

HOUSE FINANCE COMMITTEE
April 22, 2016
1:33 p.m.

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CALL TO ORDER

Co-Chair Thompson called the House Finance Committee meeting to order at 1:33 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

Quinlan Steiner, Director, Public Defender Agency, Department of Administration; April Wilkerson, Director, Division of Administrative Services, Department of Corrections; Kelly Cunningham, Analyst, Legislative Finance Division; Dean Williams, Commissioner, Department of Corrections; Diane Casto, Behavioral Health Policy Advisor, Division of Behavior Health, Department of Health and Social Services; Matt Davidson, Program Coordinator, Division of Juvenile Justice, Department of Health and Social Services; Lauree Morton, Executive Director, Council on Domestic Violence and Sexual Assault, Department of Public Safety; Nancy Meade, General Counsel, Alaska Court System; Michele Michaud, Chief Health Officer, Division of Retirement and Benefits, Department of Administration;

Senator John Coghill; Representative Lora Reinbold;
Representative Liz Vasquez.

PRESENT VIA TELECONFERENCE

Richard Allen, Director, Office of Public Advocacy, Department of Administration; Amy Erickson, Director, Division of Motor Vehicles, Department of Administration; Tony Piper, Program Manager, Alcohol Safety Action Program, Department of Health and Social Services; John Skidmore, Director, Criminal Division, Department of Law; Kelly Howell, Director, Division of Administrative Services, Department of Public Safety; Gary Folger, Commissioner, Department of Public Safety; Susanne Di Pietro, Alaska Judicial Council.

SUMMARY

CSSSSB 91(FIN) AM

OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS

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

Co-Chair Thompson discussed the meeting agenda.

#sb91

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

"An Act relating to criminal law and procedure; relating to controlled substances; relating to immunity from prosecution for the crime of prostitution; relating to probation; relating to sentencing; establishing a pretrial services program with pretrial services officers in the Department of Corrections; relating to the publication of suspended entries of judgment on a publicly available Internet website; relating to permanent fund dividends; relating to electronic monitoring; relating to penalties for violations of municipal ordinances; relating to parole; relating to correctional restitution centers; relating to community work service; relating to revocation, termination, suspension, cancellation, or restoration of a driver's license; relating to the excise tax on marijuana; establishing the recidivism reduction fund; relating to the Alaska Criminal Justice Commission; relating to

the disqualification of persons convicted of specified drug offenses from participation in the food stamp and temporary assistance programs; relating to the duties of the commissioner of corrections; amending Rules 32, 32.1, 38, 41, and 43, Alaska Rules of Criminal Procedure, and repealing Rules 41(d) and (e), Alaska Rules of Criminal Procedure; and providing for an effective date."

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Co-Chair Thompson discussed that the committee would address the packet of fiscal notes. He relayed that they would begin with the Department of Administration (DOA). [Note: the committee addressed a packet of fiscal notes numbered 1 through 20 for clarity. These numbers do not actually correspond with the formal fiscal note numbers.]

RICHARD ALLEN, DIRECTOR, OFFICE OF PUBLIC ADVOCACY, DEPARTMENT OF ADMINISTRATION (via teleconference), addressed the previously published zero fiscal note FN16 from the Office of Public Advocacy [labeled 1 at the top of the packet; OMB Component Number 43]. He was available for any questions.

Representative Gara asked if they could add some guardian ad litem positions to the fiscal note.

Co-Chair Thompson replied in the negative.

Representative Gara asked about adding positions the following year.

Co-Chair Thompson replied "maybe."

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AT EASE

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RECONVENED

Representative Wilson asked how much of the returning population was made up of second and third offenders who would not recidivate again if the programs were successful. Mr. Allen responded that the answer would be purely speculative at the current time. The department was very hopeful there would be a reduction in recidivism as a

result of the programs. He was uncomfortable providing a speculative answer.

Representative Wilson asked how many repeat offenders needed help multiple times. Mr. Allen replied that the number was significant; about two-thirds of offenders reoffended in some way.

Representative Wilson asked if there was any way to know how many of the repeat offenders needed a public defender versus a private attorney. Mr. Allen replied that the majority of offenders received public defenders.

1:39:14 PM

QUINLAN STEINER, DIRECTOR, PUBLIC DEFENDER AGENCY, DEPARTMENT OF ADMINISTRATION, addressed the zero fiscal note FN17 from the Public Defender Agency [labeled 2 at the top of the packet; OMB Component Number 1631]. He communicated that although the agency anticipated benefits from the legislation, they were entirely speculative until it was determined which programs would be funded and their effectiveness was measured. He stated that recidivism had been consistent; therefore, he had not been able to make any projection about what kind of reduction in workload would occur. Additionally, it was important to remember that caseloads had far exceeded the budget growth for many decades. He noted that the agency had never really caught up completely. He reiterated that it was difficult to know what fiscal benefit may occur.

Representative Wilson asked if the agency would be keeping statistics on whether the growth kept outweighing what the agency had or if a decrease occurred.

Mr. Steiner replied that the agency tracked its appointments and could determine the number from year-to-year. He noted that the actual workload per case was harder to estimate objectively; the agency did not have the tools to measure the objective workload.

Representative Wilson wondered if the agency kept track of repeat clients. Mr. Steiner answered in the negative. He elaborated that it would require an audit of the workload.

Representative Gara thanked agency staff for working very long hours. He surmised that even though the number of

cases may decrease, an increase in the number of intensive therapeutic court cases would add more work. Mr. Steiner affirmed that therapeutic court cases tended to involve more work than one that resolved as a plea agreement because the case would continue and would require advising the client and participation. He spoke to the difference between caseload and workload; one was easy to measure objectively, while the other was not.

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Representative Guttenberg recognized that Mr. Steiner could be criticized for almost any number put in the fiscal note. He surmised that zero may have been the safest bet because the number was not known. He remarked that throughout the bill hearings the committee had heard that they would get to the cost when the fiscal notes were discussed. He communicated that the commissioner had spent some time talking about the success of the various programs in other states. He furthered that portions of the agency's workload may get bigger or smaller as a result of the legislation. He asked if the agency had looked at a change in caseloads and the type of work it would have to do compared to what was happening in other states.

Mr. Steiner answered "not specifically." He elaborated that the agency used the current standard from the American Bar Association (ABA) on how many cases a public defender could handle in one year. Currently, the agency had more cases than the standard allowed. He furthered that some states had done specific workload studies and ended up having much lower maximum caseloads than the ABA standard. However, it required a level of work that the agency did not currently have. He explained that there was a substantial study that went along with keeping track of time to come to a defensible number. He stated that they were very jurisdiction specific. He had looked at other states in regards to how they looked at workload versus caseload, but not with respect to the changes in workload as a result of the initiatives. He relayed in the future he would like to get a better, more objective measure of workload.

Representative Guttenberg stated that "we're all looking forward to the success" of the bill. He reasoned that part of the success would be requiring the agency to have the ability to monitor the information. He asked if the agency currently had that capability.

Mr. Steiner answered that the agency would have the capability to keep track of time. He expounded that technically it was not that difficult as it could be written down. The ability to process, collate, and analyze the information would require something that the agency did not have funding for. He referred to the work as a qualitative adjustment. For example, the information may show what a person was doing; however, it was difficult to show if a person was not doing something they were supposed to be doing. Compiling and analyzing the information would require additional funding.

Representative Guttenberg stated that much of what the committee was trying to do was to have the agency communicate what it would not need to do. He acknowledged that was difficult.

Vice-Chair Saddler did not know how there would be a zero impact on the agency if there was more court activity. He wondered if the fiscal note should be indeterminate because the agency did not quite know what the effects would be. He remarked that a zero note was pretty definitive.

Mr. Steiner estimated that there would not be overall additional work as a result of the bill. He estimated that additional work that may occur in therapeutic courts may be offset by the daily jail trips the agency would not have to make. He noted that the time the agency spent visiting jails on a daily basis was very time consuming. He reasoned that with fewer people in jail, lawyers would have more time to work on their cases in their offices. He had no way of estimating the exact impact. He continued that because caseloads had exceeded budget growth for decades, even if there was a benefit in the short-term, there would not be an immediate decrement the agency could take; they would still be around the maximum caseload. He stated that the issue needed to be figured out in the future. He explained that if the changes under the bill worked properly, it was theoretically possible that a caseload would decrease enough for the agency to ethically take a decrement. However, the agency had already taken decrements over the past few years to staffing, which was pushing the maximum caseload over the limit.

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Vice-Chair Saddler thought an indeterminate fiscal note may be more accurate.

Mr. Steiner answered that he had always used indeterminate fiscal notes when he knew there would be a fiscal impact increasing the agency's costs, but the actual cost could not be determined. He did not believe there would be additional work as a result of the bill; therefore, he submitted a zero fiscal note.

