

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 21, 2016

1:06 p.m.

MEMBERS PRESENT

Representative Gabrielle LeDoux, Chair
Representative Wes Keller, Vice Chair
Representative Bob Lynn
Representative Charisse Millett
Representative Matt Claman
Representative Jonathan Kreiss-Tomkins

MEMBERS ABSENT

Representative Neal Foster
Representative Kurt Olson (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 205

"An Act relating to conditions of release; relating to community work service; relating to credit toward a sentence of imprisonment for certain persons under electronic monitoring; relating to the restoration under certain circumstances of an administratively revoked driver's license, privilege to drive, or privilege to obtain a license; allowing a reduction of penalties for offenders successfully completing court-ordered treatment programs for persons convicted of driving under the influence; relating to termination of a revocation of a driver's license; relating to restoration of a driver's license; relating to credits toward a sentence of imprisonment, to good time deductions, and to providing for earned good time deductions for prisoners; relating to early termination of probation and reduction of probation for good conduct; relating to the rights of crime victims; relating to the disqualification of persons convicted of certain felony drug offenses from participation in the food stamp and temporary assistance programs; relating to probation; relating to mitigating factors; relating to treatment programs for prisoners; relating to the duties of the commissioner of corrections; amending Rule 32, Alaska Rules of Criminal Procedure; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 310

"An Act relating to the duties of the Department of Health and Social Services; relating to child-in-need-of-aid proceedings; relating to child protection; and amending Rules 6(a), 6(b)(2) and (3), 10(c)(2) and (3), 10(e)(2), 10.1(a)(1) and (2), 15(f)(2), 17(c), 17(d)(2), 17.1(b), 17.1(d)(3), 17.2(a), 17.2(e), 17.2(f), 18(c), and 19.1(c), Alaska Child in Need of Aid Rules of Procedure, and repealing Rules 17.1(a), 17.1(c), and 17.1(d)(2), Alaska Child in Need of Aid Rules of Procedure."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 205

SHORT TITLE: CRIMINAL LAW/PROCEDURE; DRIV LIC; PUB AID

SPONSOR(S): REPRESENTATIVE(S) MILLETT

04/17/15	(H)	READ THE FIRST TIME - REFERRALS
04/17/15	(H)	JUD, FIN
03/11/16	(H)	JUD AT 12:30 AM GRUENBERG 120
03/11/16	(H)	-- MEETING CANCELED --
03/12/16	(H)	JUD AT 2:00 PM GRUENBERG 120
03/12/16	(H)	-- MEETING CANCELED --
03/14/16	(H)	JUD AT 12:30 AM GRUENBERG 120
03/14/16	(H)	Heard & Held
03/14/16	(H)	MINUTE (JUD)
03/16/16	(H)	JUD AT 12:30 AM GRUENBERG 120
03/16/16	(H)	Heard & Held
03/16/16	(H)	MINUTE (JUD)
03/18/16	(H)	JUD AT 12:30 AM GRUENBERG 120
03/18/16	(H)	Heard & Held
03/18/16	(H)	MINUTE (JUD)
03/21/16	(H)	JUD AT 12:30 AM GRUENBERG 120

WITNESS REGISTER

GRACE ABBOTT, Staff
Representative Charisse Millett
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 205, presented Alaska Criminal Justice Commission community supervision recommendations.

DEAN WILLIAMS, Commissioner Designee
Department of Corrections
Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 205, testified and answered questions.

CARRIE BELDEN, Director
Division of Probation and Parole
Department of Corrections
Anchorage, Alaska

POSITION STATEMENT: During the hearing of HB 205, answered questions.

ALYSA WOODEN, Program Coordinator
Alcohol Safety Action Program
Division of Behavioral Health
Department of Health & Social Services
Anchorage, Alaska

POSITION STATEMENT: During the hearing of HB 205, answered questions.

TRACEY WOLLENBERG, Deputy Director
Appellate Division
Central Office
Public Defender Agency (PDA)
Department of Administration (DOA)
Anchorage, Alaska

POSITION STATEMENT: During the hearing of HB 205, answered questions.

LAURA BROOKS, Health Care Administrator
Office of the Commissioner
Department of Corrections
Anchorage, Alaska

POSITION STATEMENT: During the hearing of HB 205, answered questions.

ACTION NARRATIVE

[1:06:11 PM](#)

CHAIR GABRIELLE LEDOUX called the House Judiciary Standing Committee meeting to order at 1:06 p.m. Representatives Keller, Lynn, Claman, LeDoux were present at the call to order. Representatives Millett and Kreiss-Tomkins arrived as the meeting was in progress.

HB 205-CRIMINAL LAW/PROCEDURE; DRIV LIC; PUB AID

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CHAIR LEDOUX announced that the only order of business would be HOUSE BILL NO. 205, "An Act relating to conditions of release; relating to community work service; relating to credit toward a sentence of imprisonment for certain persons under electronic monitoring; relating to the restoration under certain circumstances of an administratively revoked driver's license, privilege to drive, or privilege to obtain a license; allowing a reduction of penalties for offenders successfully completing court-ordered treatment programs for persons convicted of driving under the influence; relating to termination of a revocation of a driver's license; relating to restoration of a driver's license; relating to credits toward a sentence of imprisonment, to good time deductions, and to providing for earned good time deductions for prisoners; relating to early termination of probation and reduction of probation for good conduct; relating to the rights of crime victims; relating to the disqualification of persons convicted of certain felony drug offenses from participation in the food stamp and temporary assistance programs; relating to probation; relating to mitigating factors; relating to treatment programs for prisoners; relating to the duties of the commissioner of corrections; amending Rule 32, Alaska Rules of Criminal Procedure; and providing for an effective date."

[Before the House Judiciary Standing Committee was CSHB 205, labeled 29-LS0896\H, adopted 3/14/16.]

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GRACE ABBOTT, Staff, Representative Charisse Millett, Alaska State Legislature, said that she would speak to recommendations 12 through 18, focusing on resources for those who pose the greatest danger and would benefit from the greatest level of correction to incentivize and create good behavior. She turned to slides 2-6, "Graduated Sanctions and Incentives, Recommendation Twelve," and advised that the commission recommended the legislature create a system of graduated sanctions and incentives when considering people who are supervised in communities, such as people on probation or parole. While Alaska's recidivism rate has somewhat reduced over the past decade, almost two-thirds of prisoners released from prison return to prison within three years. She advised that a strategy consistently discussed was the use of swift, certain, and proportional sanctions in responding to violations

of supervision geared toward maximizing resources to create sanctions and incentives.

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MS. ABBOTT noted that Recommendation 12 focuses on responding to technical violations of supervision, such as violations of probation and parole that do not rise to the level of new criminal conduct. For example, she explained, failing a drug test, missing a meeting with a probation officer, or something that does not constitute new criminal behavior but is in violation of the conditions of parole.

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CHAIR LEDOUX pointed out that failing to pass a drug test would indicate a new crime had been committed.

MS. ABBOTT responded that failing a drug test or a dirty UA would not rise to the level of a new crime. While it does indicate criminal activity, it is determined that once a drug is in a person's system and the test is a UA, it does not count as possession as "it is then out of your control." She explained that a person having a drug in their pocket is different than in their blood stream.

REPRESENTATIVE CLAMAN suggested that positive UAs are circumstantial evidence that someone was violating the law at some point in the recent past.

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MS. ABBOTT turned to slide 3, "Sections Addressed:" which included Sections 72, 96, 98, and 134. She offered the following: Sec. 72 requires probationers to comply with their graduated sanctions; Sec. 96 directs the commissioner of the Department of Corrections (DOC) to establish an administrative sanction and incentive program; and Sec 98 defines administrative sanctions and incentives. She reiterated that two-thirds of released offenders return to prison within three years, and the graph on slide 4 does not distinguish between new crimes and people violating conditions of their release, but it is known that a significant portion are violating the conditions of their release.

