

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 21, 2016

5:02 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

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

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
03/21/16	(H)	JUD AT 5:00 PM GRUENBERG 120

WITNESS REGISTER

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

POSITION STATEMENT: During the hearing of HB 205, described the reentry process.

CARMEN GUITIERREZ
Anchorage, Alaska

POSITION STATEMENT: During the hearing of HB 205, offered support.

KRIS SELL, Lieutenant
Juneau Police Department (JPD)
City & Borough of Juneau (CBJ)
Juneau, Alaska

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

AMY ERICKSON, Director
Division of Motor Vehicles
Department of Administration

Anchorage, Alaska

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

NICHOLE THAM, Manger

Driver Services

Division of Motor Vehicles

Department of Administration

Anchorage, Alaska

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

NANCY MEADE, General Counsel

Administrative Staff

Office of the Administrative Director

Alaska Court System

Anchorage, Alaska

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

SEAN O'BRIEN, Director

Division of Public Assistance

Department of Health and Social Services

Juneau, Alaska

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

ALYSA WOODEN, Program Coordinator

Division of Behavioral Health

Department of Health and Social Services

Anchorage, Alaska

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

KACI SCHROEDER, Assistant Attorney General

Criminal Division

Legal Services Section

Department of Law

Juneau, Alaska

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

ACTION NARRATIVE

[5:02:54 PM](#)

CHAIR GABRIELLE LEDOUX called the House Judiciary Standing Committee meeting to order at 5:02 p.m. Representatives Keller, Lynn, Claman and 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

5:03:30 PM

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.]

CHAIR LEDOUX advised that the focus would be on reentry into the community.

5:03:57 PM

GRACE ABBOTT, Staff, Representative Charisse Millett, Alaska State Legislature, during her PowerPoint presentation, "Re-Entry, House Judiciary Committee, HB 205, March 21, 2016," said the vast majority of these policies exist outside the formal 21 Alaska Criminal Justice Commission's recommendations and are

aimed at streamlining the reentry process, finding ways to reintegrate people released back into communities to be productive and successful, and not recidivate. Many of these recommendations came from individual commissioners or work groups within the commission, and are policy calls for the House Judiciary Standing Committee to discuss.

[5:05:07 PM](#)

MS. ABBOTT turned to "Limited Driver's Licenses," pages 1-2, and advised that it exists within the state's misdemeanor statute but is not applied to larger license revocations. The sections addressed are Sec. 84, 85, 88, and 91. Alaska, she described, is a driving dependent state and much of a person's livelihood is dependent upon a driver's license to be employed or an active member of a family, and many areas have no options for public transportation. Currently, misdemeanants have access to a limited driver's and certain restrictions are applied; however, felony DUI offenders have their license revoked for the rest of their lifetime, basically. The problem is that this lifetime revocation is not an effective strategy to prevent someone from driving or driving sober. Data shows that there are arrests every day for driving with a suspended license or without a license at all and when people drive without a license there is no way of punishing them further other than with jail time. The limited license allows someone who has completed rehabilitation, successfully completed the therapeutic court program, has an interlock breathalyzer device in their car, has a specialty insurance, and participated in the 24/7 sobriety program. She offered that this has sideboards such that the court still has the discretion to revoke the limited driver's license and the opportunity to deny a request for a limited license if the person's behavior has not changed. She described it as a tool at the court's disposal such that when a person has been rehabilitated and has taken accountability measures to prevent themselves from driving and drinking, that they might have access to a license.

CHAIR LEDOUX surmised that currently misdemeanants can get this limited driver's license, and this change is basically for people who have been convicted of felony DUIs. She asked whether the idea is that they are kept forever on a limited license with the interlock device, for example, or would there be some point where it is determined the person has been clean and sober and the interlock device is no longer required.

[5:05:12 PM](#)

MS. ABBOTT responded that the current bill language does retain the interlock device as a requirement to hold the limited license and it is not within the court's discretion to remove it.