Representative Gara stated that it would be a zero fiscal note because the agency was used to working longer hours; it would be the same number of people, but working longer hours if needed. He believed it was unfortunate, but it was the current reality.

Co-Chair Thompson moved on the next fiscal note from DOA, specifically related to the Division of Motor Vehicles (DMV).

AMY ERICKSON, DIRECTOR, DIVISION OF MOTOR VEHICLES, DEPARTMENT OF ADMINISTRATION (via teleconference), addressed a new zero fiscal note from the House Finance Committee for the Department of Administration [labeled 3 at the top of the packet; OMB Component Number 2348]. She explained that DMV had originally submitted a fiscal impact note due to provisions related to an off-highway licensing amendment; however, the committee had changed the note to zero impact. The division believed it would require a new position for DMV and the annual loss of approximately \$137,000 in vehicle registration fees.

Representative Kawasaki asked if the zero fiscal note accurately reflected the bill given the inclusion of the off-highway provision.

Co-Chair Thompson replied that there would be a change to the bill that would account for the zero fiscal note.

Representative Gattis relayed that the committee was still working on the bill and it would reflect the zero fiscal note.

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Co-Chair Thompson noted that as any changes were made the committee would receive updated fiscal notes from the

administration. He moved on to discuss fiscal notes from the Department of Corrections (DOC).

APRIL WILKERSON, DIRECTOR, DIVISION OF ADMINISTRATIVE SERVICES, DEPARTMENT OF CORRECTIONS, spoke to a previously published fiscal note FN18 from DOC [labeled 4 at the top of the packet; OMB Component Number 698]. She relayed that the fiscal note included the funding needed in order to adjust the department's offender time accounting system within the Alaska Corrections Offender Management System (ACOMS) database to accurately reflect the good-time and time accounting changes reflective in the bill. It was anticipated that the department would need about \$1.5 million to address the changes as well as any changes associated with the department's Victim Information Notification System.

Representative Wilson stated that the department already kept track of good-time and ensuring victims were notified about when it was time for them to arrive. She wanted to know what needed to be changed. She opined that a better system was needed if \$1 million was required every time a change was made.

Ms. Wilkerson replied that the changes in the bill would require a contractor to write a new program for ACOMS. She explained that the current offender time management accounting system was pretty complicated. She explained that to increase and adjust the time calculated by the database would require an additional contractor to come in to make the changes. Given the short amount of time available to deploy the changes, the department's programmers could maintain the system; however, the changes impacted many levels of the system and resulted in system corruptions when applied.

Representative Wilson discussed that good-time and pretrial were both currently used by DOC. She observed that the bill opened up the options for a few additional people to utilize. She did not see how the bill was actually changing the system.

Ms. Wilkerson answered that the division had looked at the issue and it did not currently have the ability to rewrite the formula for the time accounting currently being applied; they would need the additional resources to rewrite the code.

Representative Wilson stated that good-time was currently allowed and the bill would make a few more people eligible. She asked if the fiscal note included costs of needed upgrades that did not necessarily apply to the bill.

Ms. Wilkerson answered in the negative. She clarified that it was not about fixing the database, it was taking the database from its current spot and moving it forward.

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Ms. Wilkerson would follow up with the committee on the question.

Representative Wilson surmised that the bill was not changing the population and there were existing mechanisms for everything currently provided. She furthered that the bill broadened the spectrum of individuals eligible for the option [good-time]. She wanted to understand the difference between increasing eligibility and how time was currently kept. She looked forward to the answer from DOC.

Ms. Wilkerson addressed a new fiscal impact note from DOC [labeled 5 at the top of the packet; OMB Component Number 1381]. She explained that it reflected the anticipated reduction in the prison population over the coming fiscal years as a result of sentencing changes and good-time credits. In the first year, DOC anticipated a reduction in the population of 299 offenders that equated to \$4.5 million. In FY 18 DOC anticipated a reduction of 1,363 offenders for an overall reduction of \$20.6 million. She furthered that the department anticipated a continued reduction in 2019 of 205 offenders with an additional \$3.1 million reduction. The department expected a slight increase in inmates beginning in 2020 by about 112 totaling \$1.7 million. In 2021 and 2022 the anticipated increase was 139 and 172 inmates respectively. However, the overall net impact was a reduction of \$21.86 million.

Vice-Chair Saddler wondered about the reason for the increase beginning in 2020. He asked if the trend was expected to continue increasing, which would eliminate the savings in another five or so years.

Ms. Wilkerson responded that the impacts of the legislation were seen in the first four years; however, once the

impacts of the legislation were assumed, the net result of the increases in the population would be witnessed. She explained that murder charges would still go on and other areas in other criminal activity would drive the population back up. She explained that the trend did continue to increase in the out years at a much slower and more leveled off rate.

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Vice-Chair Saddler asked if the accelerated rate would continue forward and for how many years. Ms. Wilkerson did not have the data on hand. She would follow up with the information.

Co-Chair Thompson remarked that hopefully the legislation would change some behavior and reduce the number of violent crimes in the future.

Representative Kawasaki asked if the projected population reduction figures included individuals who would reoffend. He stated that currently two-thirds of the offender population reoffended within the first two years.

Ms. Wilkerson replied in the negative. The recidivism was not included in the numbers. The numbers illustrated the anticipated reductions from changes to sentencing and laws.

Representative Kawasaki thought the point of the bill was to develop a restorative justice model through the Alaska Criminal Justice Commission work. He reasoned that it should be built into the fiscal note if the state was still anticipating that two-thirds of the individuals would reoffend.

Ms. Wilkerson replied that it should be reflected in the other fiscal notes related to changes in probation, credits, additional community treatments, and other areas in the legislation.

Co-Chair Thompson recognized Senator John Coghill in the audience.

Representative Gattis saw SB 91 as a way the state and criminals would do business differently. She continued that the bill looked at how to treat criminals. She decided to

hear about the remaining fiscal notes from DOC prior to asking another question.

2:01:48 PM

Representative Pruitt did not see a reduction in personnel reflected in the fiscal note. He remarked that the note indicated significant savings with the reduction in population management. He wondered if there would be a reduction or if the positions would move to other areas that would need additional people.

Ms. Wilkerson replied that as the population declined into FY 18 and FY 19, the department anticipated that it would be able to identify a potential closure of a facility and a reallocation of the resources. She explained that the fiscal note related to pretrial showed indeterminate out-years because DOC anticipated being able to reallocate the resources towards pretrial and remaining facilities that were likely short staffed.

Representative Pruitt spoke to the prison population numbers and observed that the big savings would occur in 2018. He believed the effective date of the bill was in the current year. He asked for verification that the bill would change jail time for individuals who had already been in jail for a period of time.

Ms. Wilkerson responded in the affirmative. She explained that the bill would change release dates, furlough eligibility dates, and early release from parole and probation.

Representative Pruitt asked for verification that the changes resulted in the high cost savings shown in FY 18. He noted the number was high at almost 1,400.

Ms. Wilkerson replied in the affirmative.

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Representative Wilson referred to the estimated reduced prison population for FY 17 (299) and FY 18 (1,363) on page two of the fiscal note. She asked if the combined numbers would be enough to close one of the state's prisons.

Ms. Wilkerson answered in the affirmative; however, DOC would have to take a look at the remaining population and its needs. She furthered that it could potentially be a portion of a facility or an entire facility.

Representative Gara believed the biggest goal was to avoid the need for building another prison. He pointed to the estimated \$4.52 million savings in FY 17 and asked if the fiscal note had written recently or earlier in session.

Ms. Wilkerson replied that the note had been updated on April 15, 2016.

Vice-Chair Saddler pointed to the last line on the second page of the fiscal note that read "annual savings are calculated using a marginal cost rate of \$41.49 per day per person." He had seen a number of about \$150 [per day]. He asked for detail about the \$41.49 figure and wondered whether the state would be saving as much as it thought.

Ms. Wilkerson answered that DOC had selected a marginal rate. She detailed that the daily cost of care rate for the current calendar year was \$141.17 per day per inmate. She explained that the figure included "all in" costs. Known costs such as utilities and staffing had been removed from the cost of care document and adjustable costs had been added in to arrive at a marginal cost. She stated that in the future there could potentially be a higher reduction in savings if a facility closed.

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Ms. Wilkerson addressed a previously published zero fiscal note FN20 from DOC related to probation and parole [labeled 6 at the top of the packet; OMB Component Number 2826]. She explained that the legislation granted credit and provided for an incentive program for allowing good-time to probationers. She detailed that for 30 days of compliance a probationer could receive 30 days off of their probation sentence. The department anticipated a reduction in the probation caseloads; however, it also anticipated additional individuals coming onto the caseloads from those earning good-time out of the facilities. The department estimated that it would be a wash; therefore, it had submitted a zero fiscal note.