MS. ABBOTT turned to slide 5, "Swift, Certain, and Proportional Sanctions Effective at Changing Offender Behavior," and noted

that these sanctions are effective, not only as a supervision tool, but truly a way to change offender behavior. Research shows that responding to violations quickly and proportionally is the most effective way to change offender behavior. For instance Lieutenant Sell had described the scenario of asking a child to clean their room and they refuse the punishment is not that in six months they could be punished, but rather telling them they are immediately grounded and forced to clean their room which would be a proportional response to the offense committed. Slide 6 refers to the implementation of graduated sanctions from the less serious, such as increased drug testing or curfews, to the more serious of electronic monitoring or actual prison time, should apply according to the offense and the frequency of the offense. The research indicated that communicating this threat of sanctions to the offender upon release is a crucial portion of this recommendation so people have a real understanding of what their actions could lead to. The recommendation includes streamlining procedures to allow the probation officer to respond swiftly to the violation is also critical, she added. The recommendation authorizes the Department of Corrections (DOC) to create a matrix to determine swift, certain, and proportional responses, and to follow the matrix in levying those responses.

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MS. ABBOTT turned to slides 7-11, "Cap Technical Violation Stays, Recommendation Thirteen," and advised that the commission discussed capping the amount of prison time used for violation of their supervision requirements, which is discussed in numerous sections of the bill as indicated on slide 8. She said the meat of it is in Sec. 74, especially where it limits the maximum sentence for technical violations of probation. Slide 9, "Petitions to Revoke Take a Month to Resolve," which is when a probation officer determines that a violation of supervision occurred and the offender should either be punished for the violation, but more often than not the Petition to Revoke would put them back in prison. Offenders spend an average of one month behind bars before even being sentenced for their technical violation of supervision; therefore, before the determination is made regarding the seriousness of the violation or what sentence should be levied, the offenders have already taken up prison beds. Once the individual is sentenced for the technical violation nearly one-half of revocations are staying longer than one month, and many stay longer than six months behind bars, she explained. The data pointing to a substantial amount of people taking up prison beds when merely a technical

violation occurred directed the commission to review capping the incarceration time for technical violations of supervision. She remarked that this plays into the swift, certain, and proportional response. The goal in the recommendation is that upon the first violation wherein the supervisor has determined it warrants being taken to the level of a sentence, supervision would be revoked for up to 3 days. She added that the second revocation would be up to 5 days, third revocation up to 10 days, and if the patterns of behavior do not improve the court has the discretion to sentence up to the remaining amount of their prison sentence, up to the rest of their suspended time. She further added there would be a separate category of revocation for absconding from their supervision, up to 30 days.

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REPRESENTATIVE KELLER asked how many Petitions [to Revoke] are currently on the court's docket.

MS. ABBOTT deferred to experts from the Department of Corrections.

[1:18:46 PM](#)

MS. ABBOTT turned to slides 12-15, "Earned Compliance Credits, Recommendation Fourteen" ...

REPRESENTATIVE CLAMAN interjected that [slide 9] shows that Petition to Revoke takes a month to resolve, and [slide 10] indicates that once sentenced nearly half of revocations are staying more than one month, and asked for the distinction between slides 10 and 11, and the definition of an unsentenced supervision violation.

MS. ABBOTT explained that an unsentenced supervision violator would have possibly failed their drug test, missed a meeting with their probation officer, now has their Petition to Revoke, and is in prison for the purposes of being sentenced. For example, when comparing it to the larger judicial process this would be their pretrial, unsentenced supervision violators who have offended and have reasons to have their release revoked but have yet to have the sentence levied.

REPRESENTATIVE CLAMAN suggested Ms. Abbott obtain a life line because a person is only on probation after they've been sentenced except in rare circumstances.

MS. ABBOTT rephrased her response and stated that the sentence does not refer to the actual crime, the sentence refers to the reaction to the violation of their supervision. Therefore, when discussing changing the sentence for violation, it refers to the way in which the person violated their parole and it is just within the parole or probation process. She explained that it is a punishment for the person breaking the terms of their supervision.

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MS. ABBOTT turned to slides 12-15, "Earned Compliance Credits, Recommendation Fourteen," and is found in Secs. 70, 73, 97, 132, and 133 of the bill. She explained that the meat is found in Sec. 97, allowing probation officer to grant earned compliance credits. She noted that an interesting data research finding of the commission was that in the case of changing offender behavior, the carrot can work better than the stick, such that rewards can be more effective than sanctions. Specifically, in terms of community supervision the data shows that states achieved higher successful supervision rates when the rewards outnumber sanctions. For example, when supervision programs provide incentives for meeting case specific goals, such as rewarding a drug addicted offender for participating in out-patient drug treatment programs, thereby, enhancing their motivation. The recommendation is to establish an earned compliance policy granting probationers and parolees one month credit toward their supervision term for each month they are in full compliance with the conditions of their supervision. She explained that if someone has an 18-month supervision term, and they performed one month of perfect behavior one month would be shaved off on the backend. Data has shown that it encourages behavior in the frontend and it also allows probation and parole officers to focus their supervision most effectively. In the event a person has shown that they are positively impacted by the conditions of their release, abiding by their conditions, and it appears their behavior is shifting and they are reintegrating themselves into their community, then at the backend of their release the supervision resources can be focused on people who need it more.

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MS ABBOTT turned to slides 16-22, "Maximum Probation Terms & Earned Discharge, Recommendation Fifteen," and advised that Secs. 68, 69, 71, 125, are addressed in the bill. She added that the meat is located in Secs. 69 and 71, and explained that

Sec. 69 limits probation for felonies and misdemeanors, and Sec. 71 encourages early discharge if an offender is in compliance, exhibits good behavior, and it also ensures victim notification. As a side note, she offered, victim notification is emphasized in all of the recommendations because during the probation and parole process it is crucial that victims are aware of time changes, parole changes, and release decisions. A portion of the research showed that the average length of stay on community supervision, parole or probation, has risen approximately 13 percent over the last decade. The commission reviewed reducing reporting requirement for people on probation or parole, and found that a large population of low risk supervisees are eating up officer's time and resources that could be spent on higher risk offenders, people more likely to fail during this community supervision process.

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CHAIR LEDOUX referred to Sec. 69, limiting the number of probations or felonies, and noted that the testimony on 3/18/16 discussed streamlining the parole and probation process.

MS. ABBOTT responded that the discussion on 3/18/16 dealt with the application process to receive a hearing and receive assistance to complete the application process. She offered that while a person is incarcerated the data showed that many people due to a myriad of factors were not applying to have the opportunity to be on community supervision. Whereas, Sec. 69 deals with the time in which they would be on community supervision, and relates to the best use of the state's resources due to people being more likely to fail at the beginning of their release period.

CHAIR LEDOUX stated that she wanted the record to be quite clear that this section does not read that the legislature will limit the possibility of probation for felonies and misdemeanors i.e., making people stay there longer. She expressed that this reads that once a person is out of jail the time would be limited that they are on probation.

MS. ABBOTT responded absolutely correct.

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MS. ABBOTT reiterated that with the average length of stay on community supervision rising it takes up more of the supervisor's time, causes paperwork, uses resources, and that it

is an expensive time consuming process. As an individual's terms come to an end on supervision their outcomes are better and they are less likely to fail or violate conditions of their release toward the end of their release period than they are at the beginning. She referred to slide 19, and advised that 62 percent of people released fail during the first zero to three months, which is the period people are still getting on their feet, they do not necessarily have as much community support, and they may not have some of the reentry tools that will be discussed later today. At the end of the day they may not have yet re-acclimated to being outside of prison so this is truly the period where people need the most assistance and supervision.

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CHAIR LEDOUX pointed to slide 19 and remarked that she found it interesting that at 13 to 24 months it shows three percent, yet at 25 to 36 months it shows eight percent. She asked why that might be.

