HOUSE FINANCE COMMITTEE
April 20, 2016
1:38 p.m.

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CALL TO ORDER

Co-Chair Thompson called the House Finance Committee meeting to order at 1:38 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 David Guttenberg
Representative Scott Kawasaki
Representative Cathy Munoz
Representative Lance Pruitt
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Nancy Meade, General Counsel, Alaska Court System; Quinlan Steiner, Director, Public Defender Agency, Department of Administration; Dean Williams, Commissioner, Department of Corrections; Tracey Wollenberg, Deputy Public Defender, Appellate Division, Public Defender Agency, Department of Administration; Jorden Shilling, Staff, Senator John Coghill; Senator John Coghill; Representative Gabrielle LeDoux.

PRESENT VIA TELECONFERENCE

John Skidmore, Director, Criminal Division, Department of Law; Gary Folger, Commissioner, Department of Public Safety; Josh Mercer, Probation Supervisor, Electronic Monitoring, Department of Corrections; Jeff Edwards,

Executive Director, Alaska Board of Parole, Department of Corrections.

SUMMARY

CSSSSB 91(FIN) AM
OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS

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

#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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Co-Chair Thompson discussed the meeting agenda. He relayed that various departments would address impacts of the bill policies.

NANCY MEADE, GENERAL COUNSEL, ALASKA COURT SYSTEM, addressed pretrial provisions in the bill, which included changes that would significantly impact the Alaska Court System. Primarily the provisions would alter the bail decision making process. She detailed that after an arrest the person would be assessed by a newly developed pretrial services office under the Department of Corrections (DOC). The pretrial services officers would assess each defendant for risk and would provide a report to the court and attorneys within 24 hours; therefore, the attorneys and judge would have the information when arraignment occurred, which was within 24 hours of an arrest. Currently bail decisions were made within 24 hours of an arrest (statute actually specified 48 hours, but the goal of the court system and other parties was 24 hours; most arraignments took place within 24 hours). She furthered that a prosecuting attorney and defense looked at the facts about the individual (i.e. the police report, current charge, and the Alaska Public Safety Information Network data) and the judge then made a bail decision and could impose bail conditions. The bill would alter the process to provide attorneys and the judge with a risk assessment score supplied by the pretrial services officer.

Ms. Meade continued that the Alaska Criminal Justice Commission learned through reviewing research that having the risk assessment score (e.g. a 6 on a scale of 1 to 10 that a defendant would show up at hearings and adhere to bail conditions) was better for decision making and setting the appropriate amounts of bail. Section 55 of the bill specified how a judge would set bail. The section was lengthy and complex and detailed for the court how to put the risk score on a matrix along with the current charge in order to make certain things. She expounded that some things would not be discretionary; the judge would be required to release certain defendants before trial on their own recognizance (i.e. releasing a defendant without any monetary bail conditions). The commission's goal was to increase the number of people released on their own recognizance if those individuals were nonviolent. The number of pretrial detainees was growing and the goal was to identify individuals who did not need to be in jail pretrial - to find individuals with low risk scores who could be released without harm to the community. She reiterated that Section 55 of the bill told a judge what to do with each risk assessment level and the current charge. The provision removed some of the judicial discretion and

gave the judge discretion to impose bail conditions if there was clear and convincing evidence that nothing else would protect the community and ensure the defendant would show up for their hearings. She relayed that the section had a delayed effective date because the significant change would take the court system, DOC, and other criminal justice entities some time to determine how to implement (e.g. how the risk assessments would get to the judge within 24 hours). She explained that under Section 117 of the bill the pretrial services office had to come up with the risk assessment tool, work with the other agencies to ensure everyone knew what would happen with the assessment, and test it on Alaska's population. She believed DOC had ideas on how they would do the work; there were tools utilized in other states that could be used as a starting point with modifications made to fit Alaska's population.

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Ms. Mead explained that the bill sponsor had looked to Kentucky's process as a helpful example. She detailed that in Kentucky, questions were asked of each defendant via research (not a personal interview) to determine the person's risk assessment. The research asked about a person's pending charge, previous convictions, previous times they failed to appear, whether they had any violent prior convictions, whether they were on probation, and whether there was an active warrant. She reiterated that Sections 55 and 117 would change how the court did pretrial. She asked if she should address other sections of the bill that would impact the court system.

Co-Chair Thompson answered that the committee was currently focusing only on pretrial. He noted questions would be held until testimony on pretrial had concluded.

Vice-Chair Saddler asked for clarification on which bill versions testifiers were addressing.

Ms. Mead answered that Section 55 may have had a different section number in the Senate version of the bill, but the provisions had not changed substantively through the process. She noted there had been a redraft with the public defenders, Department of Law (DOL), and others to clarify the provisions.

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Co-Chair Thompson noted the committee was addressing the House Judiciary Committee version of the legislation.

JOHN SKIDMORE, DIRECTOR, CRIMINAL DIVISION, DEPARTMENT OF LAW (via teleconference), relayed that there were several areas in pretrial that would impact DOL. First, Section 47 was a "cite versus arrest" provision addressing an officer's ability to arrest. The other areas were related to bail and a pretrial services officer.

Mr. Skidmore addressed the citation versus arrest provision, which was based on the first recommendation in the Alaska Criminal Justice Commission's report. He detailed that the initial drafting of the citation versus arrest provisions had raised concerns for various individuals in the law enforcement community, which had resulted in a number of amendments. Section 47 of the bill accomplished the administration's goal of utilizing the commission's recommendation for a greater use of citation and reducing the use of arrests. The section allowed law enforcement considerable latitude in making decisions about when they would arrest. He noted there were a number of exceptions to the provision. He discussed that any time there was a change in the law it was important for stakeholders to monitor the change. The section seemed to achieve the commission's desire to place a greater emphasis on the use of citations and DOL would have to monitor the change to see if it impacted other areas. The change left considerable discretion to law enforcement.

Mr. Skidmore addressed bail and the concept of a risk assessment tool, which was the primary change. Currently a prosecutor looked at a defendant's criminal history and made recommendations to a judge. He detailed that three prosecutors could look at the same criminal history, but could come up with three slightly different recommendations based on their views of the criminal history and what weight they would apply to any particular conviction. The concept of the risk assessment tool was to have a single, unified process for evaluating the weight that should be applied to a person's previous criminal history or other factors. The tool had not yet been developed, but the conversations had focused around something similar to the process used in Kentucky. He elaborated that Kentucky used a risk assessment tool that evaluated a person's criminal history, previous conditions of release, whether a person

was on probation, and other. He noted that the items were all considered in Alaska's current process, but the goal was to develop a unified view.