Co-Chair Thompson observed that the numbers would offset each other.

Co-Chair Neuman asked if there was anything in the fiscal note that would reflect changes in the sentencing and parole for good-time for sexual offenders.

Ms. Wilkerson replied that the fiscal note factored the item in. She detailed that DOC had sex offender probation officers with current caseloads and the adjustment had been calculated into the fiscal note.

Ms. Wilkerson addressed a new fiscal impact note from House Finance Committee for DOC [labeled 7 at the top of the packet; OMB Component Number 2244]. The note requested \$300,000 in FY 17, \$500,000 in FY 18, and \$200,000 in FY 19. She explained that the funding would be utilized to support the community residential center programming. The note was reflective of the changes in Section 158 of the legislation requiring departments to have contract providers deliver rehabilitation programming that would also set standards for treatment and risk assessments of individuals housed in those facilities.

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Co-Chair Thompson clarified that the fiscal note before the committee showed an annual cost of \$1 million in FY 19 through FY 22. Ms. Wilkerson answered that she had received a revised fiscal note from the House Finance Committee.

Co-Chair Thompson elucidated that the fiscal note was dated April 21, 2016 and indicated the annual cost of \$1 million in FY 19 through FY 22. Ms. Wilkerson clarified that she had been reading the increments per fiscal year for a net total of \$1 million beginning in FY 19 and going forward.

Representative Wilson believed the state was paying for open beds in many of the facilities. She asked why some of the open beds could not offset some of the costs included in the fiscal note.

Ms. Wilkerson responded that DOC anticipated renegotiating all of the contracts to utilize the funding for increased programming.

Representative Wilson provided a scenario where there were 60 inmates in a 100-bed facility but the state was paying for all 100 beds. She asked if there was a way the new program costs could be covered by the extra cost being paid to the facility for the empty beds.

Ms. Wilkerson answered that DOC anticipated filling the beds with the releasing population. She noted that the department did not anticipate increasing the bed count.

Representative Wilson reasoned that the department would save money when costs of \$150 [per inmate per day] were reduced to a significantly lower number. She thought the money would filter down from the prison to the community residential centers. She did not see where there would be an increase in money because savings from one area could be shifted to pay for another area within the department.

Ms. Wilkerson replied that the department had looked at whether they should decrement down, but had made the decision to try to maintain the funding because it was working to get the beds filled. The department had recently changed one of the practices in the Anchorage area and had started placing the unsentenced population back in the community residential center. The rest of the community residential centers were primarily filled at 99 percent capacity. She elaborated that DOC anticipated using the regular beds and portions of per diem beds, which would require the need for the additional funding to meet the need for substance abuse programming.

Representative Wilson voiced concern that there was no backup on the fiscal note showing whether the department would need to hire more people. She remarked that unlike the previous fiscal note there was no reflection of savings that would result. She stressed that there was no backup to explain the \$300,000. She thought additional backup information was needed to explain "how many are going to be changed over," whether the centers would need to hire more people, and other.

[2:14:20 PM](#)

Ms. Wilkerson answered that there had been a second page to the fiscal note. She explained that the calculation had come about based on the department's internal programming cost. The department did not anticipate allowing a

contractor to charge more than what it would cost DOC to do the work in-house under current contracts.

Representative Wilson requested page two of the fiscal note.

Representative Kawasaki agreed that having the second page of the fiscal note would be beneficial.

Co-Chair Thompson asked if Ms. Wilkerson had the second page. Ms. Wilkerson replied in the affirmative.

Co-Chair Thompson asked staff to provide the second page to the committee.

Representative Kawasaki stated that the description on page 1 of the fiscal note indicated that it had been revised and that it was funding for community residential centers. He asked if it was the same as correctional restitution centers.

Ms. Wilkerson replied in the affirmative.

Vice-Chair Saddler observed that \$1 million to cover the cost for the community residential center comprehensive treatment for substance abuse, cognitive behavior disorders, and other criminal risk factors including after care was a substantial mission. He asked how confident DOC was that the \$1 million would cover the cost for all of the services for 800 beds. He stated that if the amount was accurate he would love to apply the model elsewhere in behavioral health services.

Ms. Wilkerson answered that the department was currently providing the cognitive programs within the institutions at the rate used to calculate the items on the fiscal note. The department believed that it could expand the programs out to meet the community through existing institutional contracts or through the community residential centers.

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Vice-Chair Saddler expressed interest in the rate. He observed that the funds were all in services (excluding personal services). He asked if the work would be contracted out to privately run community residential centers.

Ms. Wilkerson replied in the affirmative. She detailed that the work would either come directly through the programs offered through the community residential centers or through DOC contract providers that were currently providing institutional support.

Vice-Chair Saddler asked how many correctional restitution centers the state operated or contracted with.

Ms. Wilkerson replied that the department had eight contract facilities and six contracts; it had locations in Bethel, Juneau, Fairbanks, Nome, three centers in Anchorage. She clarified there were seven.

Representative Wilson clarified that the funding included in the fiscal note was not undesignated general funds (UGF); it was recidivism reduction money. She explained that the department was using money that was currently in the system for the costs, which had been her initial question. She had initially thought the fiscal note funding source was new money; it was not new money - it was money used from a savings from a reduction in hard beds moved over to community residential centers for treatment.

Vice-Chair Saddler asked about the daily rate. Ms. Wilkerson asked for clarification.

Vice-Chair Saddler asked about the daily rate for services identified in the fiscal note. Ms. Wilkerson answered that the cost was approximately \$3.35 per person per day.

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KELLY CUNNINGHAM, ANALYST, LEGISLATIVE FINANCE DIVISION, clarified that the fiscal note did use new funds. She did not believe the committee had addressed the projected receipts from the marijuana tax that were in the bill. She detailed that the bill created a new sub-fund of the General Fund, which would fund the fiscal note.

Representative Guttenberg asked about the fiscal note and the use of money from the recidivism reduction fund, which used marijuana tax funds. He observed that the tax money was not expected to come in for several years. He remarked on the request for FY 17 and FY 18 and noted that the tax revenue was currently unknown. He stated that earlier in

the week Commissioner Williams had expressed concerns about substance abuse control in the community residential centers. He furthered that the commissioner had noted concern about sending a person needing treatment into one of the centers, but the environment was inappropriate. He asked how the fiscal note impacted the concern.

DEAN WILLIAMS, COMMISSIONER, DEPARTMENT OF CORRECTIONS, replied that he had been speaking broadly about the issue. He detailed that there were some halfway houses that were doing quite well and others that had some specific problems. He expounded that improving the community residential centers would not be an overnight process. He did not see a conflict in terms of starting to build up what was happening inside the halfway houses while the department continued to improve them. He explained that the contractors wanted the centers to be clean and operating well. He believed the area had been neglected a bit in terms of paying attention to and improving the quality. As the state continued to rely more on halfway houses he believed it was consistent with the aim of the bill.

Representative Guttenberg wanted treatment to go where it would be most effective. He spoke to the prevalence of substance abuse inside of prisons, which amazed him. He wanted to ensure that when a substance abuse treatment program was put into a halfway house, people were put in an appropriate place and environment.

Co-Chair Thompson acknowledged Representative Lora Reinbold's presence in the audience.

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Representative Kawasaki asked if the increment for the correctional restitution centers was because the cost of a contract inclusive of other treatments would be higher.

Ms. Wilkerson replied that the funding would add in the additional element of providing the programming, but would not change the current bed rate. There was additional language that would require that measures were taken to not mix the high and low custody offenders. She explained that the risk assessments of the offenders and the mixing of the population would also be addressed.

Representative Kawasaki asked if it would be additional funding for additional support staff to visit facilities to offer the treatment. Alternatively, he asked if it was something they already did or may be able to add on and the money was for an increase in the contract cost.

Ms. Wilkerson replied that it was a combination of both. She detailed that it would go to contract if the contractor could provide the level of programming approved by the department. Otherwise, the department would be providing contract services to go into the community residential centers to provide the services.

Vice-Chair Saddler did not see how it was possible to provide the services for \$3.25 per day per person. He remarked that there were many people who would like to receive substance abuse treatment and if it could be provided for \$3.25 he was interested in learning more about it.

Ms. Wilkerson replied that the cost of care was calculated to get an average; the average was used based on the number of beds. The risk assessments would be a deciding factor on who actually would receive programming. She explained that it could be that not all of the 819 individuals would receive the programming. She elaborated that the cost was fluctuating, but it was an average; it would be a higher rate for an actual individual served.

Representative Edgmon remarked that the committee had recently passed an omnibus healthcare bill (SB 74). He asked if there were any provisions in SB 74 that related to the area the DOC fiscal notes (for SB 91) addressed, specifically in terms of behavioral health.