MS. ABBOTT advised she could not speak to the differentiation, and that while both are low, Chair LeDoux is correct that the one year to two year mark seems to have better outcomes. She said she will ask why it wasn't a steady slope down.

CHAIR LEDOUX asked whether research found a causal relationship to diminishing returns, and not only diminishing returns but that it is actually counterproductive after a certain amount of time.

MS. ABBOTT stated that she will dig into it.

[1:29:43 PM](#)

MS. ABBOTT pointed out that the data collected from the Department of Corrections also shows that a large portion of the supervision population are fairly low-risk. Clearly, she said, that is the goal and when people are released and put on community supervision the hope is that they are fairly low risk, but even amongst that population there is still a large portion that can be differentiated as extremely low-risk.

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REPRESENTATIVE KREISS-TOMKINS asked what LSI-R Classifications means.

MS. ABBOTT responded that she will get the definition for him.

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MS. ABBOTT offered that the research led to the conclusion that the most effective use of the state's resources is to frontload and focus on the beginning of a person's probation period, or community supervision period, and then focus those supervision resources on those most likely to fail. Research shows that supervision resources provide the greatest public safety returns when focused on those most likely to reoffend, such as high-risk offenders and those recently released from prison. The elements of a successful system include identifying offenders who warrant enhanced supervision and those who do not, including reducing reporting requirements for those who are succeeding; and additionally deterring future crime and technical violations by changing offender behavior in the first few days, weeks, and months after release as opposed to a longer term approach to behavior changing.

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MS. ABBOTT related that this resulted in the recommendation which is to reduce the maximum lengths for probation terms and to standardize early discharge. She said the first part of that recommendation includes a cap on the maximum probation terms at one year for misdemeanor offenders who are not DUI or DV assault misdemeanor offenders; two years for the second DUI and DV assault misdemeanor offenders; three years for felony offenders who are not felony sex offenders or unclassified felony offenders; and five years for felony sex offenders and unclassified felony offenders in the case that community supervision is part of their sentence.

REPRESENTATIVE CLAMAN referred to [slide 19] concerning failure is likely to happen within the first three months and requested information that cross-references these timelines with the length of probation or parole. He said he suspected that research may show that once past 24 months there tends to be people with more serious crimes, serving longer sentences, and with longer periods of parole. He said, part of what is being seen is that it is the less serious crimes and the less hardened offenders are the ones that are completing and that bump might be in part because of the character of the people that are there. He reiterated his request for research.

MS. ABBOTT responded that the data is from the Department of Corrections (DOC) and they will prepare a complete picture.

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MS. ABBOTT explained that an additional part of the recommendation is to reduce the minimum time needed to serve on probation or parole prior to being eligible for early discharge to one year for certain offenders. She added that this does not require that the inmate receive early discharge, it simply allows them to be eligible for early discharge after one year. Also, to require the DOC to recommend early termination of probation or parole for any offender who has completed all treatment programs and is in compliance with all supervision conditions.

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MS. ABBOTT turned to slides 23-26, "Good Time on Electronic Monitoring, Recommendation Sixteen," found in Sec. 135. She advised that this is dissimilar to electronic monitoring pretrial because it refers to those to whom electronic monitoring is part of their sentence. The commission found that while most offenders housed within an institution or CRC have the opportunity to earn good time of up to one-third of their sentence with positive behavior, and currently offenders on electronic monitoring are barred from earning this incentive. She described this recommendation as dealing with parity between different sentencing options in that simply because someone is housed in a CRC they should not receive a benefit that those on electronic monitoring do not have. Anecdotally, she said, they have heard that some inmates choose to stay within a CRC or an institution because electronic monitoring does not offer good time credit and; therefore, not reintegrate themselves into the community or stay within a stable home. She noted that it is more expensive for the state in a CRC or an institution even when the authorities have determined that electronic monitoring is a viable option for them, she explained.

MS. ABBOTT, in response to Chair LeDoux, explained that the definition of CRC is a [Community] Residential Center.

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REPRESENTATIVE CLAMAN pointed to Sec. 135, AS 33.20.010(c), [page 82, lines 1-4], which read:

(c) A prisoner may not be awarded a good time deduction under (a) of this section for any period spent in a treatment program or [,] in a private residence. A prisoner may be awarded a good time deduction under (a) of this section for any period spent [, OR] while under electronic monitoring.

REPRESENTATIVE CLAMAN offered that the intent is well placed but there is potential for conflict in application by the courts because on the one hand --- it may be a minor correction, but the first sentence reads that a prisoner may not be awarded good time for time spent, for example, in a private residence. The next sentence reads that a prisoner may be awarded good time if they are on electronic monitoring. He opined there may be an inconsistency and it may be a minor drafting correction that "our dearly departed Representative Gruenberg might be the best person to have figured out how to merge the two."

CHAIR LEDOUX advised that when the committee begins discussing the bill's provisions in detail, to come back to his concern.

MS. ABBOTT offered that any and all drafting concerns are marked and sent to Legislative Legal and Research Services.

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MS. ABBOTT noted that the recommendation is to allow offenders on electronic monitoring the option to qualify for good time credits under the same conditions set forth for offenders within institutions within the Department of Corrections, so the option is now available.

CHAIR LEDOUX asked for the rationale for the notion that within pretrial a defendant can receive time off for time spent in a CRC which could conceivably eliminate a substantial portion of the sentence, but after sentencing the defendant cannot receive that same time off.

MS. ABBOTT explained that the distinction between electronic monitoring good time offered pretrial and post-sentencing is that last year a bill was passed allowing good time to be used on electronic monitoring and applied toward the sentence. Parity was not created between electronic monitoring offered pretrial and post-sentencing. This change would offer that because in a CRC both of those options are available under current statute. The current distinction is between pretrial

electronic monitoring and post-sentencing electronic monitoring and this change would create parity.

CHAIR LEDOUX asked whether last year's bill requires the electronic monitoring in order to receive the credit or simply being in the CRC allows a person to have the credit.

MS. ABBOTT responded that last year's legislation dealt exclusively with electronic monitoring outside of halfway houses, and she opined that within a halfway house both pretrial and post-sentencing some amount of credit can be applied toward the sentence. She deferred to the experts.

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REPRESENTATIVE CLAMAN pointed out that the statute passed last year relates to electronic monitoring but there is a large distinction between pre-sentence and post-sentence. There are beds in treatment programs and halfway houses in which DOC can determine that is where the person is going, and within the industry they are referred to "correction's beds." For example, he explained, DOC may have three beds reserved at Akeela House for people coming out of prison and those people would receive prison time credit for their time in the treatment program designed to finish their sentence in the treatment programs and then go into the community. He said those options are always available to DOC and they count toward the sentence. The other side of the equation is pretrial which is where a person receives electronic monitoring, and this will make electronic monitoring part of both pretrial and post-trial. Within pretrial there's a whole other set of things involving the Nygren [v. State, 658 P.2d 141 (1983)] case and other instances where people come to court and basically say "I want to go in this treatment program and get credit for it while I'm doing this treatment before I actually get sentenced and have the judge give me credit for it, which is something the judges can do kind of separate from the question of electronic monitoring. Although, electronic monitoring helps their case that they were appropriately confined and get the credit."

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CHAIR LEDOUX said she is still confused, and asked the meaning of "a prisoner may not be awarded a good time deduction under (a) of this section for time spent in a treatment program," at the top of page 82.

REPRESENTATIVE CLAMAN offered that is partially the reason he had questions about the section.

CHAIR LEDOUX said the committee would come back to this.

