House Judiciary Committee version opened it more.

Senator Coghill relayed a provision related to off-highway [driver's] licenses had been included by Representative Jonathan Kreiss-Tomkins. He explained there was a political and practical problem with the issue. He explained the issue had not been debated in the Senate and pulling a bill by a committee chair could have its own side effects. He believed the language should not be included in the legislation. He noted the topic was a stand-alone bill in the House [HB 62 related to restricted off-highway driver's licenses]. He encouraged the committee to remove the

language. He detailed the same thing was true with medical coverage for spouses and dependents of peace officers and firefighters. He was very sympathetic to the issue and he referred to individuals in the room advocating for the issue who had communicated they would change their level of support for the bill if it was included. He truly appreciated that, but he had discovered several problems that would need to be dealt with. He detailed the provision was very narrow and dealt with a specific circumstance; it was looking for a place that would probably be broader by way of lawsuit, which would result in higher and higher cost. He had spoken to the governor about the particular issue and he surmised there were probably some things the governor could do related to a particular family affected at present. He stated the issue was a broader policy question. He had spoken to Senate members and had discovered the issue would add too much weight and prevent concurrence on the legislation.

9:00:10 AM

Co-Chair Neuman emphasized that the men and women put their lives on the line daily in order to protect other Alaskans. He believed the benefit should be provided to troopers. He would follow up with Senator Coghill at a later time.

Senator Coghill did not disagree. However, he did not know if the current bill was the proper avenue.

Senator Coghill continued to address the legislation. He relayed the Senate had included a 120-day cap on pretrial electronic monitoring (EM). He asked Mr. Shilling to address the differences between the bill versions related to the particular topic.

Mr. Shilling detailed that when the bill had been introduced there was a 120-day cap placed on pretrial credit while on EM. The provision had been maintained by the full Senate, but had been removed [by the House Judiciary Committee]. The removal of the cap was one of the major differences in the current bill version.

Representative Wilson asked why a 120-day cap would be imposed. She relayed a story about an individual waiting for trial. She detailed the individual had been a model citizen, had kept his job, and done everything he was supposed to do. She wondered why a cap should be imposed.

Mr. Shilling responded that the concern had been brought to the sponsor by the Office of Victims' Rights. There had been concern about individuals serving a significant portion of their sentence pretrial on EM and getting day-for-day jail credit without being in prison and having liberty restricted in that manner. There was a concern there were delays and continuances and that individuals were receiving undue credit; therefore, the 120-day cap had been selected based on the speedy trial date in order to encourage individuals to get their case dealt with so the limit was not exceeded.

Representative Wilson relayed that the issue was a "bill killer" for her. She stressed the delay was not the individual's fault. She believed there was nothing the individual could really do about the delay, which was an attorney/court issue. She had received an email with numerous suggestions on how to speed up some of the trials. She believed the intent of the bill was to ensure offenders were punished, but to give them a way back into society. She reasoned it would defeat the goal of the legislation if individuals lost their job and home as a result of being put back into jail.

Mr. Shilling clarified the 120-day cap was not included in the bill version currently under consideration by the committee. He explained the provision had been included in the version passed by the Senate.

Senator Coghill elaborated there were two sides to the issue. The first perspective had been addressed by Representative Wilson. The second perspective related to people being at liberty and purposefully delaying court cases. The second perspective had been highlighted by the Office of Victims' Rights. He explained it was part of the process the bill had gone through; the agency had been very vocal to ensure victims did not have a fear of people being out and about. He stated the Senate's inclusion of the 120-day cap was a policy call; under the cap a person could still elect to use EM and be at liberty, but could not receive credit for the time. He added there would be the pressure to get to resolution from the defendant's side.

[9:04:57 AM](#)

Representative Wilson mentioned HB 15 [legislation passed in 2015 related to electronic monitoring credits] and relayed that individuals were very restricted on EM. She explained individuals on EM could not be out at the grocery store or other places. She explained EM was very specific and was about treatment, being at home, and continuing to work. She reiterated that a person was not able to go to the grocery store because it was supposed to be like jail. She was concerned about another part of the bill that "if you break it even for one day, you lose all the credit." She was not sure how it would work if there was a delay beyond 120 days where a person did not go to court for 150 days. She did not know if the person would or would not receive credit for the additional 30 days. She was not sure whether the bill sponsor was advocating to put the cap back into the bill.