Ms. Wilkerson responded in the negative. She elaborated that the provisions did not apply to incarcerated individuals, which did include individuals housed in the community residential centers and under probation (only those outside of the facility for more than 24 hours).

Ms. Cunningham relayed that she had helped to prepare the revised fiscal note. She noted that she had tried to fit it into one page, which she believed had been a mistake.

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Ms. Wilkerson addressed a new fiscal impact note from DOC related to the Parole Board [labeled 8 at the top of the packet; OMB Component Number 695]. She explained that the fiscal note was not an increase overall. She expounded that for FY 17, the Parole Board believed it needed five positions and \$775,000, which included the one-time startup cost. Going into FY 18 there was a slight drop down to a contained budget of \$700,900 and the five positions, which continued on. The funding was made up of a couple of different areas. She detailed that there was an anticipation of increased board hearings associated with re-incarcerated individuals. Currently individuals had up to 120 days before appearing before the board again. The changes in the legislation required the number to change to within 15 days; therefore, there was an expectation to increase the number of days the board met. She explained that \$110,000 of the \$700,000 would meet the increased days associated with board members. Additionally, there was an anticipated need for four additional hearing officers, which were currently classified as adult probation officer III positions; the total for the positions and operating needs was \$553,000. The board would also need an additional time accounting officer (criminal justice technician) and operating costs, which totaled \$112,000 per year. She summarized that the combined total would be \$775,000 in the first year [FY 17].

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Representative Kawasaki referred to the previous version of the fiscal note, which addressed the redesign and implementation for the Victim Information Network. He observed that the number was actually in the fiscal note currently before the committee. He asked why the redesign of the system would cost \$775,000.

Ms. Wilkerson answered that the amount had been an error. The fiscal note had been revised and had been submitted earlier that day.

Representative Kawasaki stated that in the fiscal note addressed the total honoraria for members of the Parole Board. He remarked that the board had previously been part-time at 140 work days per year. He observed that the number of work days was increasing to 200 days, which was close to a full-time job. He wondered if there had been any

consideration about changing the board structure to make it easier for people to serve in a part-time capacity.

Ms. Wilkerson replied that she was unaware of the conversations, but she could work with the commissioner and the board executive director and chair, to determine if it could help reduce the cost.

Commissioner Williams elaborated that he and the board director had already had the conversation; the department was looking at the idea to determine how to streamline the board process and to eliminate the need for all board members to travel to meetings. He stated that it may impact some regulation issues. He was looking for savings because the parole issue would be increasing substantially in the bill and would demand developing options for savings. He reiterated that the discussion was already underway.

Representative Kawasaki believed there was an error in the fiscal note. He pointed to the section on discretionary parole, which included language about all inmates over the age of 60. He believed the bill used the age of 55. He believed the approximate number of inmates should be probably higher when accounting for the bill language.

[2:33:17 PM](#)

Representative Wilson commented that she was glad the commissioner was looking at saving money; however, she believed that when victims addressed the Parole Board, they would probably rather talk to people in person. She stated that it was not only about the inmates; it was the victim's chance to voice whether they agreed or disagreed with a potential parole. She asked how much the bill's provision applying to individuals over the age of 55 impacted the fiscal note.

Ms. Wilkerson answered that there were currently only about 112 individuals over the age of 55; however, there were caveats that would prohibit them from actually being released.

Representative Wilson understood that the fiscal note would be fairly substantial. She wondered if the numbers would decrease after adjusting and the system became normalized. Alternatively, she wondered if the number would always be high based on how much quicker the state was trying to get

people through the system, which was the reason for a steady annual cost going forward.

Ms. Wilkerson affirmed that the ongoing cost was due to the timeframe and turnaround.

Vice-Chair Saddler asked if Ms. Wilkerson had stated that there were 112 prisoners who were age 55 or older and who had served at least 10 years. Ms. Wilkerson replied "both." There were 112 prisoners (age 55 or older) who were convicted sex offenders and had met the 10-year requirement.

[2:35:18 PM](#)

Ms. Wilkerson spoke to a new fiscal impact note from DOC [labeled 9 at the top of the packet; OMB Component Number 3121]. The note established the pretrial services within DOC. The department anticipated a cost of \$3.26 million (30 percent of the total funding) and 29 positions in the first year. There were three parts of the pretrial services including assessment, basic supervision (including monitoring and regular drug testing), and enhanced supervision. The overall anticipated cost once fully implemented would be approximately 80 positions to operate the service and a total of approximately \$10.2 million for the department to supervise the population.

Representative Wilson stated that she had the most concerns about the pretrial fiscal note. She asked whether the department currently did any kind of assessment.

Ms. Wilkerson replied that the department currently did assessments upon sentencing; individuals sentenced to incarceration of 30 days or more received an assessment. The assessment related to pretrial was a much shorter version than any of the department's current assessments. She detailed that it was a non-contact assessment with a review of the offender's criminal history and a gathering of just enough information to provide a recommendation to the judge.

Representative Wilson asked if it could be a computer generated program where a person answered questions electronically and an individual later reviewed the answers.

Ms. Wilkerson deferred the question to Commissioner Williams.

Commissioner Williams responded that he had not seen any program that just did it automatically because it was data that someone would have to enter online. He stated that most of the data would be online in terms of criminal record issues and related information. He stated that as time passed there was an expectation that the department would get better at determining how to gather the data. He believed it would require people to do the assessment; he did not know of any way of automating that portion of the process. He relayed that there were other states that continued to do better - he was looking to the least amount of people who could do the job. He still believed it would require individuals to do the work.

[2:38:50 PM](#)

Representative Wilson asked if there was a way to only do one assessment - there was already an assessment upon sentencing - instead of multiple assessments that required hiring new people. She understood that they were two different areas [pretrial and upon sentencing].

Commissioner Williams replied that the assessments were dramatically different in scope. The pretrial risk assessment would be very straight forward and simple; however the assessment done upon sentencing was much more extensive and dealt with needs issues. The pretrial assessment was done at the frontend without doing interviews of people charged with crimes. There may be some way of rolling the two together, but it was real work in terms of doing the assessment. He believed the process could possibly be centralized. The reason the department was given time to do the work was to ensure it had the most sensible and efficient plan possible. He added that it would still require personnel.

Representative Wilson asked for verification that everyone (including individuals who could afford bail) would go through the pretrial assessment. She mentioned basic and enhanced supervision and asked if there may be a way for individuals who could afford to pay for the supervision, to pay for the service. She asked if other states had required those pretrial individuals who could afford to pay, to pay

for the service - like they would for electronic monitoring.

Commissioner Williams replied that the entire strategy was to deal with the whole bail problem; to try to get away from the situation where individuals who could afford bail were released from prison, but poor individuals remained in prison. The goal had been to "turn that ship rather dramatically." The idea was that regardless of a person's ability to pay bail, the department would do an assessment to determine whether the person would make the next court appearance and what kind of risk the person represented to DOC. He stated that if a person had money it should not matter; the judge should have more objective standards. He referred to data showing that the area had grown dramatically - there were hundreds to thousands of people in prison at present awaiting trial. He stressed that some of those individuals should absolutely be in jail, but there were others where that may not be the case. He continued that if the individuals could be identified it was much less expensive to keep them out of jail and to prevent them from mixing with more serious criminals. It was a dramatic change that moved away from bail being the driving factor.

Representative Wilson agreed with Commissioner Williams's statements and was glad there would be an avenue for individuals who could not afford bail. However, some people could afford to pay for the supervision. She wanted to ensure the state was looking into individuals who could afford the supervision. For example, if DOC determined a person was at a medium risk and they would have paid to get out on bail, she wanted to make sure that the individual may have to pay for supervision (just like a person who chose to pay for electronic monitoring). She stressed that the fiscal note would grow from \$3 million [FY 17] to \$10 million [FY 18]. She wanted to ensure that there was way for individuals to pay if they could afford it.

[2:43:54 PM](#)

Representative Kawasaki spoke to the risk assessment tool that would be used to determine whether a [pretrial] person should be let out of jail or not. He asked if the department would still impose bail if an individual could pay.

Commissioner Williams believed that the judge would still have discretion about the issue of bail. He elaborated that it would give the courts a much more objectified tool to help the judiciary decide what should happen. He deferred the question to Nancy Meade, General Counsel, Alaska Court System for further detail.

Representative Kawasaki remarked that the fiscal note mentioned the establishment of regional offices in Anchorage, Juneau, and Palmer. He asked why the specific locations had been selected.

Ms. Wilkerson replied that the regions had been selected based on the judicial branches that the regions currently covered. The department was continuing to look at the locations to determine whether they were the most appropriate.