[1:44:10 PM](#)

MS. ABBOTT turned to slides 27-30, "Focus ASAP Resources, Recommendation Seventeen," recommends that resources devoted to the current alcohol safety program be focused on those for whom it was originally statutorily intended. The sections addressed are Secs. 149-151 in the bill, and deal with the regulations for the Alaska Statewide Alcohol Safety Action Program (ASAP) and allows for a pre-ASAP risk assessment as well as a risk assessment as a result of participating in ASAP. The commission found that increases in referrals to ASAP have limited the program's current effectiveness taking into account their current resources. The Alcohol Safety Action Program provides critical screening and treatment referral services for thousands of misdemeanor offenders who are referred to ASAP by the court. However, the commission found that increases in the number of referrals to ASAP have not necessarily correlated with increased funding to the program, resulting in limited program effectiveness. The recommendation also deals with the conversation of reinvestment, and said that in FY 2015 ASAP received approximately 7,200 referrals and only 57 percent of which were actually for statutorily mandated referrals, such as DUIs and minor consuming. The remaining 44 percent were referrals that were not mandated by statute.

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MS. ABBOTT advised that this recommendation doesn't necessarily make a policy call on whether or not those referrals were justified, but rather recommends that the current ASAP resources be focused on those for whom the program was originally set up such as the DUI or minor consuming offenders. However, with reinvestment opportunities this would allow expanding the current services to include a validated assessment tool to screen criminogenic risks and part of this has to deal with the risk assessment previously discussed that occurs throughout the commission's recommendations. The program would also perform brief behavioral health screenings and provide referrals to treatment programs designed to address the offender's individual criminogenic needs. The Alcohol Safety Action Program is not a "rehab" as it is a screening program and an accountability tool,

and this would allow the program to refer people to adequate treatment programs.

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CHAIR LEDOUX asked who has been sent to ASAP that is not part of the criminal justice system.

MS. ABBOTT responded that they would be part of the criminal justice system, they just ...

CHAIR LEDOUX interjected that she means currently, and referred to Ms. Abbott statement that it has been expanded beyond what it was intended and asked who ends up with referrals there.

MS. ABBOTT explained that it can be a myriad of people with various behavioral health or alcohol related crimes and, she opined, Ms. Nancy Meade could speak to the question. She said that the commission found that it involves sentences having to do with alcohol; however, they are not DUI or minor consumption charges. In some respects, ASAP has not been an effective tool because it isn't rehabilitative in its nature as it is an effective accountability measure for people accused of DUIs who need to be accountable for not drinking, but are not necessarily alcoholics. This would allow additional tools to recognize those people who are alcoholics, who have an addiction of any kind, or a behavioral health concern and it would allow them to make recommendations for rehabilitative action.

MS. ABBOTT continued that this recommendation would additionally require ASAP to provide increased case supervision for moderate to high-risk offenders.

[1:49:08 PM](#)

MS. ABBOTT turned to slides 31-34, "CRC Resources, Recommendation Eighteen," and said it deals with halfway house and CRC resources, and is addressed within Sec. 140 of the bill. The recommendation requires CRCs to provide treatment, reduce mixing low and high-risk offenders, and adopting quality assurance measures, including standards for assessing risk levels. Currently, she noted, many people have horror stories about halfway houses, specifically when it comes to mixing high and low-risk offenders, and not providing treatment for underlying issues. She expressed that this recommendation is not making a judgement call on the state's current CRCs, and it is not necessarily an audit so much as it a list of

recommendations as to how the state could improve that as a resource for the future. The commission found that halfway houses are mixing high and low-risk offenders of which research shows can lead to increased recidivism for the low-risk offenders that are less criminal than others in the halfway house, because they can learn to be more criminal. This was discussed when dealing with drug offenses that in some cases DOC facilities can serve as opportunities for networking and for increased criminogenic behaviors. With less mixing of the high and low-risk offenders this would allow for people to use CRCs for what they are and allow different categories of people to utilize different resources.

1:51:00 PM

MS. ABBOTT related that the commission found that CRCs would be more effective at reducing recidivism if facilities also offered evidence based treatment for offenders in addition to supervision. Therefore, as opposed to just having a roof over their heads and some level of supervision, it would also deal with underlying causes for which they might be in a CRC. This recommendation is to improving treatment offerings and focusing CRC resources on high-risk offenders, similar to other recommendations discussed today. These forms of treatment could be cognitive behavioral, substance abuse, after-care, and/or reentry support services designed to address offenders' specific needs. Admission criteria would be established for CRCs that would prioritize placement for people who would benefit most from the more intensive supervision and treatment, and minimize mixing high and low-risk offenders. The Department of Corrections may speak to how each individual CRC across the state looks, she said.

1:52:30 PM

REPRESENTATIVE KREISS-TOMKINS referred to the compliance credits section, and surmised that what is being proposed is basically a one-to-one credit for compliance.

MS. ABBOTT responded that it is a one-month to one-month compliance credit. Therefore, it would have to be a longer period than day-to-day, but it would be one month on the frontend of good behavior for one month on the backend.

1:53:10 PM

REPRESENTATIVE KREISS-TOMKINS referred to the Petition to Revoke and asked for examples of technical violations that presently incur a Petition to Revoke.

MS. ABBOTT stressed that the discussion is not around new criminal offenses, and that examples could include associating with other felons or being in a place where alcohol is consumed if that is a condition of release. Obviously, she said, these are specific to people on an individual basis, but if a person has been charged and released and to some extent alcohol was a part of the crime, more often than not there would be a limitation of alcohol under the conditions of release and drinking could be a violation.

[1:54:22 PM](#)

REPRESENTATIVE LYNN asked [the qualification of] the correctional officers at the CRC, and he assumed it was 24 hours. He further asked whether these are specialized correctional officers or someone that applied for a job in a nice community, and whether there are enough CRCs throughout the state. He described CRCs as not so much facilities as they are previous prior residences, such as an assisted living home.

MS. ABBOTT replied that many would argue that there are not enough CRCs around the state and there could be more, and that their effectiveness would rise with that investment. She opined that many CRCs can be former residential establishments with people often sharing rooms, and it differs wildly on the community. As to the staff, in many cases DOC contracts out for CRC operations and DOC would be able to speak to the qualifications of the staff. She opined that they are different from those than an actual correctional officer.

REPRESENTATIVE LYNN offered concern with whether these people are well qualified as a correctional officer, and whether their qualification is not just to lock the door at night and operate the facility, or do they perform counseling. He related that he is thinking of an assisted living facility for health reason and asked whether the state has assisted living for inmates. He reiterated his concern as to who actually staffs CRCs because it would be a large factor as to whether they have violations.

MS. ABBOTT advised that much of the recommendation asks that the CRC staff have expanded qualifications or staff that would be able to specialize in treatment and counseling, for various risk assessments. The standards provided here are different than

those currently required, as they are more stringent and definitely catered more toward rehabilitation than simply monitoring. As to the specific qualifications of those working in halfway houses, the Department of Corrections would be able to speak to that question on an expert level.

REPRESENTATIVE LYNN asked to be reminded when the Department of Corrections testifies as he would like to follow up on his questions.

1:59:21 PM

DEAN WILLIAMS, Commissioner Designee, Department of Corrections, said that individuals from the Department of Corrections are on line and he would feel more comfortable if they answered specific questions. Although, he offered that if there are overarching issues on the bill that Chair LeDoux would like him to comment on he would be happy to, but he is not prepared to discuss specific sections.

CHAIR LEDOUX asked Commissioner Williams to discuss anything he would like the committee to focus in on.

2:00:09 PM

COMMISSIONER WILLIAMS explained that he is two months into the job, has been on the Alaska Criminal Justice Commission two months and has attended a couple of meetings. Although, he continued, he followed the work while in Governor Bill Walker's office and is familiar with the concepts and certainly of the community supervision piece and what is important about probation and parole. He noted that there will be some adjustments for the department in terms of capping probation violations, as one example. The department is constantly looking at that and providing meaningful incentives for people on probation. These are well established concepts that other states have made progress on and reduced recidivism and crime. Certainly there will be adjustments and the department is enthusiastic about the concepts and policies in the bill, and there will be details to sort out which is why the department is speaking to the committee. Certainly, he extended, the department is trying to bring down the inmate population numbers and that the department is onboard and in full support.