CHAIR LEDOUX asked what happens if their car is being fixed, can they drive someone else's car with a limited license or whether a limited license is restricted to a car with an interlock device.

MS. ABBOTT opined that it is restricted to a car with an interlock device.

[5:09:42 PM](#)

CHAIR LEDOUX asked whether anyone knows how much the interlock devices cost.

MS. ABBOTT responded that they are fairly expensive, but she does not have the exact cost off the top of her head.

CHAIR LEDOUX said the discussion, to a certain extent, is with a population that stays in prison because they can't afford a \$250, \$500, or a \$1,000 fine, and she wondered how this would work with interlock devices. She asked whether this is basically going to be limited to the more economically affluent DUI people.

MS. ABBOTT related there is a possibility people will not be able to afford an interlock device, but most likely the fines and the insurance are the more expensive portion. She related that this would be a difficult standard to meet but the status quo is not receiving a license for the rest of the person's life.

[5:11:15 PM](#)

REPRESENTATIVE CLAMAN referred to longer term penalties with the felony, and asked whether a person becomes felony eligible at the third DUI or second DUI.

MS. ABBOTT opined that it is a three strikes policy and it would be at the third DUI.

REPRESENTATIVE CLAMAN referred to the question of interlock devices and opined there are a number of businesses happy to

install the device. He asked whether the device works for the rest of the life of the car if the person does not sell it.

MS. ABBOTT said she is not an expert on the interlock device nor whether or not they have a life span, but she could look into it.

[5:12:16 PM](#)

REPRESENTATIVE CLAMAN surmised that if someone is convicted of felony DUI with a propensity to drink and drive, all that can be done is require that the interlock device be on the person's primary car. In the event friends offer their car to them, it is beyond the level the state can police anyway.

MS. ABBOTT agreed and said they have found that even without a license it is not dissuading people from driving. The intent is to encourage the safe and sober use of the driving privilege, but with keys and access there are opportunities for people to get behind the wheel.

[5:13:23 PM](#)

REPRESENTATIVE MILLETT noted that all of these are policy driven and the DUI and limited licenses portion is a touchy subject. The state cannot stop someone from having an interlock device and asking their 15 year old child to blow into it so they can drive, the state can only ask that they be law abiding citizens. These are sets of standards for people to follow and get back into a lawful existence when they've made mistakes. She said there are also felony DUIs that involve other crimes with a vehicle. None of this is set in stone and she will not argue for or against it, and noted there was no consensus on this from the commission. When a person receives a felony DUI, she asked how does the state provide them a pathway to becoming lawful citizens again, and also give communities and previous victims the comfort level that these people are not going to drive while drinking. She related that she has two parents in her district who are sensitive about this subject and she wants to respectfully honor the victims that have been killed by people driving while intoxicated.

[5:17:07 PM](#)

REPRESENTATIVE CLAMAN pointed to Sec. 84, [page 51, lines 8-26], and said it discusses how the court may exercise its discretion in allowing someone, that is otherwise restricted and not

allowed to have a license, to have a limited license and have the test. The legislature fully expects that judges in each case will look carefully at the offender, offense, circumstances of the offense, and what the person has done to show they can act responsibly. The interlock device and a restricted license is an opportunity to show that they cannot drink and drive. Judges also can determine the person hasn't shown that they are responsible and to continue riding the bus. The bill points to those who show they can act responsibly. He explained that the judge has the opportunity to be sensitive to the victim's concerns because at some level if someone has turned their life around, the legislature wants to give them credit for that. He said this is in contrast to the discussion regarding pedophiles, and suggested that the legislature generally has more confidence in people's ability to reform their drug and alcohol habits.