Mr. Skidmore addressed other significant changes related to bail. Currently law specified that when setting bail a court may not consider a defendant's ability or inability to pay. The bill would require the courts to consider a person's inability to pay. As currently drafted, in order to issue bail conditions or set bail, the court had to find by clear and convincing evidence that a lower bail or no bail would not work. He believed that currently the courts could make assessments without requiring clear and convincing evidence. The change was consistent with the Alaska Criminal Justice Commission's recommendations that more individuals should be released pretrial and the analysis of who was kept in jail pretrial should be done on the basis of a risk assessment.

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Mr. Skidmore relayed that the change related to pretrial services would not directly impact DOL in the way it would impact DOC. Pretrial services was designed to address that with more individuals out on bail, the best way to ensure public safety was to have greater monitoring of the individuals.

QUINLAN STEINER, DIRECTOR, PUBLIC DEFENDER AGENCY, DEPARTMENT OF ADMINISTRATION, relayed that he had been a member of the Alaska Criminal Justice Commission. From the perspective of the commission and public defenders there had been a large number of pretrial individuals held for very low amounts of monetary bail and under a condition of a third-party custodian. The two factors were holding people in custody due to their inability to pay or their lack of support network, which prevented them from finding someone to be with them 24 hours a day. He remarked that monitoring a person 24 hours per day was onerous, especially for people who worked. The commission recommended addressing the issue, which had become apparent and growing over the years; the data suggested strongly that monetary bail was no more effective than an unsecured bond at addressing the requirements of bail (i.e. showing up to court and adhering to bail conditions). He added there had been grave concerns about whether third-party custodianships worked at all and that they were being

placed in an arbitrary manner without any objective assessment or tools in determining whether it was necessary. Under the legislation, monetary bail and third-party monitoring remained possible, but with a much higher standard. Third-party custodians would largely be unnecessary if there was a pretrial services office available in a community. There was still possibility for release in communities without a pretrial office where third-party custodians could be applied if there was no other entity available. The provision contained broad discretion and in rural jurisdictions DOC may be able to partner with other entities to help supplement; it was one of the pretrial release items considered in order to bring fairness statewide even with limited resources.

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GARY FOLGER, COMMISSIONER, DEPARTMENT OF PUBLIC SAFETY (via teleconference), stated that the three previous speakers had provided a thorough overview. He did not have any additional comments.

DEAN WILLIAMS, COMMISSIONER, DEPARTMENT OF CORRECTIONS, relayed that pretrial was the biggest part of the bill for DOC as it involved starting a new unit. He detailed that the department had been looking at models and worked on the issue already. The concept was an important part of the bill and in relation to reform efforts. He detailed the importance of making sure low risk individuals (who would otherwise be in jail) would be out of jail. He explained they would be using a tool to make the decision instead of providing bail based on a person's ability to pay. He believed it was a great improvement and was responsible for reducing some of the prison populations and risk in other states. He noted the bill contained numerous moving pieces. The department would take a look at how the assessment tool had been utilized in other states. He explained that the topic was a moving target, which the department would continue to refine in order for assessments to be conducted quickly and accurately. He explained the tool would get the right person out of jail and keep the right person in jail versus basing the issue on professional expertise. He discussed that individuals with moderate or higher risk who got out due to a low-level crime (the judge would still make the final decision on bail) would be monitored. The lower risk individuals may only require a phone call reminding them to go to court. He reasoned high supervision

was not needed for low risk individuals. He mentioned that assessment tools were working in other states such as Kentucky. He added that Kentucky was doing a presentation on the item in a couple of weeks that the department was planning on attending. He noted that other states were also doing good work and the department did not want to reinvent the wheel. He reiterated that the topic was a large part of the bill and reform effort, which he believed was important for the state going forward.

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Representative Gattis referred to the risk assessment factor. She believed it would be one of the biggest pieces related how DOC would determine who it would let out, who it would keep in, and why. She remarked that the issue was one of the biggest challenges to constituents she had heard from. She had heard about individuals getting out of jail the next day after being arrested for burglary and drug use problems. She wanted to work together to determine what worked and what was right for the community.

Representative Edgmon asked for the definition of a low risk offender.

Mr. Steiner replied that the definition of a low risk offender would be what was specified by the tool. The risk assessment tool would consider objective factors such as prior convictions, prior allegations of failure to appear in court, and the current allegation. The factors would be used to determine what happened later for individuals who were released and to determine who was a low risk person. The tool had to be created and confirmed that it worked for Alaska. He reasoned that a successful tool in Kentucky would not necessarily work in Alaska and may need to be tweaked. A general description of a low risk individual was a person charged with a low-level misdemeanor who had never been in custody or trouble before and had no indications of having failed to appear or adhere to conditions. Those individuals would most likely be labeled low risk and released on their own recognizance. Higher level offences, which may include violence or a prior allegation of failure to appear started to get into the high risk area. What qualified as low risk would be determined by the assessment tool.

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Representative Edgmon asked if it was safe to say a low risk offender would be the product of the process. He asked if the bill contributed to the process. He referred to representatives from the court system, DOC, the Public Defender Agency, and a state trooper who were available for questions. He surmised there were probably other elements to the justice system. He wondered if the bill came closer to defining low-risk offender and in determining what a low risk offender was not.

Mr. Steiner answered that it was exactly what they wanted the assessment tool to do; it would be objective across the state. The idea was the tool would predict the overall outcomes for the population of the State of Alaska. He furthered that it would not necessarily apply to an individual, there would still be a potential hearing for additional conditions or judicial determinations in order to consider the individual as well. On the low end the tool would mandate release if a person was determined low risk, but it would still be available for a hearing where additional conditions may be placed. The recommendation's goal had a strong objective and consistent component.

Representative Edgmon requested Ms. Mead to provide her comments on the issue.

Ms. Mead agreed the definition of pretrial risk was about the likelihood of a person appearing at their next court hearings and the likelihood of new criminal activity pretrial. The risk assessment tool would identify the items; it would consider whether a person had committed a violent crime and could also include many other factors. Other states included things like employment, student status, education level, and marital status as well. She surmised that it could possibly be the case that an employed person may be more likely to show up for their hearings and not commit more criminal activity. The items considered by other states were examples of ideas DOC may ultimately adopt as the pertinent questions for Alaska's population. The risk assessment should offer a better consensus about the risk level to assign a person; the assessment would be transmitted to the judge and attorneys in order to make a bail decision.