2:01:38 PM

REPRESENTATIVE CLAMAN surmised that if the bill is adopted it will require a fairly significant change in the department's policies, and asked how prepared is the Department of Corrections to fully embrace these changes.

COMMISSIONER WILLIAMS pointed to a provision in the bill allowing the department time to adjust, and noted that where things have not gone well in other states is within the implementation piece, and having time to adjust to the reinvestment piece. The department will be in trouble out of the gate without time to make the adjustments in practice and policy, and also in not reinvesting the pretrial point and doing risk assessments. He pointed out that one piece affects the other if the reinvestment piece is missing, and also the discussion is having people in the community make sure they receive services there. He surmised that all of these are important in terms of the implementation piece. This has been worked at for a while, technical assistance is coming to the department in terms of some of the things being discussed, and money is out there for training and making sure that the managers and probation supervisors are able to talk to their probation staff about the changes. He advised that those conversations have taken place and once the bill passes there is a lot of work ahead and it is on their radar.

[2:03:24 PM](#)

REPRESENTATIVE CLAMAN said he appreciates the ongoing technical assistance available as it moves forward. Although, he noted, a concern present in both the parole and probation revocation system is that a Petition [to Revoke] comes in and nothing is resolved for quite some time. The concept here is swift, certain, and rapid reaction in dealing with folks and said that possibly somebody that wants to enforce all of their rights may not get such swift action on the part of the department. He asked whether the department will actually get past what less than charitably might be described as a loss of bureaucratic red tape every time a violation occurs.

COMMISSIONER WILLIAMS responded that this topic is big for the department and it realizes that part of the reason DOC's probation supervision counts have increased is due to the litigious environment that exists in regard to the Petitions to Revoke. The goal of the bill is to reduce and eliminate that substantially. For example, currently, when someone commits a technical violation it becomes a long process and people are incarcerated for months. The goal of the bill is to make sure

DOC has people in jail who need to be in jail, and that there is not a litigious environment over technical violations and other probation violations unless new crimes are committed. He described it as a policy shift - it's how to reduce prison counts and make the community safer for all at the same time. It is a learning curve for the state, he noted, but other states have done it, he has seen the successes they have had, and he is hopeful.

[2:06:02 PM](#)

CHAIR LEDOUX referred to page 82, [Sec. 135. AS 33.20.020(c)], page 82 [lines 1-4], which read:

(c) A prisoner may not be awarded a good time deduction under (a) of this section for any period spent in a treatment program or [,] in a private residence. **A prisoner may be awarded a good time deduction under (a) of this section for any period spent** [, OR] while under electronic monitoring.

CHAIR LEDOUX surmised that if this is pretrial the person can receive good time for time spent in a treatment center, but if it is post-conviction the person cannot receive good time for time spent in a residential treatment center.

COMMISSIONER WILLIAMS deferred to Director Carrie Belden, and said that the issue here is the notion that a more restrictive environment earns the person good time. He opined that this law has been in place for a long time wherein a person does not receive good time credit for being in a treatment program or in a private residence, and it was a policy call. Due to the direction the state is headed, some may question why the state wouldn't give credit for someone in a treatment program, whether pretrial or post-conviction.

CHAIR LEDOUX said she is questioning that right now because if her reading of it is correct, why we ...

COMMISSIONER WILLIAMS opined that it is a policy call and is based upon the restriction of the environment. In other words, the concept was, right or wrong, that if a person is more restricted the state would not provide credit, for example, someone restricted to their home. He explained that it was a policy call the state came to over the course of many years about what the state would provide good time credit for. The provision underlined allows good time under this section which

is an enhancement part of the model. He said that Chair LeDoux is pointing out the fact that the state is not allowing it for some other elements, especially a treatment program that might be beneficial, and because someone is actually complying and helping themselves.

[2:08:33 PM](#)

CHAIR LEDOUX argued that if they go to a treatment program and at the same time are under electronic monitoring or in a private residence and under electronic monitoring then the state would give them good time. But, if they don't have the electronic monitoring, if they haven't been convicted they are given good time, but if they have been convicted they don't get good time or credit.

COMMISSIONER WILLIAMS responded that he is wading in deep water here and he ...

CHAIR LEDOUX suggested that Ms. Belden answer the question.

[2:09:23 PM](#)

CARRIE BELDEN, Director, Division of Probation and Parole, Department of Corrections, advised that the question is more of a technical question that they would have to double-check and research to determine whether or not this would allow for a pretrial or post-sentence. She opined that Chair LeDoux is correct in her explanation that in order to receive good time, the person must be on electronic monitoring.

[2:09:59 PM](#)

REPRESENTATIVE CLAMAN surmised that the Department of Corrections has beds in different treatment programs and they receive time credit for treatment. He stated that it is not treatment in prison but people are in places such as Clitheroe Center, Akeela House or Nugent's Ranch that have the DOC beds. He opined that people were routinely receiving jail time credit for that and asked whether that is no longer the case.

MS. BELDEN responded that they do receive credit under Nygren [v. State, 658 P.2d 141 (1983)] for that treatment and when they return to court the judge orders that credit.

REPRESENTATIVE CLAMAN advised he is not referring to Nygren because Nygren is typically pre-sentence and the person is

released to a program while they are awaiting trial or awaiting plea. He pointed out that he is asking about the convicted person ordered to go to jail for five years, and then the Department of Corrections (DOC) decides the person needs alcohol treatment. He opined that routinely DOC would send people out to inpatient alcohol programs and they would receive credit toward their prison sentence. He offered that if Ms. Belden does not know the answer the committee needs to know the answer, and said that he did not know how frequently that happened, but it happened periodically.

[2:11:40 PM](#)

MS. BELDEN agreed that the Department of Corrections would send that person on a furlough and they could do their in-custody time while at a treatment facility.

REPRESENTATIVE CLAMAN asked whether that is still happening today.

MS. BELDEN said yes.

REPRESENTATIVE CLAMAN related that he was now even more confused about AS 33.20.010(c) at page 82, lines 1-4, which appears to suggest that a prisoner could not be given good time credit for that time spent in a treatment program. He noted the inconsistency with the whole idea of trying to get treatment for folks so they don't go out and drink and reoffend.

MS. BELDEN asked that she be allowed to speak with the time accountant as to exactly how this would affect [prisoners]. She noted that it gets into complicated time accounting of what DOC would give credit for and what it wouldn't as to placement, as well as the time as to when it is ordered and when it is not. She stated she would like to research this issue and get back to the committee.

[2:12:53 PM](#)

CHAIR LEDOUX said the committee would appreciate that, although she received a note that this section, at least this sentence, which Representative Claman and she have difficulties with, appears to be in the current law. She asked whether or not that is actually the practice in the current law or whether it is just there.

CHAIR LEDOUX remarked that she would appreciate [Ms. Belden's research] and noted that the Department of Law (DOL) is here and possibly the committee can hear a little bit about that because it is baffling.

MS. BELDEN, in response to Chair LeDoux's question of whether she would discuss Recommendations 14, 16, and 18, said that she would just mimic what Commissioner Williams said in that they are continuing to go through the bill to find ways to implement and problem solve, work with other department, and the bill sponsor, to find ways to implement these provisions.

2:14:28 PM

REPRESENTATIVE KELLER offered that he has never seen a Parole Board operate, he pointed out that the parole system is being expanded, and acknowledged that the department has the huge task ahead to adjust the culture within the parole system. For example, he related, it could be a significant adjustment for a parole officer to switch from a punishment system to a rewards system. He opined that much training would be involved with technical assistance, and asked for a broad idea of what kind of changes Commissioner Williams anticipates taking place in the parole system in Alaska.