Vice-Chair Saddler asked Senator Coghill to provide guide posts about the existing law, changes in the Senate version, changes in the House version, and his observations. He observed there were many different subtleties that were difficult to capture.

Senator Coghill answered he had run into the same kind of problems in fully understanding the changes, which was his reason for having well over 100 meetings with the Department of Law (DOL), DOC, and probation officers. He would have to defer to the other departments in areas where the change was so dramatic it would mean the departments needed to change their behavior (e.g. changes to pretrial should be explained in more depth by DOC). The 120-day cap had not been recommended by the commission and had not been something he had personally contemplated. He explained the issue had arisen along the way from the Office of Victims' Rights, which had won the attention of the Senate. He did not know the issue was a deal killer; it was a policy call. He could see the value both ways; the idea of trying to get to resolution in pretrial was something he would push for; therefore, he had been convinced including the cap was one way to achieve that goal. The conditions on EM were restrictive, but there was still a liberty that was not similar to being in jail. He reiterated his earlier statement that a person could still be on EM but not receive the credit.

[9:08:11 AM](#)

Representative Gara remarked that sometimes a prosecutor requested a time extension because they could not locate a witness or for other reasons. He detailed the judges required proof there was a viable reason to delay. He wondered if there was any exception in the Senate version where the district attorneys could request to delay trial because the witness was unavailable.

Senator Coghill replied he could not speak to the entire practice. He noted DOL had a substantial amount of discretion in those particular areas. The goal was to ensure a speedy disposition was obtainable. He relayed there were two sides to the issue and detailed some people wanted to hold out long enough to see if witnesses were not available. His objective had been to determine how to keep a system from getting so protracted that no good would come from it and yet people were in jail for that entire time. He had worked to include timelines to bring people to resolution, which was the reasoning behind the 120-day cap.

Representative Gara asked which section Senator Coghill was speaking to. Mr. Shilling answered that the 120-day cap was not currently in the bill; if it was reinserted it would be in Sections 64 and 65.

Co-Chair Thompson remarked the provision had been included in the Senate's version, but it had been removed in the House Judiciary Committee.

Senator Coghill relayed he had concluded speaking to the large changes in the bill before the committee. He noted he had been speaking to the "V" version. He relayed if something was not found in the bill he would have to do a side-by-side comparison, which he had done for his own study. He detailed the comparison was 60 paragraphs long because it required significant verbiage to explain the differences.

Co-Chair Thompson asked if it would be helpful to be able to see the comparison document. Mr. Shilling answered he could provide a document showing the full evolution of the bill.

Co-Chair Thompson requested the document.

Co-Chair Neuman asked if it was possible to get a copy of Senator Coghill's notes showing his opinion about the differences between the bill versions.

Senator Coghill stated that he put notes on his papers and could try to narrow them down. He relayed there were only about six major areas of the bill, which contained about four of five policy calls each. Some were under the heading of the medical coverage for spouses, which pertained to five sections of the legislation. Other changes under the heading of off-highway licenses pertained to seven sections of the bill. Additionally, sex offender changes dealt with about nine areas in the bill related to twelve sections. He could highlight the items and provide them to the committee.

Co-Chair Neuman thanked Senator Coghill and remarked he would personally opt to make the sex offender components as tough as possible.

[9:12:44 AM](#)

Representative Gara spoke to the 120-day cap included in the Senate version and asked if a person would get credit for time served in jail.

Mr. Shilling replied the particular credit only applied to individuals outside a facility on EM.

Representative Wilson stated that a person received credit for sitting in jail pretrial. She noted the goal of HB 15 [legislation passed in 2015 related to electronic monitoring credits] was to keep people out of jail when possible until they were found guilty. She reasoned a person could be "doing all this" and still be innocent.