Representative Kawasaki pointed to the 29 full-time positions [under FY 17]. He believed it would be an 80-position fiscal note in subsequent years. He wondered why the fiscal note included an asterisk in the columns for subsequent fiscal years.

Co-Chair Thompson noted that the number was indeterminate in those years.

Representative Kawasaki reasoned that the text of the fiscal note did indicate that the full program would be 80 full-time positions, which was reflected in the \$10.1 million request.

Vice-Chair Saddler was also trying to reconcile the issue. He referred to the backup pages of the fiscal note that indicated there would be 80 full-time positions or 49 positions without enhanced supervision. He asked for verification that more people would be hired, but the precise number was not yet known.

Ms. Wilkerson replied in the affirmative. She pointed to the last statement on page 4 of the fiscal note, which indicated that going into FY 18, DOC anticipated that additional positions needed would be offset any increase up to 80 by adjusting the positions from the facility out to the pretrial.

Co-Chair Thompson pointed to page 2 of the fiscal note and expressed amazement at the 32,000 offender assessments processed annually, which were required within a 24-hour period.

[2:47:19 PM](#)

Ms. Wilkerson spoke to a new fiscal impact note from the House Finance Committee for DOC [labeled 10 at the top of the packet; OMB Component Number 2974]. She detailed that the note increased the current substance abuse treatment programming within the institutions by \$700,000 in FY 17 and an additional \$300,000 beginning in FY 18. The total annual cost beginning in FY 18 would be \$1 million through FY 22. The goal was to provide treatment services to more of the incarcerated population.

Co-Chair Thompson asked for verification that the funding source was recidivism reduction money. Ms. Wilkerson replied in the affirmative. She detailed that the funding source was marijuana and alcohol tax.

Representative Guttenberg stated that the legislation stipulated that 50 percent of the marijuana tax went to the recidivism reduction fund. He remarked that the tax revenue was not currently known. He noted that he had an amendment that would increase the percentage. He stated that the list of items to fund with recidivism reduction revenue included substance abuse and alcohol treatment. He asked if the fund source could only be used in the recidivism reduction program or in treatment programs for individuals who were not in the program.

Ms. Wilkerson replied that the language in the most recent version of the bill allowed the funding to go to DOC behavioral health; funds were designated to the department specifically for substance abuse treatment programming.

[2:50:03 PM](#)

Representative Guttenberg asked for verification that the funds could not be used for on treatment services for people outside of the correctional system. Ms. Wilkerson replied in the affirmative.

Representative Kawasaki observed that incarcerated mental health and medical health had been an increasing number. He

asked how much the state currently spent on the behavioral health budget related to the inmate population. Ms. Wilkerson answered that the current DOC behavioral health budget for FY 17 was \$8.36 million.

Representative Kawasaki remarked that the fiscal note included a substantial increase, which he believed was well warranted.

Vice-Chair Saddler asked the fiscal note for institutional substance abuse treatment programs included correctional restitution centers. Ms. Wilkerson answered that the fiscal note only pertained to correctional institutions and did not include community residential centers.

Vice-Chair Saddler asked for a brief outline of the number of programs in the DOC institutions. Ms. Wilkerson responded that in FY 15 there had been just over 600 inmates who completed the short-term Life Success Substance Abuse Treatment (LSSAT) and just over 150 who had completed the long-term Residential Substance Abuse Treatment (RSAT) program within a correctional center.

[2:52:45 PM](#)

Co-Chair Thompson moved on to fiscal notes from the Department of Health and Social Services (DHSS). He asked the department to address the committee.

DIANE CASTO, BEHAVIORAL HEALTH POLICY ADVISOR, DIVISION OF BEHAVIOR HEALTH, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, spoke to a previously published fiscal impact note FN25 from the DHSS, Division of Behavioral Health [labeled 11 at the top of the packet; OMB Component Number 3099] and a previously published fiscal impact note FN 28 from DHSS, Medicaid Services [labeled 14 at the top of the packet; OMB Component Number 2660]. She explained that the two fiscal notes were tied to the same activities; one note used Medicaid funding and the other used the recidivism reduction fund. She explained that the fiscal notes funded reentry community work, particularly with the Partners Reentry Center in Anchorage; the four community reentry coalitions in Fairbanks, Anchorage, Juneau, and Mat-Su; and four developing community reentry coalitions in Dillingham, Nome, Bethel, and Kenai. She remarked that the second page of the fiscal notes were the same and listed the types of reentry services. She noted that the previous day DHSS had

spoken to the committee about how the center was working to get direct referrals from DOC institutions as individuals were released; the reentry center helped individuals to find jobs and housing, receive training, and get referrals for treatment and services. She relayed that the coalitions were still in a more grass roots development stage; four of the centers were currently doing assessments of the capacity in their communities and would then work to develop the capacity and to start developing a reentry center in each of the communities. The reentry centers would provide services and good referral to the community service system.

Ms. Casto outlined that FN25 [also labeled 11 at the top of the page] used money from the recidivism reduction fund and included \$1 million in FY 17 to provide funding for the Partners Reentry Center in Anchorage, four coalitions currently funded with startup money from the Alaska Mental Health Trust Authority, and startup funds for the four new reentry centers. She noted that the department would be happy to work with other communities if they began developing reentry centers. The cost increased to \$2 million in FY 18 and \$1.625 million in FY 19 through FY 22. She explained that in FY 19 through FY 22 the amount of recidivism reduction funding was reduced; \$375,000 in FY 14 recidivism reduction funding to leverage an additional \$1.25 million in federal Medicaid matching funds. She explained that in the outlying years as Medicaid reform took effect, DHSS would leverage the money to provide additional funding at the community level. There were also a couple of other things that would help broaden the ability of communities to provide the services.

[2:58:56 PM](#)

Ms. Casto elaborated that the changes in behavioral health reform and a possible 1115 waiver would potentially enable the department to increase the kind of services it could bill for Medicaid such as transitional housing, case management, and peer support services. Another thing that would help DHSS broaden its ability to maximize the funds was the change anticipated to remove the current regulation enabling a provider to only bill Medicaid if they had a behavioral health grant. She expounded that the regulation change would open Medicaid billing up to private providers and other nonprofits without grants. The combined annual

funding from the two fiscal notes in FY 19 through FY 22 was \$3.125 million.

Vice-Chair Saddler asked for verification that the reentry centers were not the same as correctional restitution centers. Ms. Casto answered in the affirmative. She detailed that the reentry coalition centers were a community based program to support individuals released from the correctional system. She added that hopefully more reentry centers would be developed.

Vice-Chair Saddler pointed to page two of FN28 [also labeled 14 at the top of the page] that specified there was currently only one reentry center operating in Alaska. He asked if it was the pathways center.

Ms. Casto replied that it was the Partners Reentry Center, which was part of Partners for Progress in Anchorage.

Representative Wilson asked about the current amount in the Recidivism Reduction Fund. Ms. Casto believed there was currently zero money in the fund - the fund source was marijuana tax, which had not yet begun.

Representative Wilson thought she had heard Ms. Casto say that AMHTA would initially provide funding because there was zero money in the fund at present.

Ms. Casto replied that there were currently four coalitions in Anchorage, Fairbanks, Mat-Su, and Juneau. The coalitions had been in a grass roots process for a while; for the current year, AMHTA in partnership with DOC had provided a \$100,000 grant to hire a coordinator. One of stipulations of the money was the requirement to conduct a thorough community assessment of the services, gaps, needs, number of anticipated clients, and other. The department's hope was to expand the funding in the following year and to expand funds to the other four developing coalitions.

[3:03:11 PM](#)

Representative Wilson remarked that about \$6.336 million in the two fiscal notes was based on the recidivism reduction fund that currently contained zero funding. She asked if someone was going to provide the committee with the anticipated tax revenue from marijuana. She stated that the

entire fiscal notes were based on a fund that contained no money.

Ms. Cunningham answered that SB 91 created the recidivism reduction fund; marijuana tax revenue estimates were based on the Revenue Sources Book from the Department of Revenue. She noted that the initial range had been from \$3 million to \$30 million. She believed the revenue book included a figure of \$12 million. She explained that the fiscal notes utilized \$3 million in FY 17; there was an anticipation of \$6 million in tax revenue to be collected in FY 17.

Representative Wilson asked what would happen if the state did not bring in enough revenue from marijuana sales. She remarked that there were background checks required in the bill. She noted it looked like there would be \$3 million in General Funds. She requested follow up on the question. She believed it was sorrowful that the entire system would depend on how profitable marijuana would be.