[5:19:47 PM](#)

MS. ABBOTT turned to "Administrative License Revocations", [pages 2-3], Sec. 83, [pages 50-51 of the bill], and noted how critical driver's licenses can be to the lives of people living in Alaska. Sec. 83 touches on administrative license revocations which and it kicks in when a person is initially charged with a DUI and the charges are dismissed, or the person has been acquitted of driving under the influence, and the DMV would be allowed to reissue their driver's license. Currently, there has been a blank spot in communication between the courts and the DMV wherein a license can still be revoked administratively just by the fact that courts have found them not guilty. This legislation allows for communication and allows people to retain their driving privileges when found [not guilty] or the charges are dropped.

[5:20:58 PM](#)

REPRESENTATIVE LYNN referred to Representative Tammie Wilson's bill having to do with a person being found not guilty by the court and yet the DMV revokes the license anyway. He said if the court finds a person not guilty, they are not guilty and they don't revoke the person's license. He remarked that before this bill gets out of committee, the committee needs to locate Representative Wilson's bill so there is not a conflict.

CHAIR LEDOUX advised that the committee may consider rolling it into this bill, although Representative Wilson's bill is a bit different in that the DMV "may" grant the license again. She

asked whether it is "may" or whether it will be "mandatory" for DMV to grant the license again.

MS. ABBOTT offered that it was definitely a mistake in her speaking, and it "shall" grant the license again.

5:22:18 PM

REPRESENTATIVE KELLER clarified that there is a difference between administrative revocation and revocation by the courts. Representative Wilson's bill eliminates the administrative revocation so it is all done in one place, the court.

MS. ABBOTT related that it is the committee's call as to whether or not that is the appropriate mechanism.

5:22:53 PM

CHAIR LEDOUX pointed to Ms. Abbott statement, when a case has been dismissed the person has been proven innocent, and advised that in Alaska's judicial system no one is proven innocent, they are found not guilty beyond a reasonable doubt which doesn't necessarily mean that they are innocent. One consideration when eliminating the administrative revocation is that one of the guidelines of this bill is that something is supposed to be quick and certain and no one has ever accused the court of being quick; therefore, some of the quickness is eliminated there. She reminded the committee that in today's society driving is not really a privilege so by taking it away, it is taking away something that a person needs in order to function in life and; therefore, there should be those same due process considerations as a big fine or anything else. Although, she said, it does go against HB 205 in that everything is supposed to be really quick.

5:24:29 PM

MS. ABBOTT noted that one of the greater priorities is having a meal to eat which is why the next recommendation deals with the issue of food stamps.

MS. ABBOTT turned to "Food Stamps," [pages 3-4] and Sec. 148, [pages 92, lines 12-24], said the commission expended quite a lot of time to promote the provision in Sec. 148, it lifts the restriction on eligibility for food stamps for a person convicted of felony drug offenses providing the person is

compliant with their conditions of probation and has completed treatment or is working toward rehabilitation, she said.

CHAIR LEDOUX questioned whether there actually was pushback within the commission on this provision, and noted the commission wasn't able to get this as a unanimous recommendation.

MS. ABBOTT replied that commissioners in the audience may be able to speak to the reason and opined that in 2015 the commission as a whole did write a letter in support of this policy change which perhaps is why the commission didn't feel it was necessary to include it within its list of recommendations. Within the letter of advocacy for this policy, she opined, they outlined six quick points, as follows: a lifetime exclusion of all drug felons from food assistance benefits is unduly punitive - the lifetime exclusion applies no matter how old the offense, no matter how short the sentence, or how well rehabilitated the ex-offender ...

[5:26:46 PM](#)

CHAIR LEDOUX interjected that she found it interesting there is a law that if a person has been convicted of a drug offense they are completely barred from food stamps, yet murder, rape, incest, and other things that some people may believe are more serious than cocaine [are not]. The drug offender is totally barred.