Senator Coghill indicated he had worked closely with Representative Wilson on putting the previous legislation into law, which was a policy direction he agreed with. However, he had agreed to a 120-day cap to try to ensure resolution was brought as soon as possible. He noted it did get to the policy call question that a person was innocent until they were found guilty. However, accountability measures may be necessary during pretrial. The Senate had been convinced by the Office of Victims' Rights that there were people who would potentially misuse the system. He noted he did not have any data on the issue at present. He

reiterated it was a policy call. He noted the Office of Victims' Rights had a significant impact on the bill as it had moved through the process; the agency was cautious about any changes.

9:14:40 AM

Representative Edgmon referred to a letter from the Speaker of the House and the Senate President (the presiding officers) included in the criminal justice report, which asked the Alaska Criminal Justice Commission to come forward with policy options that would reduce the prison population by 15 percent in the short-term and 25 percent in the long-term. He asked Senator Coghill if he believed the bill would achieve the goals.

Senator Coghill answered that as the price of oil went down and the state's deficit increased, the commission had already been at work. The presiding officers had asked the commission to look as deeply as possible at cost savings. He detailed a slight fear had developed that cost savings would become more central than public safety, which had continually been brought up during the debate in the Senate. It was also true, they had asked for specific savings when possible. The goal was data driven information and the presiding officers had given three scenarios ranging from the easiest to the most difficult in terms of savings.

Senator Coghill elaborated that the commission had developed recommendations, especially related to sexual assault, that the legislature were not willing to take. Therefore, it had eroded into the cost savings from a 21 percent savings down to an 18 percent savings. He explained the public condemnation had been very difficult to answer and there had been disagreement even within the victims' advocates groups. He wanted to extend the commission to have them look further at the sexual assault offences. He explained the commission had taken some negative comments because of options they had presented. The commission had understood the legislature would look at the details and change them around. The commission had gone as deep and broad as possible, which had ultimately caused some consternation within the victims' advocates groups. He referred to testimony from Brenda Stanfill [executive director of the Interior Alaska Center for Non-Violent Living and member of the Alaska Criminal Justice

Commission] the previous day, who had indicated the commission had struggled with how the state could change the way it did business. The commission had ultimately arrived at some decent recommendations. The bill included a moderated version of the commission's recommendations, but there were still real, marginal savings. He detailed that at \$142 per day the state would save money on the daily cost. If the changes were implemented it was probable the need for a new prison and its associated costs would be averted. However, if the bill did not move forward during the current year, the House Finance Committee would need to begin discussions on building a new prison. He concluded those were the parameters the commission had to deal with.

[9:18:41 AM](#)

Representative Guttenberg recalled testimony from a police officer the previous day related to data driven decision making that may be contrary to strongly held beliefs and doing the right thing. He believed the current bill version fixed one oversight, which was to provide medical coverage for dependent spouses [of peace officers and firefighters]. He stated the issue was clearly data driven. He wondered about the practical problem of including the provision in the bill. He observed the change was significant, but he would find it problematic if the provision was left out.

Senator Coghill did not know that there was a specific provision included for dependents, but there were some benefits. He spoke to swift and certain action on probation/parole was trying to keep people at work. Allowing individuals to receive food stamps was aiming to give people getting out of jail to improve their lot in life as they tried to determine how to integrate [into society]. The bill instructed DOC to begin exit planning (including places for employment, identification, housing, and other) for inmates 90 days prior to their release. With regard to medical coverage, he knew dependents could probably get Medicaid. Under Medicaid expansion healthcare would be available for inmates coming out of jail. The idea of probation/parole had been to allow individuals not to languish in jail under technical violations in order to avoid job loss. A whole range of things had been considered, but not specifically for dependents themselves. The question related to defendants was how to achieve the most productive circumstances as possible as quickly as possible, while still being accountable.

9:21:27 AM

Representative Guttenberg clarified his question was specifically related to the families of peace officers and firefighters [killed in the line of duty].

Senator Coghill responded that he had misunderstood the question. The House Judiciary Committee had added medical coverage for peace officers and firefighters. One of the problems was the narrowness of the coverage. For example, it did not cover employees from the Department of Transportation and Public Facilities who may be killed in an avalanche or a Department of Fish and Game employee who may be killed in the field. He believed the provision would draw significant attention because it was not broad enough. From the Senate's perspective, the issue should be addressed separately from the current legislation if it was a policy call. He did not know that the corrections officers were in on the discussion.