Representative Kawasaki asked if the reentry coalitions were 501(c)3 organizations. Ms. Casto answered that some were. She elaborated that most frequently community coalitions were grassroots organizations; they were initially not organized in any way other than a group of passionate people who wanted to create change. She believed that one of the existing four coalitions was a 501(c)3, the other three had a coalition member serving as a fiscal agent to collect the grant money from AMHTA. She expounded that if the coalitions chose to become a reentry center they would have to become a nonprofit. In many cases, the coalition may stay as a more grassroots organization and may work to establish a separate reentry center for the community.

Representative Kawasaki commented that the Tanana Chiefs Conference had talked about starting a reentry style coalition in Fairbanks. He asked if the organization would have the ability to take advantage of grant funds through DHSS under the bill.

Ms. Casto answered in the affirmative. The intent was to help people develop the centers where needed and as needed. She added that with limited funds DHSS would have to manage what it would look like. She elaborated that the department did not see itself providing 100 percent funding for the reentry centers or the coalitions; the department would

provide funding to help the entities move forward. She continued that if people became Medicaid eligible, the services could be billed. Some of the services provided by the Anchorage center such as case management would be able to be billed down the road - they currently could not be billed.

Representative Kawasaki surmised that DHSS would act as a simple granting agency. He commented that the cost would be up to \$3.125 million by FY 20. He asked if the department anticipated taking any of the funds or if they would all pass through to agencies approved by the department.

Ms. Casto answered that the funds would all pass through to the agencies and work would be done with department existing staff.

[3:08:46 PM](#)

Ms. Casto addressed a previously published fiscal impact note FN26 from the Division of Behavioral Health [labeled 12 at the top of the packet; OMB Component Number 305]. The fiscal note pertained to changes in the bill related to the current Alcohol Safety Action Program (ASAP). She referred to Sections 152 and 153 of the legislation that included a slight change and increased definition to who would go into ASAP. Currently the program was available to anyone specified by the courts for any alcohol related incidents. She continued that it was offered to a wide range of individuals with various levels of risk or need for services. The plan for ASAP was to narrow the definitions of who specifically would be referred to the program. Additionally, there would be a more prescriptive process for assessment, referral to services, and monitoring. The funds would go towards ensuring there was a quality assessment tool; the department was looking at the Level of Services Inventory - Revised (LSIR) screening version. The department would use the funds to purchase the screening tool materials and conduct training with Anchorage staff and the other 12 offices in communities and rural areas. Funding would also go towards keeping staff up to speed on how to use and implement training. The department currently used the LSIR (not the screening version) and had a good working relationship with DOC and its LSIR trainers; DHSS was hoping to continue partnering with DOC to receive training assistance for DHSS staff around the state. The cost was \$30,300 for FY 17 and \$29,200 in FY 18 through FY

22 to account for staff turnover and keeping staff up to speed on the screening tool.

TONY PIPER, PROGRAM MANAGER, ALCOHOL SAFETY ACTION PROGRAM, DEPARTMENT OF HEALTH AND SOCIAL SERVICES (via teleconference), added that the department would purchase manuals in the first year; the fiscal note decreased after FY 17 because the manuals would be a one-time purchase. Other costs would go towards minimal training and the purchase of the tool itself, which was copywrited.

Vice-Chair Saddler spoke to Sections 151 through 153 of the legislation. He asked how the requirements for who had to submit to the ASAP test changed under the sections.

Ms. Casto deferred the question to Mr. Piper.

Mr. Piper replied that the change would eliminate some of the people being charged with crimes other than those that were statutorily required (i.e. minor consuming, DUI offenders, and certain drug offenders that had to do with licensing). The bill specified very specific charges as opposed to merely anything that was alcohol or drug related misdemeanors at one point. He spoke to changes that would take place in the office. He explained that in the past the office had only screened for substance use; the bill specified that the office would conduct a full risk assessment screening to determine the risk of re-offense for participants and would monitor participants to ensure they followed through with mandated court requirements.

Vice-Chair Saddler asked for verification that fewer tests would be conducted, but the tests would be more thorough and targeted to individuals specifically charged with drug or alcohol related charges.

[3:15:11 PM](#)

Mr. Piper replied in the affirmative.

MATT DAVIDSON, PROGRAM COORDINATOR, DIVISION OF JUVENILE JUSTICE, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, addressed previously published zero fiscal note FN27 for the Division of Juvenile Justice [labeled 13 at the top of the packet; OMB Component Number 2134]. He relayed that the commission [Alaska Criminal Justice Commission] did not really consider impacts on juvenile offenders; therefore,

the division had been monitoring the bill to look at the minimal impacts the provisions had. He stated that juveniles were not the focus of the commission's work and the legislature did not instruct them to look at juvenile offenders. He addressed the few minor programmatic impacts the bill had on juveniles. The changes in the felony monetary levels for property crimes effected juvenile offenders. He considered a scenario where a juvenile committed a felony level property crime. He explained that the bill did change how the division would handle the juvenile - it handled juvenile offenders based on their risk and need rather than merely by the level of the offence. The second impact was related to the reduction of a handful of misdemeanors into violations. Statute gave authority over criminal offences - if a minor committed a criminal offense, under the bill it would be decreased to a violation. The cases would no longer be handled directly by the courts, but would become citations where the individual would pay a fine to the court and would no longer be in the division's jurisdiction. He relayed that it had no impact on the division, primarily because the offences (e.g. gambling, dog fighting, and other) were rarely referred to the division.

Mr. Davidson discussed that the third provision was related a change from prostitution to a person being a victim of sex trafficking. The division saw very few prostitution referrals from law enforcement; when the division did see the referrals it referred the youth as victims. He noted that the individuals often came in on other charges and happened to be working the sex trade. The division tried to get the individuals services outside of the division and it was very rare that youths were adjudicated for prostitution. He concluded that the division believed it could handle the impacts within its current budget.

[3:18:07 PM](#)

Co-Chair Thompson moved on to a fiscal note from the Department of Law (DOL).

JOHN SKIDMORE, DIRECTOR, CRIMINAL DIVISION, DEPARTMENT OF LAW (via teleconference), spoke to a new zero fiscal note from the DOL Criminal Division [labeled 15 at the top of the packet; OMB Component Number 2202]. He relayed that the division had previously submitted an indeterminate fiscal note when the bill had been in the other body and it had

been changed to a zero note by the Senate Finance Committee. He spoke to the difficulty of providing an exact number; there were some areas the Criminal Division anticipated additional work and other areas where it anticipated a reduction in work. He furthered that while the division anticipated an increase and reduction in different areas, it was difficult to quantify the items and come up with a precise number. The department would attempt to absorb any of the costs associated with the bill.

Mr. Skidmore addressed sentence lengths. He explained that in felony cases there were additional procedural requirements including requirements for a grand jury and sentencing components involving aggravators or misdemeanors. He elaborated that there were pleadings that had to be filed and a pre-sentence report, which was generally prepared; therefore, the sentencings tended to be more involved and could include additional litigation. He discussed that when certain crimes were reduced from felonies to misdemeanors (e.g. the increase in the felony property thresholds as well as reducing all controlled substances to misdemeanors) it reduced the amount of work that needed to be done. However, in misdemeanor cases it used to be that DOL did not have to present aggravators or mitigators; SB 91 required the department to file notice of aggravators and to potentially present some of the aggravators to a jury. The department could not anticipate how much of that would occur. He reiterated that DOL would attempt to absorb the costs.

Mr. Skidmore spoke to bail reform. The bill contained dramatic changes to the way bail was conducted. He detailed that more individuals should be released automatically on bail and it would hopefully reduce the number of hearings. However, the bill also contained a new requirement that was very different from current law related to a person's ability or inability to post bail. Under current law the courts were not allowed to consider the person's ability to post bail; however, under the bill the courts would be required to consider it for a second bail hearing if a person was unable to post bail. The department could not anticipate how many additional or fewer hearings the change may result in. The bill also shifted to a risk assessment method. He emphasized that DOL was very supportive of using risk assessments, but because the assessments had yet to be developed, DOL did not know what they would look like and what litigation may result from a new method of determining

bail. He relayed that bail statutes had been changed several years ago and as a result of the changes there had been litigation. History showed that when changes were made there was often initial litigation and then it tended to die down.

Mr. Skidmore moved to page 3 of the fiscal note pertaining to other changes SB 91 made in the law. He reiterated that DOL did not anticipate a fiscal impact related to the changes; however, any time there were changes there could be unintended consequences or results. He restated that the fiscal note was zero and DOL would attempt to absorb any additional costs.

[3:24:12 PM](#)

Representative Kawasaki referred to language in the fiscal note related to an increased workload to prove aggravators and mitigators and from the ability to have a second bail hearing. He remarked that DOL had submitted a zero fiscal note; however, he reasoned that there was work attached to the bill that the department would try to absorb or that DOL may need funding for in future years.