[5:27:17 PM](#)

MS. ABBOTT replied that the commission pointed to a reason, in its third point, that in many ways it is unwarranted due to the technological advances, issuance of electronic cards for food benefit, and the requirements for the recipient's photograph have significantly reduced the risk that food benefits might be bartered. She added that the persons who still manage to engage in food/drug trafficking are subject to a life time exclusion. The second point of the commission's letter is that disqualification works as a double penalty wherein the offender has served their sentence and completed any probation or parole requirements. Another point in the letter related that specific exclusion of convicted drug offenders from food assistance upon their release from prison exacerbates a problem. She said that many ex-offenders reentering their community are destitute and require short-term public assistance while they seek stable housing, legitimate work, and try to reunite with their family.

She related there is growing recognition and evidence of the connection between drugs, sexual assault, and domestic violence, and denying food assistance to former drug felons may cause these individuals to return to situations of sexual exploitation and domestic violence. The final point in the letter relates to undercutting family reunification rather than supporting it. She noted that the presence of parents in the home convicted of a drug offense effectively reduces the household's overall benefit as any income will be counted. She pointed out that some of the people being reunified with their families could end up being the breadwinner for their family or the sole source of income, and not being able to have food benefits does affect their children, as well.

[5:29:36 PM](#)

MS. ABBOTT turned to "Re-Entry Program" [pages 4-5] Sec. 139 [page 84, lines 30-31 and page 85, lines 1-12 of the bill] and advised that this section requires the Department of Corrections (DOC) to establish a program that prepares a prisoner for reentry 90 days before their date of release. This program must include a reentry plan, instructions on resources available within the community, and assistance in obtaining a state identification. She said the section is about giving people the tools they might need to succeed upon their release because people released from prison may immediately become hamstrung as they do not possess state identification and are not aware of the services available within their community. Alaska has made significant strides, especially in the non-profit world, in coming up with smart and active community-based reentry programs and assisting people in reentering communities. Anchorage has "Partners for Progress," that has testified on a myriad of bills and is a significant resource. She described that DOC helping to create a reentry plan, directing people toward resources, and assistance in how to obtain a state identification after leaving prison, as a significant and fairly small step. She explained that the sponsor's office has not heard from the Department of Corrections as to whether that poses a significant financial burden but described it as a reasonable step in assisting people in becoming productive citizens. Although, she opined, possibly this is already being done, but this provides a formal process through which DOC will provide a program that is helpful to people during their reentry into a community they may have been separated from for years.

[5:31:38 PM](#)

REPRESENTATIVE KREISS-TOMKINS asked whether other components have been envisioned for what a reentry program might look like in Alaska, whether there are other states that have enacted this, and their outcomes and data.

MS. ABBOTT responded that she could get back to him on the data available in the participating states. She pointed out that this is a common sense approach in helping people reintegrate themselves into their community, to specifically provide for people who may fall through the cracks with state identification, and also to offer resources specifically within the community the person will reenter. This committee can decide how specific it would like to get with what boxes need to be checked within a reentry program, she said.

[5:33:17PM](#)

MS. ABBOTT turned to "Community Work" [pages 5-6], Secs. 64-66, [beginning page 37 of the bill], and said the policy deals with community work service (CWS) and advised that the community work service statute was likely intended to let judges offer defendants an opportunity to perform community work service in lieu of jail, rather than ordering community work service and then converting it to jail time if the work service was not performed. However, the way the current statute was being utilized led to the filing of approximately 494 misdemeanor Petitions to Revoke Probation in FY14, for failure to comply with the community work service requirement to the judgment. She said many cases are driving with a suspended license of which community work service is a mandatory condition of probation and in those cases the court converts unperformed community work service hours into jail time. However, she noted, these sections allow offenders to pay a fine in lieu of work determined on an hourly basis based upon the state's minimum wage, thereby, still contributing and providing a benefit to communities. The impacts projected from a policy such as this are the savings of the following: jail days, prosecutor time, state funded defense, law enforcement, and judicial and court staff time involved in the time required to process petitions to revoke for community work service violations. She added that this provision was discussed by the commission but there was not unanimous consent.