Representative Pruitt wanted to be explicitly clear about the intent of the bill. He asked if the genesis and intent of the bill solely surrounded the goal of saving money in the state.

Senator Coghill replied in the negative.

Representative Pruitt asked Senator Coghill to expand on his answer.

Senator Coghill responded that the bill was about public safety, but better outcomes for the money spent. He continued that dollars were involved and the letter referenced earlier in the meeting had looked at cost savings. He underscored it was explicit in the commission's instructions and the bill was about "how do we do it better?" He reiterated the bill's intent was about public safety and holding people accountable. He referred to testimony by Lieutenant Kris Sell from the previous day that if two-thirds of the individuals [released from jail] went back to jail, it meant the system was not working well. The question all along the way was "how do we make it work better?" He remarked that some people would say the system was broken. He stressed that the system was just not working to the desired outcomes. He had known that before the beginning of the economy's downturn six years earlier.

He relayed he had worked with Representative Wilson on a couple of the issues.

Senator Coghill furthered they had decided to put a commission in place because the sentencing was not working the way they thought it would be. He remarked Co-Chair Neuman had been working on recidivism reduction for a number of years. The topic was not new, but the bill categorized it in a way that acknowledged the state could not afford a new prison, addressed how to get better outcomes, and how to increase public safety. The intent of the bill was to address how to reduce the crime rate and keep people safe. Additionally, if people were entering jails with behavioral health issues, the bill worked to address how to deal with the issue. He explained that currently the state was not dealing with the issues to the best outcome. He continued the bill was really about public safety and not cost savings; however, the state did not have the money to continue doing things the way it was.

[9:26:04 AM](#)

Representative Pruitt had read an article a few days prior which he relayed. He explained that Chicago, Illinois had done something similar to the current bill in 2011. The article included a conversation about police officers in Chicago. A new head officer had expressed extreme concern with the changes because it meant the officers could identify people who had been problem offenders who were still on the streets. He believed two police officers had died in the line of duty in recent months because of the individuals. He continued that approximately five districts had been identified in Chicago and the officers felt that due to changes they had been unable to address the challenge even though they had the ability to identify repeat offenders. He noted he was not claiming the changes made in Chicago were the same as the changes included in SB 91. He remarked on the large size of the legislation and relayed he had been working to keep up to speed on the contents. He appreciated Senator Coghill's time spent on the bill. He wondered what the bill did to ensure the Chicago scenario did not happen in Alaska when working to eliminate the revolving door. He believed minimizing the revolving door was an appropriate goal. He spoke to collateral consequences and things that created barriers once someone was out of prison from being able to integrate back into society and back to work, which he believed was

part of the goal. He wanted to ensure officers and citizens were not put at risk.

Senator Coghill replied that no part of the bill had been modeled after Illinois or California. He detailed both of those locations had rifted people from jail in a very different way from actions proposed in SB 91. The bill was modeled after places that hold people accountable; if individuals were a high risk and a danger they were not allowed on the streets. The method had been a data driven, results-based look at all of the items included in the legislation. For example, currently a gang member charged with a crime could go into jail, pay bail, and be released. He detailed the individual still had to show up for court, but they were out of jail and still dangerous. The bill proposed risk assessing the individuals very differently; therefore, high risk individuals would not be eligible for bail. He continued that individuals who were considered a danger to society could be risk assessed. He explained that poor individuals representing a very low risk, who could not afford the \$500 bail, would be released. Individuals with a drug or alcohol problem could be offered a diversionary program on monitoring under a pretrial services agreement.