Mr. Skidmore explained why the zero fiscal note had been submitted. He relayed that it was difficult because DOL anticipated additional work, but it did not know how much work. He emphasized that the department also knew there would be some reductions. He could not predict what the offset would be or whether there would be an overall increase. He noted that the department had originally submitted an indeterminate fiscal note because it was not sure of the impact the bill would have.

Co-Chair Thompson moved to the fiscal note from the Department of Public Safety (DPS).

KELLY HOWELL, DIRECTOR, DIVISION OF ADMINISTRATIVE SERVICES, DEPARTMENT OF PUBLIC SAFETY (via teleconference), spoke to the previously published zero fiscal note FN30 for DPS [labeled 16 at the top of the packet; OMB Component Number 2325]. She relayed that the Division of Alaska State Troopers did not initially foresee any direct fiscal impacts from SB 91 and had submitted a zero fiscal note.

[3:26:55 PM](#)

Representative Kawasaki discussed that there was a halfway house in Fairbanks that could not seem to keep residents in. He noted that on a dozen occasions in the past year state troopers had to locate the individuals who had gotten out of the facility. He asked if it was a potential impact if the restitution centers would be growing.

GARY FOLGER, COMMISSIONER, DEPARTMENT OF PUBLIC SAFETY (via teleconference), replied that he was very familiar with the situation. The department was very hopeful that electronic monitoring would address some of the issues.

LAUREE MORTON, EXECUTIVE DIRECTOR, COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT, DEPARTMENT OF PUBLIC SAFETY, spoke to the previously published fiscal impact note FN31 from the Council on Domestic Violence and Sexual Assault (CDVSA) [labeled 17 at the top of the packet; OMB Component Number 521]. The fiscal note was primarily related to crime prevention services. She referred to Section 195 of the legislation (pages 118 and 119) added uncodified language requiring CDVSA to expand or create violence prevention and victims' service programming. The language was in direct response to the victims' service roundtables she had spoken about the prior day with the committee and the impact and influence they had in the commission's [Alaska Criminal Justice Commission] overall report adding recommendation 21 to address victim services and in some of its priorities. She elaborated that the fiscal note had initially been \$2.5 million, but there had been necessity to reduce it to \$1 million. The council wanted to keep the same compliment of services, but it would restrict the manner in which it was able to have the services begin going out into communities. She elaborated that there would be fewer communities with Green Dot, Girls on the Run, Coaching Boys into Men, and other. She explained that the council wanted to keep the full compliment. She relayed that the council believed it was very important to continue comprehensive ways in which communities could influence their individual citizens, groups, and the community as a whole. The council supported community readiness efforts to build prevention plans and would look at Green Dot going into more communities. She spoke to the importance of evaluating what was working in order to know that a service was evidence-based and to "course correct" if something was not working early on. In FY 20 cost in the services line of the fiscal note increased in order for CDVSA to have its 10-year lookback with the Alaska Victimization Survey, where the council

hoped to see diminishing domestic violence and sexual assault in Alaska and to be progressing in proving that the primary prevention efforts were working.

[3:31:13 PM](#)

Vice-Chair Saddler pointed to page 2 of the fiscal note and asked about the goals of the program Lead On for Peace and Equality.

Ms. Morton replied that Lead On for Peace and Equality was a three-day statewide conference that was youth led and adult supported. She explained that youth leaders from across the state applied to attend. The leaders crafted ways to be initiators in their communities for various activities and programming to lead to peaceful communities. At the end of the conference the youths had projects and plans to implement in their communities. There was a small program using mini-grants for youth leaders to apply for \$2,500 to help implement some of the projects. Throughout the year there were various teleconferences or webinars to stay connected and to come up with ways to build community leadership.

Vice-Chair Saddler asked if the program focused on personal or national relationships. Ms. Morton answered that the focus was on personal and community relationships. She detailed that it applied to domestic violence, sexual assault, suicide prevention, substance abuse prevention, and other. The program represented ways for youths to help their community blend to be healthy and respectful to one another.

[3:33:16 PM](#)

Representative Gara asked if the fiscal note included money for better intervention. Ms. Morton answered in the negative.

Representative Gara noted that there had been a cut to the Girls on the Run and Coaching Boys into Men. He asked for verification that the \$1 million request for FY 17 reflected the understanding that a cut had been made and was accurate.

Ms. Morton responded that in FY 15 the CDVSA had allocated \$2.75 million to prevention activities including the Alaska

Victimization Survey. The amount had been reduced for FY 16 through the operating budget process to a little under \$500,000. In FY 17 there were no funds in the operating budget for any prevention activities. The council had 9 staff, but the number had been reduced by three in FY 17. She noted that the council had been expecting a cut of two positions including an office assistant and program coordinator; however, it had not been expecting to lose the third position, which would be difficult. The \$1 million had been derived from the realization in the Senate that - the desire to show more of a savings than a recognition that those savings could be reinvested into the programming; therefore, the council had adjusted down its fiscal note accordingly. She detailed that from FY 15 at \$2.7 million the council was down in FY 17 to \$1 million for the same activities. She added that the funding did allow the council to continue.

[3:35:46 PM](#)

Representative Munoz asked how much of the \$2 million in FY 18 and would go directly to the community programs mentioned by Ms. Morton. Ms. Morton answered that \$1.6 million for grants that would go directly to communities.

Representative Munoz asked how the remaining \$400,000 would be used. Ms. Morton replied that \$50,000 would go to travel (approximately \$5,000 for staff and \$45,000 for community members; it was a cost savings to consolidate the travel arranged in the council's office), \$50,000 for commodities (it was more efficient for CDVSA to produce materials to send out instead of each individual program purchasing their own materials), and \$300,000 in contracted services (for joint activities between communities and work with independent evaluators working directly with the communities on the different parts of their projects and activities).

Representative Edgmon discussed that the DPS budget subcommittee had made the difficult decision to reduce the council's staff from nine to six. He asked for verification that the fiscal note assumed the work would be done by the reduced staff. Ms. Morton replied in the affirmative.

Co-Chair Thompson noted that Representative Liz Vasquez was present in the room. He moved on to fiscal notes from the Alaska Court System.

NANCY MEADE, GENERAL COUNSEL, ALASKA COURT SYSTEM, spoke to the previously published zero fiscal note FN32 from the Alaska Court System [labeled 18 at the top of the packet; OMB Component Number 768]. She relayed that the earlier testimony from DOL and the Public Defender Agency reflected the court system's thinking as well. She detailed that the bill would likely result in additional work and hearings in some areas and hopefully less work and fewer hearings in other areas. She remarked on earlier testimony that changes to the bail statute were comprehensive. She elaborated that the courts anticipated more defendants asking for a bail review hearing because the inability to pay was grounds to receive another hearing. Changes to the bail statute would include significant work upfront to coordinate and interface with the DOC Pretrial Services Office; there would be 32,000 reports on arrested individuals and somehow getting the reports to the court within 24 hours. She anticipated that the court system would be working hard within the next 18 months; it was not something with a fiscal impact per se - the department would not hire someone to do the work, but administrative staff would be working hours with DOC to make the coordination work well. The department would need to use its information services staff to establish email accounts to send the reports to or a web interface. She explained that the bill did impact the department's workload, but not in a way that would require additional resources.

Ms. Mead addressed changes to the probation provisions. She discussed that people could get a probation termination hearing, which the department expected to increase. Changes in the types of violations that could lead to a petition to revoke probation (PTRP) could increase the number of PTRPs, which would lead to an increased workload for the department. The change in the misdemeanor law so that aggravators and mitigators may be proven, would likely lead to more hearings or trials that may lead a person to conclude that the misdemeanor should be aggravated or mitigated. On the other hand, some felonies were becoming misdemeanors and it was generally less work to process a misdemeanor. Additionally, some misdemeanors would become violations, which was also generally less work. She added that violations did involve a court appearance, but it was still typically less work than a misdemeanor. She discussed that whenever there was a comprehensive change in laws like

the one at hand, there was the probability that many of the provisions would be litigated and lead to several appellate cases; until the vagaries were ironed out, it would increase workload. There were a couple of provisions in the bill such as the change to the credit for time served parameters and what the judge could consider in order to grant it, which she believed would lead to many more Nygren or 027 hearings [Nygren v. State and AS 12.55.027 respectively], which would also lead to an increase in workload until ironed out and more established in the law.

Ms. Mead relayed that changes to the limited license provisions may or may not result in additional hearings depending on the outcome. Overall, the court system believed the changes would be a wash and would be something the department could absorb without asking for additional resources.

Representative Wilson spoke to the treatment portion of the bill and asked why the department believed there would be more hearings.