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Representative Guttenberg had heard that the courts would be given a [risk level] number [which had been assigned to a defendant]. He questioned whether the number would be in the single digits or multi-digits if for example, a person had a prior felony, drug problems, high risk, unemployment, and other. He referred to methods used by other states and surmised that the wider the number scale, the more information it could include. He wondered how it had worked in other places and how the departments envisioned it happening.

Ms. Mead replied that it was not necessarily a number. She noted DOC had not yet determined exactly what the tool would look like, whether it would assess people on a scale from 1 to 10; whether it would just assess people in the low, moderate, and high categories; or some variation or combination of those. She detailed that other states with assessment tools did it all different ways. She furthered that if the court received an assessment specifying a person was moderate risk, the court would look at what happens with that category. Likewise, if an assessment labeled a defendant as a 6 out of 10, the court would have some translation to determine that the number sounded moderate. She explained that some of the details were yet to be worked out.

Commissioner Williams expounded that DOC would not be developing the tool in isolation. He noted that DOC would listen to Kentucky's presentation on its risk assessment method because the department understood the tool had to make sense across the board. The goal was a uniform acceptance and understanding and collaborative effort on developing the tool, which would allow the state to determine whether the tool was right for Alaska and to make any tweaks after seeing how it was working after the first year. Whether the assessment tool specified a high or low risk number was less important than identifying the things the state determined were important to ask, that items were rated accurately, and that the information was valid.

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Representative Guttenberg surmised that "it seems like a single number, but not a single digit." He reasoned if someone from Kentucky committed a crime in Alaska it would be helpful to have the ability to contact the State of Kentucky to obtain the person's [risk assessment] number.

He asked if there was any organization pushing for a national standard on the issue.

Commissioner Williams answered that significant research on the issue had been conducted nationally. He referenced his prior work with the juvenile system and relayed that they had looked at the issue many years earlier. He detailed that juvenile facilities had been overcrowded even after building numerous facilities. He recalled youths sleeping on the floors due to overcrowding. He relayed the administrators had looked to risk assessments for juveniles to make sure they were not locking up kids that did not need it. He explained that the assessment tool had been one of the reasons the juvenile counts had dropped. He characterized the assessment tool as a cornerstone of the reform effort. He was confident the tool would be solid and the state would have the ability to tweak it if needed going forward. He noted that it was probably the best researched area of the legislation.

Representative Guttenberg asked if the tool was one digit or five. Alternatively, he wondered if the tool was ranked by low, medium, and high.

Co-Chair Thompson stated that it sounded like the departments were still working on it.

Ms. Mead referred to a report from the Arnold Foundation and the Pretrial Justice Institute, which had both done significant work in the assessment tool area. She cited the following language from the Pretrial Justice Institute: "when a defendant is scored on a pretrial risk tool, the score places the defendant into one of several - usually three, four or five - risk categories." She noted there was a significant amount of literature she believed the state would review.

Co-Chair Thompson highlighted that Mr. Skidmore had pointed out Section 47 gave the ability for officers to issue a citation instead of arrest. He asked if the change would require more training. He wondered who would assess when to give a citation versus arrest.

Ms. Mead deferred the question to the Department of Public Safety (DPS).

Commissioner Folger replied that DPS would have to do some retraining, but the decision would primarily be based on an officer's discretion. At the end of the day an officer had to determine whether their decision was keeping the potential defendant and the public safe.

Co-Chair Thompson believed public safety would be a big part of the decision making.

Ms. Mead added that currently officers had discretion to issue citations for misdemeanors. The bill would create a presumption an officer would be required to give a citation for certain misdemeanors (there were definite carve outs including when the officer felt the person was dangerous) and for Class C felonies. The provision did not change the impact on the courts. She detailed that specific citations would not enable a person to mail in their $500; it was a merely a new way of starting the case. For example, a person would be told they had a court hearing in 20 days at 9:00 a.m., which started the process for the court system the same way that would occur if a person had been arrested.

Vice-Chair Saddler surmised the assessment tool would provide a substantial amount of good information once completed. He asked if there were off-the-shelf assessments that had been used in other locations. He wondered if there was a risk assessment method that was considered the best in the country, which could be used and tweaked for Alaska's population. Alternatively, he wondered if it was something the state needed to spend time and money designing. He remarked that the analogy of the state's educational assessments came to mind.

Commissioner Williams answered that the state could probably begin with an off-the-shelf assessment. He detailed that whatever tool the state took off the shelf would be done in a group process given the state's desire to start the assessment tool off in the right way. He added that there were currently off-the-shelf products, which could be used.

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Vice-Chair Saddler asked if there was an estimation of the cost to obtain, test, and get to a working assessment tool.

Commissioner Williams replied that some of the assessment tools were copyrighted and had a very small fee. He did not know whether the state would end up paying for the tool or not. The assessment tools had been around for a long time and were non-interview tools based upon historical things, which could almost be garnished off the crime and any criminal record a person had. He explained that scoring the tool was meant to be done very quickly.

Representative Pruitt surmised that the concept would take a considerable amount of administration. He referred to the department's pretrial services fiscal note that surmised that initially the state would need about 29 new positions, but eventually it would require about 80 full-time positions. He remarked that the number of positions was substantial. He asked about the needed structure. He remarked that the assessment was also supposed to bring some offsetting reductions in personnel and cost. He asked about ultimate savings the state expected to see.

Commissioner Williams replied that the real challenge was getting the assessment correct and determining the implementation plan. The change would take positions because it would be necessary to have employees working around the clock to do the assessments when people came in. He noted that court cases were happening all over. Part of putting the plan together would include determining how to do the work in the most efficient, cost-effective way. The state's goal was to implement the best plan, which it had been given a year to determine. He continued that projections on what the plan would look like came with a caveat that many states were using an assessment tool quite efficiently. He specified that Kentucky had reduced its cost of implementing the plan quite a bit, which was part of the reason he wanted to attend their upcoming presentation. The department had made certain assumptions in its fiscal note going forward. He believed the assumptions were good, but it was important to realize the state was not even to first base on developing a plan. He thought many things would change over the upcoming year in terms of finding efficiencies. He believed it was necessary to start with an assumption the positions would be needed to develop the plan; DOC would need positions. He stressed that the reinvestment piece of utilizing the assessment tool pretrial was hugely important. He emphasized that DOC could not do the work with its current resources, but he was looking for cost savings going forward.