Senator Coghill continued that the state was not currently risk assessing individuals at the level recommended under the legislation when they were let out of jail. He specified that under probation/parole in the bill, the higher the risk would mean the more the accountability; the lower the risk, the lesser the accountability. In jail, incentives to behavior modification were programmatic and demonstrable. He emphasized the strategies were very different than the ones used in Illinois or California. He had worked to incorporate data from places such as Texas, Louisiana, and Georgia - places that had actually turned the corner on crime rates. He stressed the legislation was not about turning criminals out; it was about holding criminals accountable. He reiterated that the lower the crime, the accountability differed, whereas the higher the crime, the higher the accountability. The method differed from current practice in many ways. He had also found that if people could be productive in their life, they should be allowed to pay back restitution or court fines. For example, if a person currently owed a court fine, but could not afford to pay it, the court would allow the person to do community work service for \$3 per hour. He wondered

where the incentive was to get out and work [for earnings so low]. The bill required a person to do the community work service, but at minimum wage. He stressed a person would not have the ability to merely sit in jail - they would have to pay the fine. The items he highlighted were substantially different than the system in Chicago. The ranges had been changed for sex offences and high crimes and good behavior was incentivized, but the courts could still go to the top of the range for egregious crimes. The goal was to establish a system that allowed for flexibility and discretion by the courts and DOL, while allowing individuals to work towards earning a better lot in life. He referenced testimony from Lieutenant Kris Sell from the previous day related to the need for both positive and negative incentives. He did not know whether that was true in Illinois, because it had not been a part of the study group for SB 91.

[9:33:35 AM](#)

Representative Pruitt wondered what helped the decision making in terms of doing a risk assessment. He wondered if a risk assessment would be done based on the type of crime committed, or if a person had gone through certain programs, or other.

Mr. Shilling responded that the bill directed DOC to adopt a risk assessment tool; the bill was not very prescriptive on exactly what the tool would look like. There were many examples the department could pull from (e.g. Kentucky). There was a delayed 18-month effective date for the tool because it would take some time to set up. He explained the tool would be statistical and would take into account many of the same factors judges currently had available; it was about how the factors were weighted. The tool would be validated; there would be a lookback period to determine how predictive it had been, which would enable the department to tweak the tool to conform to Alaska's unique circumstances.

Senator Coghill added that the tool would be used pretrial. Pretrial individuals were still presumed innocent, but it was possible to assess the risk of danger and a person's ability to show up in court. There was a different type of risk assessment for individuals on probation/parole. The Probation and Parole Board already looked at risk factors. He spoke to some of the provisions in the bill that would

mean higher accountability. He detailed that in the case of felony offenders, the victim received notification the perpetrator was coming up for probation/parole and was given an opportunity (the notification was currently only available in domestic violence cases). He furthered that victims would have more input into the Probation and Parole Board. The legislation also asked for corrections officers to have increased input into the board than in the past, because they were the ones who knew the offenders and whether they had been helpful. He believed the probation circumstances, even though there were risk assessments, would take into account things like the requirement for an exit plan 90 days before a person was released from jail. He detailed an individual case plan would be necessary, which would look at a person's assets, job skills, housing, identification, and what the first 120 days would look like after release. The items would be directive in the legislation - more so than had been done up to the current point.

[9:37:01 AM](#)

Representative Pruitt had some concerns, but he commended the sponsor's and Co-Chair Thompson's staff for working with his office. He discussed that the committee continued to work with the Office of Victims' Rights to try to make sure the bill would address some of the concerns especially related to victims. He had been told he was crazy because he did not fully jump on board with the legislation. He underscored that he believed in the bill's goal, but he believed there was still work to do. He still had concerns about the ability to protect the public. He referred to a case in Alaska where a man had killed his girlfriend the day he had been released from an anger management course. He wanted to continue to work with the bill sponsor to ensure the issues were addressed. He ultimately wanted to ensure the state's citizens were protected.

Senator Coghill responded that his sanity had been question as well, primarily because the legislation would do things differently, which was always a tough thing. Some of the things would be new concepts, such as pretrial and probation/parole, would be challenging to implement. He continued that if the bill passed and the new concepts were implemented, he believed it was wise for the legislature to monitor, inspect, and expect reports back. The bill included requirements and requests for the commission to do

more work on some areas, including sexual assault/violence, which was a "must have" for the Senate. He continued the language needed addressed in the bill because it included a compilation of requests that could be narrowed down for clarity. He stated that inspection was also needed going forward. He supported extending the commission and conducting "deep dives" into some of the statistics that were new to Alaska. Under the process, the commission had the help of the Pew Foundation, which had done a thorough look into DOL and DOC related to statistics on recidivism and its impacts. He emphasized that more was needed because it would be necessary to follow the statistics. He relayed they had agreed to work for two years following the passage of the bill.