2:15:32 PM

COMMISSIONER WILLIAMS agreed that Representative Keller is exactly correct with regard to the issue of workload increasing discretionary parole and what the bill is attempting to do. Jeff Edwards, Executive Director of the Parole Board, contacted the National Institute of Corrections (NIC) and training is already set up, and to the complete credit of Mr. Edwards the department recognizes that parole must be more than a "gotcha" effort because it has to be an effort to try to successfully move people out, to simplify [the process]. Commissioner Williams noted that Mr. Edwards previously testified about this this issue and that he is right on, and is the right person leading the effort. There will be adjustments, but [the department] is headed in the right [direction]. There will be training, there is an expanse and workload issue and, he stated, he feels confident in this area.

2:17:22 PM

ALYSA WOODEN, Program Coordinator, Alcohol Safety Action Program, Division of Behavioral Health, Department of Health & Social Services, said she is available to answer questions.

CHAIR LEDOUX asked how much emphasis is spent on the Alaska Alcohol Safety Action Program (ASAP) with respect to minor in possession.

MS. WOODEN said that she would provide information to the committee from statistics pulled by the program coordinator for ASAP.

CHAIR LEDOUX asked exactly what ASAP does with respect to minor in possession.

MS. WOODEN responded that the ASAP office acts as a link between the court system and behavioral treatment programs. When an individual is referred to the ASAP program they go through a classification process with "informal probation officers." Those probation officers will help them go through a classification chart and then decide from that whether or not they need a clinical evaluation for further treatment. From that, she said, the ASAP probation officer will help coordinate that information with the behavioral treatment provider and get that through the courts.

CHAIR LEDOUX asked whether all teen-agers found to have violated minor in possession receive some sort of behavioral health treatment, how does it work exactly.

MS. WOODEN opined that on the juvenile side, if a juvenile is referred to the ASAP program, the probation officer will still go through the classification chart, so it depends upon where they rank in that. It is divided into three categories, she explained, as to whether or not someone is a non-problem drinker or someone utilizes controlled substances. In the event they are in the pending category means that it is not quite clear given their background whether or not they may need treatment versus education or whether or not they actually are, through their background, in need of a clinical evaluation. Not everyone referred through will necessarily receive treatment as it depends upon where they rank in that classification chart.

MS. WOODEN, in response to Chair LeDoux, advised that ASAP stands for the Alcohol Safety Action Program.

CHAIR LEDOUX surmised that the ASAP people are coordinators and refer people to where they determine is necessary.

MS. WOODEN replied yes, they do coordinate and help to do agency reports and status reports for the treatment center, they also help with DMV signoffs, as well as noncompliance notification. If someone is not in compliance with their treatment ASAP will make sure the court receives that information, she said.

[2:21:04 PM](#)

REPRESENTATIVE CLAMAN opined that when ASAP is referred by the courts, it actually makes an initial screening determination about whether someone should be evaluated for treatment or not. Therefore, at some level they are similar to what the medical community refers to as a gatekeeper and they perform some initial gatekeeper function before someone is ever evaluated by a treatment professional. He asked whether that is still part of what they do in the initial stage.

MS. WOODEN answered in the affirmative, and reiterated that there is an initial classification chart the probation officer goes through before deciding whether the person necessarily needs clinical evaluation. However, she explained, because there is the pending level or the problem level, that participant would still go for a clinical evaluation just to determine if it was treatment versus education.

[2:22:03 PM](#)

REPRESENTATIVE CLAMAN surmised that some people would just see the ASAP person, and the ASAP person would say that the person doesn't need any more and send them on their way, and others would be referred for further evaluation by a second party.

MS. WOODEN said that is correct.

REPRESENTATIVE CLAMAN surmised that under the recommendation there would be increased funding for ASAP but actually a reduction in the number of people that are referred to ASAP for evaluation. He asked why limit the number of people eligible to go through the ASAP process.

MS. WOODEN responded that she had been present at some of the commission's meetings as a spectator and she could not speak on behalf of the commissioners. She opined that the recommendation

would allow ASAP to focus on a smaller subset and perhaps provide increased supervision.

[2:23:11 PM](#)

CHAIR LEDOUX asked whether it is ASAP itself that doesn't send people to seek further treatment, and is it ASAP itself that gives education when it comes to the minor in possession.

MS. WOODEN opined that ASAP works with vendors for the alcohol/drug information school and the victims' impact panel.

CHAIR LEDOUX asked her to explain the victims' impact panel.

MS. WOODEN further opined that it is a panel of individuals specifically utilized to talk about sentences involving vehicles, and it discusses personal experiences, and experiences they have witnessed of victims being impacted by alcohol or controlled substance related issues.

CHAIR LEDOUX asked whether this is part of the education program.

MS. WOODEN responded in the affirmative.

[2:24:20 PM](#)

CHAIR LEDOUX questioned why a minor in possession would be dealing with the victims' impact panel if the minor isn't driving a car or other motorized vehicle.

MS. WOODEN clarified that she was specifically referring to the adult ASAP, and not juvenile offenders.

CHAIR LEDOUX restated her question and said she would like to know the procedure for a minor in possession that has nothing to do with driving a car.

MS. WOODEN advised she is more familiar with the ASAP adult probation system and will provide the requested information to the committee.

CHAIR LEDOUX listed the people available for general questions.

[2:27:32 PM](#)

CHAIR LEDOUX extended that she would like someone to explain how this subsection works with respect to good time deductions, [Sec. 135. AS 33.20.010(c), page 82, lines 1-4] subsection (c), which read:

(c) A prisoner may not be awarded a good time deduction under (a) of this section for any period spent in a treatment program or [,] in a private residence. A prisoner may be awarded a good time deduction under (a) of this section for any period spent [, OR] while under electronic monitoring.

[2:28:02 PM](#)

TRACEY WOLLENBERG, Deputy Director, Appellate Division, Central Office, Public Defender Agency (PDA), Department of Administration (DOA), answered that she would do her best to explain what is often a difficult area of time accounting, and that DOC will correct her if she is incorrect. She opined that Sec. 135, on page 82, applies to people who have been convicted and sentenced. Under current law, which the legislature amended in 2007, a person is not entitled to good time credit for time spent in a treatment facility in a private residence or while under electronic monitoring. In the event a person is furloughed to a treatment program, she opined, that person would still receive the day-for-day credit but this section would preclude good time credit. She said it appears that DOC will confirm that this is in fact how it is implemented.

[2:29:12 PM](#)

CHAIR LEDOUX surmised that under current law, a person does not receive good time credit for time spent in a treatment program in a private residence. Therefore, if a person is in a private residence, which she assumed would mean the person's own residence, as opposed to a halfway house.

MS. WOLLENBERG responded that currently the statute precludes good time credit for time spent in a treatment program, or a private residence, or on electronic monitoring. In the event a person is in a residential treatment program on furlough after being sentenced, this section precludes the award of good time credit while at that residential treatment facility. She added that it also precludes the award of good time credit when on DOC electronic monitoring. The proposal would be to allow for good time credit for people who are on DOC electronic monitoring, and under that rationale it may make sense to allow good time credit

for people who are furloughed to a treatment facility. She opined that that is the way it happened before 2007, but she could be corrected.

[2:30:27 PM](#)

REPRESENTATIVE CLAMAN surmised that a person can receive credit for time spent in a treatment facility or at home on electronic monitoring, but the person does not receive the one-third off good time credit for that time. The person sitting in jail has the choice of going home on electronic monitoring and for every two months they serve in jail they have to serve three months at home. They can still get the jail time credit and do not receive the statutory good time deduction.

MS. WOLLENBERG agreed that that is her understanding of the statute, although, she is unsure how a person would receive credit for time spent in a private residence unless DOC made a determination to furlough the person there. In the event a person is furloughed to a treatment program or released on DOC electronic monitoring they receive day-for-day credit but, she opined, what Ms. Abbott was referencing is that some people apparently are discouraged from going on electronic monitoring due to the lack of good time availability.