Commissioner Williams addressed the second part of Representative Pruitt's question related to offsetting costs. The point of reducing pretrial numbers was [to reduce] the workload associated with keeping people [in jail] pretrial who did not need to be there. He spoke to the significant work going into moving people back and forth from court to jail. He referenced a comment about the cost of moving prisoners to court between Kotzebue and Nome. He stressed that travel costs statewide were substantial; if the travel was reduced by even a small percentage, it would result in substantial savings. He reasoned that once DOC no longer had 300 to 500 prisoners in pretrial, it may be possible to close down particular wings or units in facilities. He added that most communities would still need a remand area (e.g. the area in Fairbanks would not be closed down), but savings could be achieved if the larger pretrial population was reduced. Even if a facility was not closed, marginal costs on items such as food, clothing, laundry, and other would be reduced. He noted that marginal costs were smaller than a per-bed cost, but they added up and would result in offsets.

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Representative Pruitt asked if there were offsets in terms of personnel. He remarked on closing wings of facilities. He asked if personnel savings would result.

Commissioner Williams affirmed that the idea was to offset personnel and to move employees currently guarding prisoners into some of the new positions, especially if DOC needed to hire more people in the second year. The goal was to put money where it mattered most. He spoke to the importance of locating personnel cost savings. The caveat was not knowing the final end result of the bill; if certain assumptions made at the start of the process changed, the savings would be impacted.

Co-Chair Thompson reminded the committee they would address fiscal notes on during the Friday meeting.

Representative Gara believed the risk assessment tool would be much less accurate if the state chose the low, medium, high risk version. He detailed [on a scale of 1 to 10] it would lump 3.5 to 6 as medium risk. He hoped the department

would design the tool in a way that would give the courts the most information about a person. He believed low, medium, high seemed like the worst possible option. He moved to the topic of bail. He discussed that the bill would require a person to prove with clear and convincing evidence they were entitled to be released without bail on their own recognizance. He asked if the standard had been in the original bill.

Commissioner Williams asked for clarification.

Representative Gara clarified his understanding that under the bill a person would have to prove with clear and convincing evidence that they should be released with no bail. He wondered if he had misheard.

Commissioner Williams believed Representative Gara had misheard. He explained that under the legislation, if a person was assessed at low risk with a certain level of offence they would be released automatically without discretion. He clarified that nothing would have to be proven up, but there could be conditions placed on a person. For the medium to higher risk offenders the burden would be on the state to prove that bail or a third-party custodian was necessary, at which point the clear and convincing standard would be used. He explained that clear and convincing evidence was different from the current standard, preponderance of the evidence, which left potential for disparate results. The bill provision would ensure the conditions holding people in were actually necessary to protect the public.

Representative Gara asked for verification that the bill would not make it more difficult for a person to receive no bail if they were entitled to it.

Commissioner Williams asked if Representative Gara was referring to OR [own recognizance] release.

Representative Gara replied in the affirmative. Commissioner Williams confirmed that the bill would not make it harder for a person to be released [on their own recognizance].

Representative Gara spoke to what he felt was the over-use of third-party custodians. He wondered if the clear and

convincing standard would protect from the over use of third-party custodians.

Commissioner Williams answered in the affirmative. The state would have to prove by clear and convincing evidence and it would have to be in a community in which the pretrial services was not available to supervise. There had been concerns about whether or not third-party custodians worked at all, but the option had been preserved for communities without pretrial services officers so people in rural Alaska would not be put at a disadvantage. There would be latitude for either a third-party custodian in the community or some other type of supervision (e.g. a local Village Public Safety Officer (VPSO) or other community member).

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Representative Gara wanted to ensure that everyone around the state was treated fairly, which he surmised was the intent. He did not understand what it meant that there would not be a pretrial services office in a community and how it would impact whether someone received a third-party custodian. He remarked that the use of third-party custodians was not really liked.

Commissioner Williams answered that addressing how to create fairness across the state the department had started with the premise that third-party custodianship was not preferred because of concerns about whether it worked and how difficult it was to obtain a third-party custodian. He clarified that a third-party custodian would not be permitted in a community where DOC placed a pretrial services officer. He furthered that the clear and convincing standard could result in monetary bail or heightened supervision by the pretrial services officer. He elaborated that it prevented a high-risk individual in rural Alaska from getting any release if it was determined supervision was necessary. In an effort to establish fairness, DOC had preserved a bit of the third-party custodianships or other supervision (recommended by the court and pretrial services office) in rural Alaska. The goal had been to ensure people were treated fairly across the state and that individuals would not be disadvantaged for being in a community without an office.

Representative Gara did not understand how individuals in smaller communities with no pretrial services office would not be stuck with additional use of the third-party custodian process. He noted he was fine with the bill's current language.

Representative Wilson spoke to a fiscal note number 23 and remarked the note only showed the cost. She suggested including the savings as well. She spoke to electronic monitoring (EM) and believed that DOC was not using the service even though it had the ability to do so. She wanted to know what had changed in the bill and whether private companies could provide electronic monitoring. She wondered if EM could still be utilized as it had been in HB 15 [electronic monitoring legislation passed in 2015]. Additionally, she asked if the bill would allow DOC to utilize a contract with private companies versus offering the service on its own.

Commissioner Williams replied that he was keenly aware of the issue related to EM. The bill aimed to allow the ability to provide options that were not currently available. He detailed that using EM pretrial was a new approach for the department, which he and the department embraced. He explained the department wanted the most options available to keep people out of jail. The department was looking at going beyond the current model that only offered EM to people who could afford it; the goal was to offer it to individuals who could not afford to pay for the service because it would save the department and the state money. He stated that the change was a policy direction that made sense. He had been on the commission when the debate had taken place, but he believed the commission had embraced the concept. He reiterated that the change was embraced by the department because it made risk and fiscal sense. He believed EM was a good tool for DOC to have.

Representative Wilson asked if DOC would possibly look at contracting EM out versus offering the service on its own.

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Commissioner Williams answered that Mr. Steiner had spoken about the options that would look different in rural areas in terms of who would run EM or who would provide the supervision; it did not need to be DOC staff. His goal,

especially in rural areas, was to have the local community get some small support to provide the supervision in areas, which had previously been done by the state. Part of the issue was developing the availability and options. He believed the options to provide supervision post or pretrial to individuals had been lacking. He explained that the state would own the decision, but once the decision had been made there could be different options.

Representative Wilson stated that one of the bill versions had allowed DOC to work with private companies on EM. She asked if the language was still in the bill.

Ms. Mead replied in the affirmative and referred to page 74, lines 24 through 26 of the legislation related to the pretrial services office, which would be supervising people to different degrees depending on their risk level. The provision read that "the commissioner may procure and enter into agreements or contracts for the supervision of defendants on electronic monitoring."

Representative Wilson remarked there were great companies that could offer the service privately. She noted it had been brought to her attention that one company had been a "bad actor," which she believed was no longer in business. She recalled when she had worked on HB 15 there had been discussion about the certification of companies to ensure some oversight into the issue. She asked for verification that the bill would enable DOC to contract with a company, but it did not include language about providing any oversight of the companies.