[5:35:54 PM](#)

REPRESENTATIVE CLAMAN referred to Sec. 66, page 37 [of the bill], and surmised that this is a significant change because it

is essentially telling the courts that if a judge orders someone to perform community work service and they don't, that person will know they will never be sentenced to jail for not completing their community work service. In that regard, the worst thing that happens to the defendant is that [the noncompliance is] converted into a fine at the minimum wage level, and the judgement is amended to list the amount of the fine. He reiterated they would never have to go to jail for not completing their community work service.

MS. ABBOTT replied "No, the penalty for completing those work service hours would not -- or for not completing those work service hours would not be jail time."

REPRESENTATIVE CLAMAN stated that it would turn into a fine.

MS. ABBOTT agreed.

CHAIR LEDOUX asked whether there is a provision wherein the state would execute on the person's permanent fund dividend, and further asked the manner in which the state will collect the fine monies.

[5:37:10 PM](#)

MS. ABBOTT responded that she is not an expert on how the court levies fines, but she is aware of wage garnishment and that the permanent fund dividends are a way to collect.

CHAIR LEDOUX related that she would like to know the level of priority the state might have if there are a number of other claims against a person.

MS. ABBOTT advised that she does not have that information off the top of her head but there are experts in the room.

[5:37:38 PM](#)

MS. ABBOTT turned to "Suspended Entry of Judgement" [pages 6-7], Sec. 67 [page 38, lines 5-31 through page 39, lines 1-27 of the bill] and said Sec. 67 establishes a process for suspending an entry of judgment wherein if the person pleads guilty to a crime the court may, with the consent of the defense and prosecution, impose conditions of probation without imposing or entering a judgment of guilt. Subsequently, upon successful completion of probation the court shall discharge the person and dismiss the

case after one year. She added that this provision was discussed by the commission but there was not unanimous consent.

CHAIR LEDOUX asked whether that is only if the person pleads guilty to a crime.

MS. ABBOTT replied, yes. She then noted that Representative Claman was shaking his head no, and she may have been incorrect in her response.

[5:38:35 PM](#)

CHAIR LEDOUX related that currently there is something in the rules that allows a suspended imposition of sentence, and asked whether suspended imposition of sentence and suspended imposition of judgment are different.

MS. ABBOTT answered yes, they are slightly different. She then deferred to Ms. Schroeder, Department of Law (DOL), but said the difference is that a sentence doesn't have to be entered prior to the completion of the probation terms.

[5:39:22 PM](#)

CHAIR LEDOUX commented that Representative Claman looked like he was chopping at the bit to offer insight.

REPRESENTATIVE CLAMAN explained the reason he was shaking his head earlier was related to Sec. 67, [AS 12.55.078(a)] page 38, lines 6-10, which read:

(a) Except as provided in (g) of this section, if a person is found guilty or pleads guilty to a crime, the court may, with the consent of the defendant and the prosecution and without imposing or entering a judgment of guilt, defer further proceedings and place the person on probation.

REPRESENTATIVE CLAMAN clarified that it allows the court, for someone found guilty at a jury trial, to not enter judgment and instead put them directly on probation.

MS. ABBOTT responded absolutely, and thanked Representative Claman for the clarification.

[5:40:22 PM](#)

MS. ABBOTT offered the rationale that [judgments] are accessible via CourtView and word of mouth. She explained that records being publically available is an obstacle to reintegrating into the community, and often cause difficulties in finding employment [and housing]. This section, she offered, gives people the opportunity to meet the conditions of probation and not carry that judgment around with them because the case would be marked as "set aside."

[5:41:34 PM](#)

REPRESENTATIVE KELLER pointed out that various Alaska Criminal Justice Commission Commissioners, experts, and staff were in the room and to correct him if he is wrong. He then pointed out that the committee would be making a mistake if it looked at these last policies as being controversial within the Alaska Criminal Justice Commission, and explained that a huge scope of issues were covered and significant amounts of time were spent on them but in the end, the commission had to make a decision and get down to the recommendations. He stated that there wasn't a prejudice of thinking against any of these suggested policies, and he invited witnesses to advise whether he had misrepresented the commission's actions.