[2:31:48 PM](#)

CHAIR LEDOUX asked whether anything a person received before sentencing would not be good time credit, it would just be day-to-day credit.

MS. WOLLENBERG replied correct, that is under Title 12 in that a person can apply to the court for day-for-day credit for time spent in a treatment facility or on electronic monitoring, and that is the provision discussed last week with regard to the 120 day cap.

[2:32:18 PM](#)

CHAIR LEDOUX asked whether, under this bill, in addition to the day-to-day credit a person would be awarded their good time deduction for time spent while under electronic monitoring.

MS. WOLLENBERG advised that is her understanding of the provision.

CHAIR LEDOUX continued that if the person was on electronic monitoring in a treatment center they wouldn't be awarded good time and simply awarded day-to-day credit.

MS. WOLLENBERG responded that is correct as currently drafted. She offered that certainly the legislature could provide a similar good time provision for treatment facilities.

[2:33:07 PM](#)

REPRESENTATIVE KELLER commented that there was concern during a previous hearing regarding the complexity of it. He asked whether anyone mentioned, or the committee should be looking at this section while it is open and simplifying the whole system, and whether from her perspective there would be a benefit.

MS. WOLLENBERG asked whether he was speaking with regard to pretrial versus post-sentencing, and making them standardized.

REPRESENTATIVE KELLER offered the good time, the earned time, "and all that." He asked whether it is all working appropriately, and if so, the problem then is just understanding it by possibly having a side-by-side chart. He questioned whether there are flaws in the whole credit system the committee needs to address.

MS. WOLLENBERG opined that awarding good time for electronic monitoring and potentially for treatment incentivizes people to participate in those programs. Although, she further opined, when it is provided in one area and not in the other area it incentivizes one and dis-incentivizes the other and thereby creates disparities between the award of credit. The commission recommended providing good time credit for time spent on electronic monitoring and the committee could consider providing good time credit for time spent in a residential treatment facility. She explained that these are all post-sentencing options, and to be consistent the pretrial credit is just day-for-day. She reminded the committee that Mr. Steiner testified in opposition to the 120 day cap, and those people are not getting good time credit, just day-for-day credit.

[2:35:14 PM](#)

REPRESENTATIVE CLAMAN referred to the post-sentence scenario and surmised that subsection (c) was added in 2007, and asked whether she has any idea of the intent of the legislature other

than they just didn't want to give the credit, and why they thought this was a problem that needed fixing.

MS. WOLLENBERG recalled that it had been amended in 2007, and she could not remember off hand what the rationale was, but would be happy to review the legislative history.

REPRESENTATIVE CLAMAN asked whether anyone else may have a historical perspective from 2007 dealing with these policies that can comment. He said he would be interested to know the legislative history because it strikes him as curious as to what the problem was with letting people earn good time while they were -- although, maybe if they were home alone, not on electronic monitoring, and not doing treatment he could understand.

[2:36:55 PM](#)

REPRESENTATIVE MILLETT advised that she was legislative staff during the "Blakely Bill," and there was a movement toward more imprisonment, more of a tough on crime bill. Crimes were happening, such that a juvenile committed murder, was tried as a juvenile and received time served while he was in the McLaughlin Youth Center, and it was felt to be unjust that the defendant lessened his sentence by all these things. She opined that it was a shift in how the state treated criminals and the credits they received, and now there is data driven research showing that what the state was doing in the past really isn't effective, and not to the benefit of public safety as a whole.

CHAIR LEDOUX commented that it is like the old adage in law, "Hard cases sometimes make bad law." She offered that she is supportive of the bill, and yet read the newspaper and noticed that a friend of Representative Claman was killed by a young woman texting.

REPRESENTATIVE CLAMAN interjected that she wasn't texting, that was a different case, but he knows the case Chair LeDoux is discussing.

CHAIR LEDOUX continued that the sentence was basically reduced to almost nothing, and those are the policy issues the legislature must consider here. She expressed that it is not just theory, it has real ramifications.

CHAIR LEDOUX thanked Ms. Schroeder for explaining the difficult section as it was very helpful.

2:39:40 PM

LAURA BROOKS, Health Care Administrator, Office of the Commissioner, Department of Corrections, advised that as the health care administrator she oversees the department's medical health care as well as rehabilitative programs including mental health, substance abuse, and sex offender treatment. She opined that one of the primary question that came up was related to polygraphing and the validity of polygraphing, and asked whether that is the direction the committee would like her to go.

CHAIR LEDOUX offered that she does not recall a question regarding polygraphing, but Representative Lynn would like an explanation of what the sex offender treatment programs do.

REPRESENTATIVE LYNN commented that he did not know that polygraphing was acceptable in court.

2:41:08 PM

MS. BROOKS advised that the Alaska Department of Corrections (DOC) uses the "Containment Model" sex offender management tool that includes two parts, cognitive behavioral therapy and polygraph testing. She explained there is institutional sex offender programming treatment and community sex offender treatment. Polygraphs are an integral part because initially it is used to obtain a sex history so they can identify victim pools, patterns, and a whole host of issues related to their crime that then help therapists to focus treatment. Once the individuals are in treatment the programs are very focused, such as highest risk offenders with the highest propensity for violence which is located at the Lemon Creek Correction Center. She described it as a therapeutic community which is a residential program, they meet regularly for groups, individual therapy, and are given regular feedback throughout the day.

MS. BROOKS said another sex offender management program was located in the Palmer [Correctional Center] and is temporarily suspended because the department lost its provider but the program should be up and running again hopefully by the end of this month. It is not a therapeutic community, such as Lemon Creek Correctional Center, she explained, and is more of an outpatient setting where people meet with the treatment provider for group therapy and individual therapy.

2:43:13 PM

MS. BROOKS offered that the Yukon-Kuskokwim Correctional Center holds the highest concentration of sex offenders anywhere in the country and this program is specifically for Alaska Native men from the Yukon-Kuskokwim Delta area, and interpreters are used for the men who primarily speak Yupik. Groups are run several times a week, intensive homework is included, and this program also has restorative justice aspects such as, subsistence activities for the local battered women's shelter wherein some of the program participants collect firewood, provide maintenance services, and so forth. The program uses culturally specific materials in order to better connect with that group and elders in the community are used as mentors and adjunct treatment providers to address the needs of that specialize population.

MS. BROOKS advised that the Hiland Mountain Correctional Center sex offender program is for women which is a small program because female sex offenders are fairly rare, and it is an 18-24 month program. Although the capacity for that program is 12 individuals, usually there are three to five offenders at a time. She explained that their sex offender programming is quite different from the program for men, even though it includes group and individual therapy, much of their treatment also focuses on their past victimization.

MS. BROOKS advised that in addition to those institutional programs, the department has the community sex offender program which is an outpatient model for people on probation and parole. These offenders are connected with specially trained contract therapists and they meet for group and individual therapy, and participate in polygraphing during the time they are on probation. She described that as a quick overview of the department's sex offender treatment programs.

[2:45:29 PM](#)

REPRESENTATIVE LYNN referred to the curriculum and asked whether it is just a discussion group, or whether there is actually a curriculum in going through the program.

MS. BROOKS responded that there are a number of different areas they focus on with sex offenders in that they delve down into some of their deviant thoughts, behaviors, and fantasies, in addition to meeting their other criminogenic needs because this population is very unique in their thinking patterns. Therefore, a lot of work is performed on their criminal

thinking. It is necessary to be very careful during group therapy because offenders are not allowed to tell "war stories" because in that kind of setting many of those group participants enjoy hearing what others have done. She offered that it is a directed therapy process that keeps them focused on trying to correct some of the deviant thoughts and behaviors, and trying to address them as they move through their assault cycle. The curriculum used in the Lemon Creek Correctional Center is a quite focused group setting because it is easy for them to get astray and tell the stories. She added that the program focuses on corrective action rather than repeating what has already been done.