Ms. Mead replied that she did not believe the current version of the bill included DOC oversight of all private EM companies in Alaska.

Mr. Steiner believed Ms. Mead was correct. He detailed that the assumption and discussion had been if DOC was going to contract for EM it would take on the oversight to ensure it complied with minimum requirements set by the department. Currently, a court may order a person to go to utilize a private company and there would be no association with DOC.

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Representative Wilson pointed to Section 64, page 37 and 38 of the bill, which had been added in by the prior committee

and addressed treatment and pretrial. She believed in order for a person to qualify for a Nygren credit they had to complete an inpatient treatment program. She asked how the treatment language in Section 64 was different from the Nygren credit.

Ms. Mead answered that the changes in Section 64 through 66 were substantial from current law and prior versions of the bill. Currently AS 12.55.027(a) spelled out the restrictions a program had to have in place in order for a person going to a treatment program to get credit for the time against their sentence. She detailed that basically the program had to resemble prison; a person could not be free to leave. She specified that the legislature would determine through statute that because the program was akin to prison, the person would get credit against their eventual prison time. Under the current bill version, the court could grant credit against a sentence of imprisonment with fewer constraints; it would be up to the court whether to grant credit if the treatment program "furthers reformation and rehabilitation" (Section 64). She detailed that a person would still receive their day-for-day credit, but Section 66 included a list of factors that the court shall consider when deciding whether a program should qualify to give a person credit. The bill loosened the constraint in former law and allowed much more judicial discretion. She noted that sometimes much more judicial discretion was good from the court system's point of view and other times it was not. She believed the change in statute would lead to many more hearings and was not as clear as current law. She explained that the change would result in numerous court hearings to address whether a program should or should not qualify for credit.

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Mr. Steiner added that the particular sections altering the Nygren statutes were not part of the commission's recommendation. He was concerned that the legislation's proposed structure would lead to arbitrary results. He detailed that different judges would have diverse feelings about different programs. He emphasized that the requirements under current law were very clear and almost compelled the result that a person received credit. One concern raised was that the definition of treatment program was not broad enough, but it had easily been addressed in what was Section 67, which defined a treatment program and

broadened what would qualify. He believed the section addressed the concerns. He shared the concern that too much would lead to arbitrary results and no predictability, which would undermine the goal of getting consistent pretrial jail credit for treatment programs addressing the needs of individuals for the reasons they were going to jail.

Representative Wilson asked to hear from DPS as well. She restated her question. She asked if broadening what qualified as a treatment program would impact the department.

Commissioner Folger answered that it would not impact the department.

Representative Wilson asked for verification that the bill language was only related to inpatient treatment programs and would not impact anyone in an outpatient facility.

Mr. Steiner answered that whether or not a person was in residential [treatment] was merely one of the factors to be considered. The changes did not impact the EM sections of the bill, which permitted jail credit for EM (with passes to court, appointments with an attorney, and treatment). The change impacted what was formerly residential treatment, which became one of many factors. He detailed that it was one of the factors that may result in arbitrary application across the state.

Representative Wilson surmised that the section primarily impacted was on the court system. She surmised that judges would make a determination on whether a program qualified for credit. Ms. Mead answered that whether to grant credit or not would be up to the court system. The language did not apply to portions of the statute related to EM. The change could result in more room for argument about whether a person would receive credit.

2:42:13 PM

Mr. Skidmore spoke to the numerous sentencing changes that occurred in the bill. He utilized a color coded sectional analysis "cheat sheet" provided by the bill sponsor (copy on file). He began with sentencing for misdemeanors and noted there were three primary areas where associated laws had changed in SB 91. First, some Class B misdemeanors had

been reduced to violations and included offences like obstruction of highway and violation of conditions of release. He elaborated that a person could still be arrested for the offences under the legislation and it could be addressed in bail, but there would be no criminal penalty associated. Second, the bill changed the maximum sentencing for Class B misdemeanors from 90 days in current law to 10 days and a maximum of 24 hours for disorderly conduct. Third, for Class A misdemeanors the bill modelled the offenses off of felony sentencing and created a presumptive term. The maximum remained one year in jail, but for any misdemeanor the presumptive maximum would be 30 days. He detailed in order to exceed the 30-day presumptive would require one of the aggregating factors included in SB 91. The first aggregating factor dealt with mandatory minimums of 30 days or greater; the second dealt with a criminal history with previous similar types of convictions (felonies and/or misdemeanors), which would enable a judge to impose more than the 30-day presumptive term; third, if a crime was considered a worst offense (a worst offence was currently used in felony aggravators); and the fourth, was a carve-out applying to domestic violence assault, which would enable a judge to impose more than the 30-day presumptive term.

Mr. Skidmore addressed controlled substances. He detailed that under the legislation possession of most controlled substances would become a misdemeanor. The bill reduced the level of the felony offence for most of the rest of distribution of narcotics. Additionally, the bill added a second layer of determining whether the distribution fell into a large or low-level category. Current law contained aggregators and mitigators, which could be applied to separate a high-level drug dealer from a low-level drug dealer. The bill added a second layer by classifying distribution of up to 2.5 grams as a low-level felony and anything exceeding the amount as a high-level felony. The bill increased the threshold for felony theft crimes to $1,000 and included inflation adjusting, whereas the Senate version of the bill had contained a $2,000 threshold and did not reference inflation adjusting. Presumptive ranges for all felonies were reduced by the bill. He detailed that in 2005 legislation had tried to address a [U.S.] Supreme Court case referred to as Blakely [Blakely v. Washington]. He detailed that with the aim of addressing the concerns, a sentencing range had been created (e.g. three to five years). He furthered that people believed the change in

felony sentencing had allowed sentences to creep up, which had not been the intent. Therefore, the bill shifted all of the ranges down so the previous presumptive range was in the middle. The last areas dealt with discretionary, administrative, and geriatric parole as well as sex offender treatment. He detailed that the areas of the bill addressed how quickly a person could be released or the type of sanction that could be imposed in the various areas.

2:48:51 PM

Mr. Steiner made clarifications regarding possession versus distribution. He explained a concern had been raised that possession of large quantities could only be a misdemeanor. He reminded the committee that someone could be charged with intent to deliver, which would be a felony for any amount as long as the state could prove the intent to distribute or sell the drugs. He furthered that large quantities would be sufficient to make a case for intent to distribute and smaller quantities could be as well if certain circumstances were also there that the state could prove. He spoke to the adjusted presumptive ranges and explained that the ranges had not been adjusted down for sex offences per the commission's recommendation.