Senator Coghill believed "our sanity along the way is worthy of questioning." He underscored that two-thirds of individuals released from prison returning back to jail meant two-thirds more crimes than the state wanted. He stressed the recidivism rate was unacceptable; it meant more victims every day. He stated that the items in the bill were the best concepts they located on proven practices. He spoke to the legislative debate process and relayed the reality was the change that would take place in the system, which could be ironed out along the way. He emphasized the process would be long and continuous. He wanted to establish a system that could be easily looked at. He noted that the jail and probation officers did not get to select who showed up. Likewise, victims did not get to pick who beat up on them or stole from them. How perpetrators were held accountable a big part of the legislature's job and was a good approach to protecting further victims. The state was not currently protecting its society at its best. He reiterated that two-thirds of former inmates were recidivating. He believed the proposed system was probably as good of an approach as possible because it had been studied throughout different states. He referred to the behavioral health issues in Alaska's jails and to the state's drug and alcohol problems. He stressed the state had to begin putting programs in place to begin changing the dynamics. He reasoned that it was not possible to control what society dished up, but it was up to the state and legislature to respond; he believed the bill contained the best response available.

Co-Chair Thompson made a remark about it being the 93rd day of the 90-day session. He facetiously brought the current sanity into question.

9:42:46 AM

Vice-Chair Saddler asked if additional time spent on the issue help make the bill better or whether they were approaching the point of diminishing returns.

Senator Coghill answered that the situation was at a critical juncture. He affirmed that it was possible to wait, but the legislature should plan to put out an RFP for a jail while it waited.

Vice-Chair Saddler asked if Senator Coghill would prefer to "strip the bill back to fighting weight" before additional items had been grafted on. Alternatively, he wondered if the bill sponsor believed it was appropriate to add additional sideboards to try to accommodate some "late in the process concerns and bills."

Senator Coghill answered that some of the bills added to SB 91 presented political and practical problems he had mentioned earlier. Some of the issues on sexual assault would help move the bill out in the current year, which was the reason he had discussed the Senate's action on the bill. He detailed that continued concern would be heard from the Office of Victims' Rights on some of the items suggested in the original bill version that the Senate had begun to carve out related to sexual assault violence and criminal behavior. He believed it was appropriate and that the current bill should be matched as closely to the Senate version. He did not believe the bill needed to be perfect; it was a work in progress. He furthered that the behavioral health, sexual assault, violence, theft, and drug and alcohol problems had not been solved. He stressed that the legislature could not solve those problems, but it could hold people accountable and try to turn the behavior the best they knew how. He reiterated the situation was at a critical juncture and he did not believe there was enough time to wait. He recognized the bill was not perfect, but it represented a good shot at the problems. He restated his belief that the House and Senate bill versions should be as similar as possible, which meant some of the bills that had been included should probably be removed. He meant no disrespect to individuals trying to push the bills that

were all worthy of deep debate, but were most likely more than SB 91 could handle.

9:46:00 AM

Representative Gattis stated that doing the same thing [over and over] was the definition of insanity. She spoke to the need to do things differently because the current system was not working. She thanked Senator Coghill for working on the issue for the past six years. She relayed she had spent significant time at the Point Mackenzie Correctional Farm and that inmates were typically in their last few months of incarceration. She detailed that more importantly the facility addressed the addiction and alcohol factor - the inmates did not have substances available. However, once the individuals were released the cycle began again. She liked the bill's risk assessments and the fact individuals would be given an opportunity to get some help. She reiterated if the current system did not change the state would continue getting the same results. She spoke to a concern about situations where an 18-year-old man was sleeping with a younger girl consensually, but they were classified in a sex offender situation. She stressed the issue ruined people's lives. She believed how the issue was dealt with in the current system contained a glitch. She asked for Senator Coghill's thoughts.