[2:47:22 PM](#)

REPRESENTATIVE LYNN offered that everyone has thoughts but not everyone acts on their thoughts, and he asked how that is addressed.

MS. BROOKS responded that he was absolutely correct that everyone does have thoughts, but these thought patterns are exceptionally aberrant and many times the therapist may have individuals journal some of those thoughts and then in individual therapy address those kinds of issues. The department works on helping them recognize prosocial behaviors, what is appropriate in certain situations, what is not, and they work on having them recognize what a healthy relationship looks like versus what they are used to seeing in many of their relationships. She offered that it is a slow process but the work is intended to change their thinking patterns, and one of the reasons polygraph is critical is because the polygraph examiner asks specific questions such as, have you had any deviant thoughts about children in the last month, if the answer is yes, that then becomes a specific treatment focus for the individual in therapy.

[2:49:06 PM](#)

REPRESENTATIVE LYNN asked how the department measures success rates on something like that, whether these people are basically fixable, is success measured by them not coming back to prison, and he stressed that these [crimes] are far beyond burglary, larceny, and assault. He asked whether it is fixable behavior such as alcoholism or drug addiction, and extended that when there is deviant behavior addiction many times with children can it be fixed.

MS. BROOKS answered that that is the question and it is why the containment model is used because the department measures success by the recidivism rate, and the national recidivism rate for sex offenders is actually about five percent. She said, "In Alaska, for our two cohorts that we've recently measured, it's around three percent." She continued that a large part of that success is due to the polygraph which is crucial in acting as a huge deterrent for those who know they are going to be administered a polygraph test, and it is exceptionally difficult to fake a polygraph. Polygraphs are used to assist in identifying victim pools so the program can include requirements such as, who do you need to avoid, is it adult women, is it males, is it young males, and all of the information is written into their probation conditions. Again, she advised, it brings to the treatment team's attention abhorrent thoughts and behaviors early in the assault cycle in order to take corrective action before the behavior escalates and contact is actually made. The team can put additional safeguards into place such as, electronic monitoring, curfews, surveillance, monitoring logs, which are the types of things that are all part of the containment model. She said she could not answer whether they change these individuals for life, although the containment model helps the department ensure that these individuals are caught early on in their behavior before new victims are affected.

[2:52:37 PM](#)

REPRESENTATIVE MILLETT commented that the fact that the offenders are receiving treatment, and that they will be let out of prison at some point because few sex offenders have a life sentence unless they've committed something in addition to the sex offense. She referred to the conversation of "if it works," and noted that the state is letting out sex offenders right now that have served their time or are on probation and parole, and have never gone through this treatment due to the current wait list for treatment, including substance abuse. It should be recognized that, hopefully, this data will prove that going through intense treatment while in prison keeps them from reoffending out of prison. There should be a conversation regarding offenders not receiving treatment in prison, being released, sitting on a wait list for this treatment, and the likelihood of recidivism for those groups. The hard truth, she expressed is that the offenders pay for their crime, do their time, and then are released into society, and she would rather the offenders receive some type of treatment while in prison rather than the current sex offenders receiving zero treatment.

2:54:04 PM

REPRESENTATIVE KREISS-TOMKINS referred to the epidemic of sexual assault on college campuses where there is concern that only one out of every twenty, or whatever, is actually reported or prosecuted. The point being that there are statistics of identified sexual assaults, and then there are actual sex assaults and the two statistics are different. He said, "I just wanted to confirm that when we're talking about recidivism statistics for sexual assault, 3 percent, 5 percent, whatever, we're talking about, I'm assuming we're talking about, I'd like that assumption confirmed, people who are convicted for another sexual related offense later. And, I guess my sort of secondary question is, if that assumption is accurate, is there data that these treatment programs reduce actual deviant sexual behavior, not just deviant sexual behavior that happens to be prosecuted also."

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MS. BROOKS referred to the question regarding the difference between those identified sexual assaults and actual sexual assaults, and responded that Representative Kreiss-Tomkins is correct in that the recidivism rate is based upon conviction. She advised that when it comes to the polygraph tests and addressing offender's sex history, they have found an extraordinarily high number of convicted people identifying one or two victims in their court case wherein nothing else had ever come to the surface. The polygraph tests have revealed that sometimes the offender is speaking of 10 or 15 victims, and sometimes much higher than that. The polygraph helps the team recognize just how vast their victimology is, even though they may have only been convicted in one or two cases. She explained that the information allows therapists to refocus treatment and also perhaps change their supervision if they are out in the community. She referred to Representative Millett's comment regarding those who do not receive treatment in custody, and agreed that there are long wait lists for these programs. When the individual is released to the community, whether or not they have received treatment, they are referred to treatment providers in the community, and they are statutorily required to be polygraphed. She described that another crucial part of the containment model is regardless of what kind of treatment they may already have received, they are still required to participate and still required to submit to polygraph testing.

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CHAIR LEDOUX related that she is still waiting for the statistics with respect to the pedophilia and whether or not these recidivism statistics are actually applicable to those very worst cases with a grown man raping a one- or two-year old.

MS. BROOKS answered that they do not break out the sexual recidivism rates based on any particular sexual crime being higher than the other, even though someone might be at much greater risk or have a higher propensity for violence. She offered to double-check and determine whether it is broken out separately, and whether it is possible within the department's system.

CHAIR LEDOUX stressed that while Ms. Brooks may not rank them as any different, "I sure as heck rank them as different and I suspect that most of the public ranks them as quite different." Research was conducted years ago and it was determined that people who do things like that can't be fixed, period, c'est fini. Currently, the committee is receiving other research that leaves her in a quandary because she is really trying to keep an open mind about this, but those scenarios and the idea that somebody is going to be spending any less time in jail because they've gone through ... She then offered Ms. Brooks the scenario of someone who raped a two-year old, and asked what his education would be that would stop that kind of behavior so that he doesn't rape someone else of that age. She further asked whether there would be shock treatment or what.

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MS. BROOKS apologized if she wasn't clear and responded that the department has no way of knowing whether these individuals are being fixed, and that Chair LeDoux is absolutely correct. The department's absolute best shot at protecting the public is providing the containment model to make sure that when they are back in the community that the department knows what the individual is doing, and what the individual is thinking about doing, so the department can increase the supervision because the individual will be released. She described this as one of the reasons why, in these bills, if the legislature is considering shortening the amount of probation time for sex offenders, the legislature needs to put a lot of thought into that. The issue is that if the department is not able to have enough programs within the institutions to treat them and they are released untreated, the offender's time on probation is

shorter which means the department will have even less time than it already does to work with the individual. She stressed that she is not able to say that the department is able to fix them. Although, she pointed out, if the department has any opportunity to contain them, it would seem as though [the legislature] would want to give [the department] the best shot at protecting communities by making sure the individuals are in that containment model as long as possible.

CHAIR LEDOUX asked whether containment model means jail.

MS. BROOKS replied no. The containment model is the cognitive behavioral treatment in conjunction with the polygraph and the majority of the states are using it in an effort to keep recidivism at its lowest possible rate for this population, she explained.

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CHAIR LEDOUX referred to that population and said wouldn't a better containment model mean the traditional containment model of lock them up and throw away the keys, since Ms. Brooks has related that the department doesn't know whether they are going to recidivate or not.

MS. BROOKS pointed out that it is not up to the department to decide because it is up to sentencing. She explained that when these individuals are released to the community, the best chance the state has at keeping those re-offense rates low is with the treatment and the polygraph combined, which research has shown is the best shot. Although, she agreed she is not familiar with anything that indicates they are fixed, that they will never ever do this again. Given what the department has, this has been the most successful, she remarked.

CHAIR LEDOUX pointed out that the question she posed wasn't a fair question because the legislature makes policy and makes that decision, not the department.

[SB 205 was held over.]

[3:03:18 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:03 p.m.