Co-Chair Thompson noted Representative LeDoux's presence in the audience.

Representative Munoz asked Mr. Steiner to speak to the commission's original recommendations regarding sex offences. Additionally, she asked what had been carved out in the Senate and what had been added back by the House Judiciary Committee.

Mr. Steiner explained that regarding sex offenders the commission members had generally believed it was an area worth exploring and working on; there had been disagreement about what measures and recommendations the commission should make, but it had come to consensus on incentives and providing incentives for individuals in custody to earn credit or potentially parole at an earlier date. The conclusion had been reached because of evidence showing that treatment reduced recidivism, which was the overriding goal the commission had focused on (to reduce recidivism and crime). He deferred the question to a colleague for further detail.

2:52:13 PM

TRACEY WOLLENBERG, DEPUTY PUBLIC DEFENDER, APPELLATE DIVISION, PUBLIC DEFENDER AGENCY, DEPARTMENT OF ADMINISTRATION addressed changes in the different bill versions. One of the commission's recommendations was earned "good time" credit for sex offenders, which would allow sex offenders who were currently excluded from automatically receiving statutory good time credit to earn back the good time credit by successfully completing sex offender treatment in custody. The provision had been included in the original bill, but she believed it had been stripped out in the Senate, which was still reflected in the current bill version. The second item related to expanding eligibility for discretionary parole for sex offenders. She believed the original recommendation had been to expand eligibility for discretionary parole for all sex offenders except Class A and unclassified sex offenders with prior felony convictions. She detailed that the eligibility had been scaled back a bit and she believed all unclassified and Class A sex offenders were ineligible for discretionary parole.

2:53:39 PM

Representative Munoz asked about the difference between classified and unclassified.

Ms. Wollenberg replied that an unclassified offence was the highest level offense in Alaska, which included first and second degree murder, sexual assault in the first degree, sexual abuse of a minor in the first degree, and other (highest level sex offences). The classifications went down from there. For example, Class A was the next highest offence, followed by Class B, Class C, and misdemeanors.

Representative Munoz asked if the good time credit applied to Class B and C.

Ms. Wollenberg responded that under current law sex offenders ineligible for good time credit were those who had been convicted of an unclassified and Class A sex felony and all sex offenders with a prior sex offense conviction. Class B and C felons with no prior convictions remained eligible for good time credit under existing law. The current bill would allow individuals who were

ineligible under current law to earn back the good time credit by completing sex offender treatment.

Representative Munoz had heard from the bill sponsor that the topic would have further review by the commission in the future. She wondered if the direction for further review was included in the legislation.

Mr. Steiner agreed that the commission would welcome the opportunity to review the topic. He believed the topic deserved an entire review and was an issue on its own; there were many different issues relating to the topic. He noted that the previous day the committee had discussed individuals who may be in the same high school (e.g. a 14 year-old and 18 year-old). He detailed that the specific issue had been raised several times in the past month or so. He believed the direction to the commission to continue with the review was in the bill. He would welcome the topic as a stand-alone review with a report back to the legislature with recommendations.

2:56:19 PM

Representative Gara wondered about the success rate of treatment for Class A and unclassified sex offenders.

Mr. Steiner did not believe the commission had looked at success rates for subcategories of individuals. The data the commission reviewed, showed that individuals convicted of a sex offense had very low rates of recidivism and that treatment lowered those rates; from a cost-benefit perspective the treatment results were positive (the benefit was greater than the cost, which was based on the reduction of recidivism). He reiterated that the information was never broken out between types of offences or levels.

Representative Gara referred to Mr. Steiner's reference to low rates of recidivism, which were reduced further by treatment. He asked if any specific numbers were available.

Mr. Steiner could not recall specifically, but he could provide the information the commission had relied on.

2:57:43 PM

Representative Gara asked what kind of sentences the individuals (who had been added into the House Judiciary Committee bill version) were facing and what percentage of the sentence would be eligible for good time credit.

Ms. Wollenberg responded that good time credit was usually the equivalent of about one-third of an individual's sentence. She detailed that under the current version of the bill, sex offenders would be eligible to earn back one-third of their sentence, which was the equivalent to credit earned back by other prisoners.

Representative Gara had thought the legislation barred good time for repeat sex offenders but not first-time sex offenders. He asked for verification that the bill barred the credit for first-time Class A and unclassified sex offenders as well.

Ms. Wollenberg replied in the affirmative.

Representative Gara asked about the sentence range for Class A and unclassified sex offences.

Ms. Wollenberg responded that the ranges varied based on whether a person had a prior conviction; and for sex felonies whether a prior conviction was for a sex felony. For example, if a person was convicted of sexual assault in the first degree, it was their first felony conviction, and the victim was less than 13 years of age, the sentencing range was 25 to 35 years. Under the scenario the range would be 20 to 30 years if the victim was 13 years of age or older. She furthered that for second felony convictions and the prior felony was not a sexual in nature, the sentencing range was 30 to 40 years. The range would be 35 to 45 years for second felony convictions if the first offence was a sexual felony. She noted there was a third felony offender range of 40 to 60 years for high-level offences.

3:00:15 PM

Representative Wilson asked what data had been used to determine sentencing should be lowered. She remarked that the length of time a person was in jail did not necessarily make them a better person when they got out. She wondered about services provided to the individuals in jail and

whether the treatment would have to be done quicker due to decreased sentencing.

Mr. Steiner answered that the data indicated that long sentences did not reduce recidivism. The data showed that short sentences for low to moderate risk individuals increased recidivism. The structure of the recommendations was to take low to moderate risk individuals to avoid jail sentences so that recidivism did not increase, but services were delivered. He detailed that for individuals in jail, services would need to be delivered while they were in custody. He stated it was the crux of the need for reinvestment. The capacity to serve all of those individuals did not currently exist; even with current sentencing there was not capacity to serve individuals in a timely manner. He explained it was part of what needed to happen to get the maximum benefit from the policy changes.

Representative Wilson remarked that none of the services got covered in DOC under Medicaid expansion; the services were only covered outside of DOC. She wondered that given the lowering of the sentencing, if the legislation specified that treatment could be included under probation or parole. She remarked that in some circumstances an individual would spend 10 days in jail instead of 1 year. She asked where the treatment portion would be directed. She believed that between alcohol and drugs the treatment portion of the bill was more significant than jail sentencing, fines, or any other portions.