Ms. Mead replied that Representative Wilson was speaking to changes to AS 12.55.027 (credit for time served spent in a treatment program). Currently the statute set out strict guidelines for what a program had to entail in order for the judge to grant the credit. She furthered that if the program had three certain characteristics the judge granted the credit for time spent in the treatment program. The change made by the previous committee removed the definite strict constraints and ability to look at a program to know if it complied. She detailed that the change had been made specifying that a judge was to consider 10 factors in deciding whether to grant credit for time served. Factors included things like whether a program was residential or not and the extent to which electronic monitoring was used; the specifications were more vague and less well defined. She relayed that when things were vague there was room for argument about what was going on with a treatment program. Currently the judge, defense attorney, and prosecutor all knew in different communities which treatment programs fit the parameters of the statute; therefore, the hearings to receive credit did not take significant time. With new and vague parameters people would argue about whether a program did or did not fit the statute, which was the reason she anticipated seeing more hearings.

Representative Wilson asked if Ms. Mead thought that as time passed that there would be less argument as it would become defined as more people used programs that may not currently fall under the specific provisions.

Ms. Mead responded when the court determined whether a program qualified under the statute, the court made no determination about the effectiveness of the treatment. She detailed that the credit was day-for-day; if the program had certain characteristics the person received day-to-day treatment. The court did not consider whether a person achieved sobriety or was any way rehabilitated.

Representative Wilson thought that was not good. She spoke to numerous discussions throughout session related to issues with behavioral health. She asked if it was possible that adding the broader language could enable the use of more programs that were not full. She remarked that treatment programs in the state were full; therefore, people did not have access to treatment. She believed it was the hope that there were other good programs that people may not currently be taking advantage of because they could not receive credit for those specific programs. She asked if the good outcomes outweighed the possibility of additional hearings.

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Ms. Mead answered that it was a question for the legislature. She had discussed her concerns about increased hearings with the maker of the amendment and his hope was that more programs would qualify. She did not know if it was the case or not, but it was a policy call for the legislature.

Representative Wilson contemplated which departments would report back to the legislature in the future on things that were going well or going poorly as a result of the legislation. She did not realize that a person's success in a treatment program was not factored into the court's decision to grant credit.

Co-Chair Neuman relayed that he had worked on a recidivism reduction plan with Ms. Mead. During that time AMHTA had contributed money to create a database/library built within the University of Alaska system that would track what type of treatment programs were used, how they were used, and

which were effective. He stated that what may be effective in one region of the state may not work in another area. He agreed that they needed the ability to know where and how the state was spending its money, which was the reason for the creation of the library (in order to prevent wasting funds for treatment).

Representative Gara remarked that there was a hesitance by the committee to change fiscal notes on a bill that it wanted to pass. He discussed that the court system offered therapeutic and alternative courts in cases like the one under discussion.

Ms. Mead affirmed that the court system did offer therapeutic court.

Representative Gara stated that the legislature had always been told that the court was below capacity to address as many individuals as it would like. He asked if the bill would result in providing more or less offenders with access to the therapeutic courts.

Ms. Mead replied that therapeutic courts was probably the only court that had been evaluated for effectiveness through a Judicial Council study. The study had determined the program to be effective (not 100 percent, but the effectiveness was very positive for graduates of the program). The bill did not touch therapeutic courts with the exception of the limited license provision specifying that a person could apply for a limited license if they had been through a therapeutic court. The court hoped that it may be an incentive or motivate more people to enroll in the program. The state could use more people who want to go through the program; there were openings in most of the courts. She elaborated that there were not openings in Fairbanks, but it was a very good balance - there were not openings, but there was not a wait list. She relayed that the remainder of the state could use more people who were motivated to go through the courts. She addressed that the 18-month programs were difficult. For example, when people faced 4 months in jail or 18 months in therapeutic court, many chose not to go through the court. She detailed that the program was grueling and started off with meetings five days per week, which tapered as time went on. She communicated that the court system was anxious to get more people into therapeutic courts. The only part of the bill that may increase the number was the limited license

provision. Additionally, the Pretrial Service Office was generally charged with recommending to the court whether the person would be a good candidate for diversion programs, which could include therapeutic court. She surmised that perhaps raising the awareness that a person may be a good candidate could be helpful.

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Representative Gara remarked that like the Public Defender Agency and others, the courts had only had a certain number of statutory judges. He reasoned that with the zero fiscal note, the department would absorb the work within the current number of judges.

Ms. Mead replied in the affirmative. She explained that with many bills that entailed an increased workload, the department could not say it needed another judge. She furthered that a judge sat in one location and the increased workload would be spread across all of the judges. The department tried to submit very credible fiscal notes and usually specified that it could absorb the work, which was the case at present. She did believe it would be more work for individual judges, which would impact the justice system, but additional resources were not needed to implement the bill.

Representative Gara spoke to the reforms on Medicaid that leveraged extra behavioral health grants including drug and alcohol treatment. He asked if more prisoners would qualify for the grants that would allow the court system to expand the use of therapeutic courts if necessary.

Ms. Mead answered that therapeutic courts happened independently of prison and instead of prison in almost every situation. She detailed that a person pled guilty and went into the program with the consent of the district attorney, judge, and many others; it did not touch the prison system in most cases to her knowledge.

Representative Gara could not remember if being a prisoner disqualified a person from some Medicaid services. He asked if there would be more behavioral health funds through Medicaid for the population who may want to utilize the therapeutic court program.

Ms. Mead answered that she did not know; however, money was not an obstacle for people in therapeutic courts.

Representative Munoz remarked that the fiscal note specified that workload would balance out - there would be more hearings in some cases and perhaps less in others. However, the courts would face half-day closures in the coming year and mandatory furloughs. She asked if the department had analyzed how the changes and the increased workload would impact its budget.

Ms. Mead replied that it was very speculative what would happen under the bill. The court could anticipate that more hearings in some areas were likely, but it had not analyzed where the increase would take place and how it would be handled. She relayed that the department was down 50 employees and the clerks' offices were very busy. However, one bill did not justify the court to hire six clerks across the state because the impact was currently not known.

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SUSANNE DI PIETRO, ALASKA JUDICIAL COUNCIL (via teleconference), spoke to the previously published fiscal impact note FN33 from the Alaska Judicial Council [labeled 19 at the top of the packet; OMB Component Number 771]. The costs specified in the note were in connection to the council's responsibility to staff the work of the Alaska Criminal Justice Commission. The work was currently underway, and the note represented a continuation of funding provided to staff the commission to date. The note included a small increase to reflect additional duties that would fall to the commission. She explained that the bill would extend the commission to June 2021. The bill asked the commission to make annual recommendations to the legislature and governor on how savings from criminal justice reform should be reinvested to reduce recidivism. Additionally, the commission would collect and analyze data collected by criminal justice agencies (including the court system, DOC, and DPS) on recidivism and other factors that would enable the commission to tell the legislature what effect the changes in the law were having on the criminal justice system. In its report, the commission would include a summary of savings and recommendations on how savings from criminal justice reform should be reinvested to reduce recidivism; it would also report on performance metrics and

outcomes of the recommendations the commission made in its December 2015 report, which were essentially the provisions of SB 91. The information would include the percentage of inmates who return to prison three years after release (broken down by offence type and risk level) and recommendations for any additional reforms. If it was determined that the provisions of SB 91 were not sufficient or needed adjusting, the commission would come back to the legislature with recommendations.

Ms. Di Pietro discussed that the commission was also tasked with cooperating with DHSS in its efforts to increase access to evidence based rehabilitation and reentry services. Lastly, the commission was required to provide four additional reports to the legislature: driving while intoxicated, restitution, social impact bonds, and sexual offences. The fiscal note continued the commission's staffing; it would increase the one attorney position from part-time to full-time to reflect the additional work. Additionally, the note increased a research staff position from 20 hours per week up to 29 hours per week due to the significant increase in data collection and analysis. The note also included 7.5 hours per week of additional administrative support; the original note had not included administrative support for the commission and the Judicial Council had absorbed the work without funding, which the council had determined was a mistake - it needed a bit extra to help the commission get organized and do its work.

[4:00:30 PM](#)

Co-Chair Thompson moved to the fiscal note from the Department of Administration.

MICHELE MICHAUD, CHIEF HEALTH OFFICER, DIVISION OF RETIREMENT AND BENEFITS, DEPARTMENT OF ADMINISTRATION, addressed a new fiscal impact note from the Division of Retirement and Benefits [labeled 20 at the top of the packet; OMB Component Number 2866]. The note pertained to Sections 161 to 172 of the legislation, which closed a gap in coverage and provided system paid major medical to the survivors of peace officers and firefighters killed in the line of duty. The cost began in FY 17 at approximately \$174,000 and increased to \$226,000 in FY 22.

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

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

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ADJOURNMENT

4:02:45 PM

The meeting was adjourned at 4:02 p.m.