CHAIR LEDOUX listed the names of the people invited to testify.

[5:43:07 PM](#)

CARMEN GUITIERREZ offered testimony as follows:

I live in Anchorage, Alaska. Just to give you a little bit of background about myself in order to put, hopefully, my testimony into better perspective. I spent my entire adult career working in the criminal justice field as an attorney, as a Department of Corrections deputy commissioner responsible for prisoner reentry, and improve reentry outcomes. I have been working as a consultant after my retirement from the Department of Corrections on many of the same reentry and criminal justice improvement issues that I started during my time at Corrections.

I very much appreciate the opportunity to testify today, I'm here to express my strong support to HB 205. As you all know too well, the way we currently conduct our criminal justice system in Alaska is simply not sustainable. This is both in terms of our

financial and human costs as we expend a tremendous amount of money on our criminal justice system. For example, in FY16 the DOC budget was roughly \$324 million alone, that didn't include courts, public safety, Department of Law in the (indisc.) of indigent criminal defense. What have Alaskans received in return for that great investment? Two out three inmates returning within the first three-years, most of these people return in the first six-months. And that is why reentry is so important. If we had reentry systems in play that provided a hand-up and not a hand-out, I firmly believe, because I've seen it happen in countless other states, that Alaska would have a far, far improved recidivism outcome rate. We simply today ... our problem today is that we are releasing individuals without any community based support, we release them with innumerable barriers that hinder their ability to find safe secure housing, appropriate employment, and the ability to maintain ongoing sober and mental health support. I respectfully submit that you cannot maintain these failed practices of the past and think that we are actually promoting public safety for Alaskans. So, why should we care about reentry? Because as I said earlier, if we want to improve the reentry outcomes of the individuals leaving prison, and 95 percent of those folks do leave prison, we have to look at how to do our criminal justice rehabilitative experts differently, more cost effectively, and in a manner that improves reentry outcomes. This is important because every time a person successfully returns to their community we have one less crime victim, one less criminal justice expense, healthier families because the majority of convicted people are, in fact, parents, and we have healthier communities. And importantly, we have earned the goodwill of Alaska's citizens by pursuing policies that actually promote public safety.

[5:47:24 PM](#)

A key to successful reentry is the ability to find employment. In Alaska there are far too many barriers for individuals with criminal records to find employment. As many of you know, the American Bar Association in 2013 examined all of Alaska's statutes and regulations and found that 1,625 Alaska statutes

and regulations imposed collateral consequences for people convicted of crimes. These collateral consequences are barrier provisions, impact people's ability to find housing, employment, and receive benefits such as food stamps in which Grace alluded to earlier, and significantly they impede rehabilitated people's ability to drive legally, a motor vehicle in Alaska. HB 205 attempts to remedy one of the greatest impediments to returning citizens, and that is their inability to drive for a lifetime, or in many other cases as long as 10 years after conviction despite the fact that the individual had demonstrated to family members, the courts, the probation officers, and to their employers that they are, in fact, rehabilitated. That they have acquired sobriety, that they have acquired a responsible approach to the way they conduct their lives by not taking that first drink or taking up that first drug. As you can well imagine, even in Anchorage, Fairbanks, or Juneau, cities with transit systems it would be very difficult to conduct their lives without a driver's license, much less to live in a community without a transit system as most of our Alaskan communities do not have.

So, even when people want to live law abiding lives they drive, and they do so without insurance. The provision in HB 205, presented by Grace a few minutes ago, provides an opportunity to people who have actually demonstrated their rehabilitation to obtain a driver's license and become responsible driving individuals while having a license and the insurance that is required. HB 205, in my opinion, balances public safety by giving reformed offenders a chance so that they are able to conduct the necessities of their lives in a law abiding ways.