Senator Coghill replied that current law included some things that gave reason if the individuals were within certain age limits - there were different ways of dealing with it. He stated "we live in a very promiscuous society"; there are many reasons for youths to experiment and they were encouraged to in many ways. The down side was if a person violated another person the cost was very high whether a person was young or older. He continued that young victims had a lifelong journey, which had not been figured out in the current legislation. He furthered there was room for discussion along the way. He stated there was a continuum and it was challenging to find a range related to the least to most egregious offences because once a person was labeled as a sex offender, it was a fact. He stressed that once a person became a victim they also faced a lifelong sentence. He had been unable to determine the best way to deal with the issue in the current bill. He believed more time and study was needed.

Senator Coghill advised that the legislature needed to continually recognize its responsibility to hold people accountable for bad behavior. The legislature could not always describe how to fix the problem, but it could provide reinvestment tools into society. He believed at the very least the sex offender treatment needed to be moved into the jail; currently it was outside the jail system and people were out on the streets waiting for their turn to get in line. The bill asked the Alaska Criminal Justice Commission to come back with more information. He stated that whatever the range was, there were some times where [sexual activity] was consensual, but it was illegal. He questioned how to deal with the specific problem. He asked if an individual had been convinced by a domineering person and relayed it was up to the courts to determine. He believed the legislature needed to set better rules, but they were trying to think of every circumstance. He emphasized there was way too much non-consensual, violent abuse of people in Alaska (male and female). The state had the unhealthy distinction of being one of the worst [in that area]; therefore, he was not willing to lighten up on the range at present "until we start changing what we do in Alaska." He was sympathetic to the issue. He also knew people could be emotionally involved and do things that are wrong that probably do not merit the lifelong sentence. He understood that, but noted "we're just not there as a society yet."

Senator Coghill stated society was encouraging youth in many ways both in dress and in pop culture. He feared especially for young girls in middle school that a whole industry targeted them for dress, makeup, and other. Yet when someone in that age group tried to initiate sexual behavior and another person responded, they were brought down with a very heavy hammer. He believed it was rightfully so, but that individuals should not be encouraged to experiment at that age; however, that was what "society is dishing up." He stated he was not in charge of the messages sent by society, but it was necessary to determine how to respond to the issues in the best way possible so that people were not violated even if they are being foolish. The current bill held people accountable at a high level for being bad. He stated the bill also gave "opportunities for being foolish for changes." The reinvestment portion of the bill was to provide individuals the opportunity to regain themselves into a productive life. The greater the failure, the harder

it was to get there. The sexual assault issue was an open question in society and was now an open session in law. Currently the law would be hard on the individuals across the board; if there was going to be any slack, the legislature needed to ask someone to help it out. He reasoned there were highly charged emotions in the legislature; a specific instance would be brought to legislators and it would not have the ability to reach a decision because of the emotional aspect. He stressed the issue needed to be addressed dispassionately, which was difficult. He was not willing to take the issue on in an omnibus crime bill.

9:55:01 AM

Representative Munoz relayed she had just recently been made aware of a situation that had shaken her to her core. She detailed an 18-year-old man who was a senior in high school had been in a consensual [sexual] relationship with a 14-year-old girl. The young man had been charged with three counts of sexual assault and was facing 30 years in prison. She believed it was an area of the law that had gone too far. She emphasized it was paramount to bring back some balance and level of mercy. She hoped the Alaska Criminal Justice Commission would take a hard look at the particular area because she believed it needed to be fixed. She understood that violent criminals and sexual offenders needed to be held to the highest level of accountability, but balance was also needed where unintended consequences occurred that sent young people to prison for life.