Mr. Steiner agreed that treatment was a critical component. The bill and recommendations did not specify where treatment should land. He believed the fiscal notes had included information about where the treatment money would be focused. From the commission's perspective it was necessary to fund a prevention effort with pretrial access to treatment in jail and in the community and transitional services to go from jail to the community to ensure a seamless transition. The recommendations did not specify how much to put in any one of the areas. The commission had broadly recommended that all of the services needed to be provided.

Representative Wilson had looked into the issue for an earlier bill and had heard studies from Kentucky and Texas. She had asked why a significant number of inmates did not currently use EM despite their eligibility and ability to

request the service. She had heard the primary reason was due to housing issues. She addressed lowering sentencing and letting individuals out of prison. She asked if the state had studied why some of the current programs were not being utilized. She reasoned that the bill would "shrink that down and those issues will still be here."

Mr. Steiner asked if Representative Wilson was asking about underutilization of transitional services from in custody to out of custody.

Representative Wilson replied that a person could be transitioned, but she wondered how to solve the lack of places for a person to transition to in order to utilize EM. She wondered how to solve the issue without spending more money.

Mr. Steiner believed part of the bill allowed DOC to contract with nonprofit private providers to assist with the transition. He detailed that an entity in Anchorage was currently providing the service and facilitated helping people get jobs, find a place to live, and other; transitional services was a critical component to maintain. In addition to treatment, the transitional efforts were important. He referred to discussion about food stamps and added that having access to food was also critical to a person's rehabilitation. He explained that the bill contained some latitude on the issues.

3:05:30 PM

Co-Chair Thompson noted the committee would address the in prison treatment portions of the legislation.

Commissioner Williams asked for verification that the committee was addressing treatment and credit for treatment section of the legislation.

Co-Chair Thompson replied that the committee would address drug and alcohol treatment individuals could receive in prison.

Representative Wilson assumed they were addressing the "blue" section on the sectional analysis color coded sheet [community supervision]. She provided a scenario of a person receiving a three-year sentence, who would receive one of the three years on parole or probation due to good

time credit. She had heard from individuals wanting to finish their three years in prison because they believed they would end up serving four or five years because of the way the system worked. She asked about capping the technical violations. She believed the bill broke the time down into 30 days. She thought once a person received a technical violation they may lose all of their good time accrued. She asked what happened with good time when a person was released and how the bill would change the current system.

Commissioner Williams answered that the probation cap for technical violations was a policy change under the legislation. Currently DOC could revoke up to the entire amount of a person's good time if a person had a technical violation (i.e. failure to show up for an appointment, missing a bail requirement, and other). The bill would cap the amount with the concept that technical violations were generally concerned low risk and it was preferable to have people back quickly versus having a long-term probation violation. One of the bill versions excluded sex offenders from the category. He was not certain about the change in the bill before the committee. He commented on current policy related to a person violating parole. The other issue addressed by Representative Wilson was related to credit for EM. Currently a prisoner did not receive credit for their EM time, which was a lack of incentive. The bill contemplated credit for good time on EM. He deferred to a colleague for further detail.

JOSH MERCER, PROBATION SUPERVISOR, ELECTRONIC MONITORING, DEPARTMENT OF CORRECTIONS (via teleconference), asked Representative Wilson to repeat the question.

Representative Wilson restated her question. She believed that an individual out on good time probation could end up with an extended sentence of four or five years due to technical violations. She asked if anything in the bill helped address the issue, which would make EM advantageous.

3:11:43 PM

Mr. Mercer replied that there had been testimony from offenders, probationers, and parolees where the scenario provided by Representative Wilson was true. He specified that it was contingent upon the poor choices the individuals made with the technical and formal violations

that could extend their period on field supervision. With regard to EM and statutory good time, he believed DOC EM would not be adverse to rewarding good time for offenders who had demonstrated progress while enrolled in the program and housed in the community. He believed the state should support an offender's effort by awarding statutory good time once they had successfully established gainful employment, engaged in and/or completed substance abuse treatment and restitution, and able to put food on the table for their families.

Representative Wilson clarified that she was not speaking to good time. She was referring to "straight-time" only. She did not understand how a person who received a three-year sentence could ever end up with serving four years. She believed under the bill a person received credit for every 30 days if they had no violations. She asked if it was different from current policy.

Mr. Mercer answered that currently with DOC EM it day-for-day; statutory good time was not afforded. He deferred the question for further detail.

3:13:40 PM

JORDEN SHILLING, STAFF, SENATOR JOHN COGHILL, answered that the credit afforded to a defendant on EM pretrial was still applicable under the bill. The bill did not remove the credit whatsoever.

Representative Wilson was interested in scenarios after pretrial. She provided a scenario where a person had served two years of a three-year sentence and was out on probation for the third year until their sentence was complete. She had heard from more than one source that due to violations a person could end up serving two more years instead of just staying in jail for the last year of their three-year sentence.

Mr. Shilling restated his understanding of the question. He believed she was speaking about an individual who could be reparoled. He deferred the question to DOC.

Mr. Steiner answered that an individual could be sentenced to three years (flat-time, with no suspended time), out after two years with good time, and on parole for one year. During that time, if the individual committed a violation

the Parole Board had the authority to do a "revoke and reparole." A person may be in custody for a short period of time right before the end of their year; if the person was revoked and reparoled they would have to serve the year on parole over again. The scenario could effectively extend a person's supervision or custody beyond the ultimate three-year sentence. He believed the current version of the bill maintained a section addressing the issue.

Representative Wilson asked how the issue would be addressed if the bill passed.

Mr. Steiner answered that under the current version of the bill if a person served their two years their parole time would run for the entire third year of their sentence. If a person was to violate their parole at any point during the year the period they were in custody would toll (the time would stop running), but once the person was out of jail again the time would pick up where it left off before the person went back to prison [note: Mr. Steiner made a correction to this statement at the end of his current response]. The change would extend a person's sentence some beyond the three-year sentence, but it would not have the ability to extend the parole time indefinitely; it would put a decided end to a person's parole time. He corrected that an individual would receive credit while in custody. He clarified that the period a person was in custody would toll if a person absconded.

Representative Wilson remarked that the bill capped how long a person could be in jail for technical violations.

Mr. Steiner answered in the affirmative. He detailed that the first technical violation carried a jail sentence of 3 days, the second violation was 5 days, and the third was 10 days. On the fourth violation a person's entire parole period was up for revocation.

3:18:03 PM

Representative Gara spoke to the probation component. He asked for verification that the bill addressed technical violations of probation. Mr. Steiner answered in the affirmative.

Representative Gara stated that in all areas of law there were some portion of attorneys who just tried to win and

win as big as possible. He asked if the rules under the bill would guarantee a district attorney could not decide to throw the book at a defendant. Alternatively, he wondered if cooperation from the district attorneys and parole officers would still be required.