Senator Coghill agreed. He did not know the issue could be addressed in the current legislation. He stated it was a topic unto itself and was very emotionally charged. At present, the law did not enable a 14-year-old to consent to sexual relations. He questioned when society should change the look at a 14-year-old girl. He shared that his daughter was currently in her 30s, but he also had a 12-year-old granddaughter. He emphasized from a grandfather's perspective, anyone who violated her would face the wrath of a grandfather. He continued that the calls were tough when dealing with individuals in close age groups and it was youthful indiscretion. He did not know the answer. He agreed that 30 years was very tough call for the situation. As he had worked on the bill the issue at hand was the "flash point" discussion that created so much noise, it was impossible to get through. The individuals represented a

small group of the prison population. Alternatively, there was a very high recidivism rate for people doing drugs and alcohol and who beat children and did other unacceptable things. He stated it was not acceptable anymore. He asked how to change it. He preferred to spend the time on things it could change and to give the commission a thoughtful way to look at the issue that may come back to the legislature. He reiterated his earlier statements that society was dishing up things the state was struggling with; it was very dynamic. He elaborated he had been raised in a very different moral code than the one at present. He reasoned the state's laws probably mirrored closer to the moral code from his youth. He shared that the message from his mom and dad on youthful indiscretion was closer to the death penalty. He believed society needed a code specifying it was unacceptable, "but acceptable at what level? 30 years? I don't know." He did not know the answer to the question and would be willing to have the discussion; however, he did not believe they could find the answer fast enough to address the issue in the current legislation. He reasoned the bill should address the many things happening in society that did need answers and had answers available.

[9:59:43 AM](#)

Representative Gara was completely sympathetic to the concept of getting an imperfect bill through the system rather than no bill. He continued that everyone on the committee had their own point about something that might be fixed. He pointed out the legislature was not merely the House and Senate; it was a body comprised of individuals who worked together. He believed there may be some issues that could be rectified by speaking to members of the other body. For example, perhaps Representative Munoz could speak to individuals in the Senate and would discover everyone was okay with a change. He believed part of the committee's job was to find a way to construct a bill that was good and may be even better (without killing it). He encouraged members to determine who they may need to talk to in the other body.

Senator Coghill relayed he had been open for discussion. He had aimed to give the committee a sense of the debate as he had followed the bill through both bodies. He stated it was a Senate bill and he did not mind discussing the Senate action; however, it was also an Alaska Criminal Justice Commission bill and it included significant input from the

police, courts, and victims' advocacy groups. He emphasized that it was not possible to answer all of the questions at present. However, he believed they should answer the questions it could. He stated the commission had come up with a pretty good list, which he believed the legislature should adhere to as closely as possible.

[10:01:45 AM](#)

Vice-Chair Saddler noted the committee had considered another large bill the previous week and had begun asking questions about the most important pieces of the legislation. He clarified he was not implying intention to strip elements out of the current bill; he believed SB 91 may represent a finely crafted balance. He asked if there were any particular items that were more critical than others and that required passage during the current session.

Senator Coghill responded the question was like asking if he would give up a hand or a heart. He guessed he would give up a hand. He stated some pieces of the legislation were critical, others were important, and others were a work-in-progress that could be done later. In some ways the areas of accountability represented the heart of the legislation. For example, changing the pretrial system was critical. Additionally, the reinvestment and accountability surrounding how drug and alcohol abuse were treated was a large part of the bill. He spoke to the importance of sentencing and community supervision. The way people were held accountable under probation/parole were the "heart-blood" of the legislation; without action in those areas the changes would not work. Important items that could possibly be put off for another year were the limited driver's license. He stated for someone to have the ability to become productive in life through getting a driver's license, may not be critical to the bill, but it was important to Alaska. Food stamp eligibility would be helpful to individuals coming out of jail, but it was not essential to the legislation. He reiterated that the way people were held accountable had to change, which included pretrial, the way probation was done, and the way good time was awarded in jail - the components were all balancing factors that should remain in the legislation. He suggested that if reinvestment did not happen it would be like having a nice car with no gas. He underscored the essential nature of the reinvestment component.

Vice-Chair Saddler appreciated Senator Coghill's feedback.

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

Co-Chair Thompson reviewed the agenda for the afternoon meeting. He announced that there would be public testimony on Thursday at 5:00 P.M. He recessed the meeting to a call of the chair [note: the meeting never reconvened].

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ADJOURNMENT

10:05:39 AM

The meeting was adjourned at 10:05 a.m.