Mr. Steiner answered that there would be no discretion under the current version of the bill. The maximum period of time for the first three technical violations would be 3, 5, and 10 days respectively. The assumption had been that immediate sanction in jail and slowly progressing would be the most effective at changing behavior. He stated that after that it was wide open.

Representative Gara asked for clarification on the statement "after that it's wide open." Mr. Steiner answered that after an individual's fourth violation the court could impose all of their parole time. At that point, it would operate as it did under current law.

Representative Gara asked for verification Mr. Steiner was speaking about an individual's fourth technical violation. Mr. Steiner answered in the affirmative.

3:20:27 PM

Co-Chair Thompson relayed the committee would hear about parole sections of the bill.

Commissioner Williams communicated that much of the issue had been covered already.

JEFF EDWARDS, EXECUTIVE DIRECTOR, ALASKA BOARD OF PAROLE, DEPARTMENT OF CORRECTIONS (via teleconference), discussed how the bill impacted the Parole Board. Under the bill administrative parole would afford an inmate with early release opportunities for some low-level crimes (i.e. mostly Class B and C offences); individuals would be afforded the opportunity of early release if they complied with several requirements, which would be mostly outlined in the case plan. He furthered that if an inmate was following the rules within the institution and complied with their case plan (particularly treatment) they would be released after serving a quarter of their sentence. The majority of the time the board members would not meet to make a ruling on individual cases; inmates would be automatically released. He noted that if a victim of a

specific crime requested a hearing the Parole Board would convene. He explained that it would be a new function for the board; he was interested to see and study the outcomes if the change came to fruition.

Mr. Edwards addressed the significant reduction in timelines and length of stay in hard beds for technical violations. He relayed that currently the board's timeline extended out to 120 days to deal with technical violations; the time would be significantly reduced to 15 working days under the legislation. He noted that the first technical violation carried a jail sentence of 3 days, the second violation was 5 days, and the third was 10 days. He discussed that the significant reduction to the time frame the board had to dispose of the violations would have a substantial effect on the board.

Mr. Edwards discussed the bill's expansion of eligible inmates for discretionary parole. He explained discretionary parole was the avenue for inmates to apply for early release from incarceration. The bill would increase the number of inmates eligible for discretionary parole, which would mean a whole new group of inmates the board would have to interview and hold hearings for. He detailed that the change eliminated the ability for the individual inmate to waive the option, meaning the individual would be required to appear before the board; there would not be an optional application requirement.

Mr. Edwards spoke to the implementation of geriatric parole for individuals age 55 or older who had served a minimum of 10 years in prison. The individuals would be eligible to apply to the board for early release. The bill included no mandate to grant parole, but it granted the individuals with the ability to have a hearing before the board. Presumably, the reason for the policy change was due to the increase in medical expenses for the specific age category. Additionally, data and experience showed that the category of inmates posed a very low risk of recidivism. The board's policies did not currently enable it to grant geriatric parole.

3:26:10 PM

Representative Kawasaki asked how many days Parole Board members usually worked. Mr. Edwards answered that the board was gearing up for a meeting the following week and would

address just over 50 hearings. The board would begin at Goose Creek Correctional Center (the state's largest prison) where it would hold two or three days of discretionary hearings. The board would also hold hearings at the Palmer Correctional Center, the women's Hiland Mountain Correctional Center in Eagle River, and in Anchorage. The board typically met one to two weeks per month. He offered to follow up with the precise number of days the board worked and hearings it convened.

Representative Kawasaki always thought commissioners were a part-time job. He surmised that the board sounded pretty full-time. He reasoned that the board appeared to be a minimum of part-time if not more. Mr. Edwards answered that the positions were listed as part-time, but they were really three-quarter to full-time when it came to reviewing files, conducting hearings, and convening for one to two weeks per month.

Representative Kawasaki had a bit of trouble with the automatic administrative parole, which would be completely new. He asked if first-time Class B or C felons serving one-quarter of their time plus other minimum conditions would automatically get bumped to discretionary parole if they did not go through the administrative parole hearing because a victim came forward.

Mr. Edwards replied that the individuals would still progress through the administrative function. The only difference was that the board would need to convene with the victim and inmate present to conduct and make a decision on the case. The bill removed the automatic release portion and mandated a hearing [if a victim requested a hearing].

3:29:25 PM

Representative Kawasaki asked how much work time the streamlined discretionary parole and administrative parole would add to the Parole Board.

Mr. Edwards answered that the board's fiscal note included funding for hearing officers needed to expedite the hearing process to resolve violations. He detailed that many states utilized hearing officers due to the amount of violations coming through the system and the timeframe in which they needed to be resolved. He furthered that it would move the

revocation hearings for technical violations from the function of the Parole Board to the hearing officer. He elaborated that the board did not have the availability of time to move the cases. Additionally, the hearing officers had been included due to the increase in discretionary hearings under the legislation. He explained that the board members would quickly turn into full-time state employees, which DOC was not willing to do at present.

3:31:00 PM

Representative Kawasaki asked about the notification for victims. He asked about the current process and how it would change in the current bill.

Mr. Edwards answered that the victim notification requirement came down to the DOC institutional parole officers. Once identified and an inmate was choosing to go before the board, the board was required to send out a written letter to notify the victim of the process. To open the dialogue of communication, the board allowed victims to either participate telephonically, via written correspondence, or in the actual hearing. The department was charged with notifying the victims, who then corresponded with the board office and staff to ensure the correspondence was seamless. The victim was given the opportunity to testify before the board to provide their story and impact of the crime; board members weighed heavily on the testimony. Additionally, the notification was documented in the ACOMS [Alaska Corrections Offender Management System] or the Defender Data Tracking System used by DOC.

Representative Wilson asked if the board had to meet before a person could serve their three days [jail time] for a technical violation. She noted the committee had heard the more immediate the jail time, the more impact it had on an individual.

Mr. Edwards answered that the board hearing did not need to occur. He explained the individual would be released from prison after the three-day period (for a first technical violation) regardless of whether the board had convened or not. The board wanted to be responsive in the violations. He believed the vested interest in the bill was to resolve violations in a swift and certain proportionate manner. The cap limits were not negotiable, but the board would convene

for the hearings to ensure they were resolved quickly and efficiently, and the person would go back out on parole supervision to try again.

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

Co-Chair Thompson relayed that amendments to SB 91 were due by Friday at 5:00 p.m. He discussed the meetings for the following day. He recessed the meeting to a call of the chair [note: the meeting never reconvened].

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ADJOURNMENT

3:35:32 PM

The meeting was adjourned at 3:35 p.m.