[5:50:16 PM](#)

I would also like to briefly mention about the Department of Corrections need to prepare offenders to successfully reenter before their release from custody. During my time at the Department of Corrections we did, indeed, have a reentry program. Offenders who had six months to serve were eligible to be placed into that program and it was a comprehensive course that attempted to help individuals address their immediate reentry needs. I'm not sure where

that program is today within the Department of Corrections, but to answer one of the representative's questions that were posed earlier, many states do have successful reentry programs. And the reason is really self-evident, we can't continue to expect that we can open the prison house doors and expect individuals, without identification, without money, and without a reentry plan, or no positive peer support, to suddenly become successful on the outside when they were living on the inside with individuals who may not necessarily be appropriate role models. The Department of Corrections should, indeed, have a program in place that works within the ... at least six months before the release from custody to help them identify a solid reentry plan, make contacts for proper employment, and certainly people cannot function on the outside without identification.

And finally, I'd like to just very briefly talk about the suspended entry of judgment. What we currently have on the books is what we call a suspended imposition of sentence. And, I would respectfully submit that the suspended entry of judgment is far, far superior to the kind of legal fiction we engage in with a suspended imposition of sentence. With a suspended entry of judgment an individual as previously noted can plead guilty, can be found guilty by a jury of one's peers, but if then the court, the prosecutor, and the defense agree that the individual should be given an opportunity to undergo a program of rehabilitation, they get a specified period of time to do certain things that have been delineated and agreed to by all the parties. And if this individual is able to satisfy all of those, basically, pre-conditions of probation the actual sentence and judgment is not imposed. And what that means then is that a citizen who made a mistake was able to demonstrate a willingness and the hutzpah to get the rehabilitative job done, is then not a convicted felon for the rest of their lives. Under our current system, with a suspended imposition of sentence you may then complete all your conditions of probation and have your conviction set aside but legally, under the law, according to the Court of Appeals, you remain a convicted felon when asked on an employment form, have you ever been convicted of a felony, because the

question [sic] is yes. You were convicted for the period of time until the judgment was set aside.

So, I really want to applaud the Senate and House Judiciary for the hard work it has committed to this bill. I want to applaud the sponsors for their courageousness in looking at the way Alaska is conducting its criminal justice system to find solutions that will indeed do what we all want, and that is make our communities safer and healthier for all Alaskans. I thank you very much for this opportunity.

[5:54:42 PM](#)

REPRESENTATIVE LYNN referred to identification and asked whether she was discussing something such as a state identification card that looks exactly like a driver's license, or a social security card.

MS. GUITIERREZ responded yes, and explained that in criminal cases an individual's identification is taken as evidence and they never get it back and people are released from custody. She noted that during her time at the Department of Corrections (DOC) a released inmate was given an identification form, that was viewed by the Division of Motor Vehicles (DMV) as a legitimate document, substantiating a person's identification and the person was able to obtain a driver's license. Clearly, she expressed, newly released inmates cannot conduct their lives on the outside without valid identification and there must be some way the Division of Motor Vehicles (DMV), Department of Administration (DOA), and Department of Corrections (DOC) can work together to get identification cards for inmates either before they are released or immediately upon their release. The identifications card look very much like a driver's license, she noted.

[5:56:48 PM](#)

REPRESENTATIVE LYNN referred to the exit period from the Department of Corrections (DOC) and asked whether DOC could facilitate this so when the person finally walks out the door they have the appropriate identification, such as a state identification card and social security card while in prison. If not, he asked whether the prison could obtain the proper forms needed for the prisoner as they walk out the door.

MS. GUITIERREZ responded that DOC has worked hard to explain to inmates how to obtain their social security card, but she was unaware of a process to provide inmates with the ability to obtain their social security card before their release. Although, she noted, there is one program for people with significant mental health needs, but it is operated on a limited basis wherein they attempt to have inmate's benefits restored before their release from custody. She reiterated, with regard to obtaining a state identification card, she hoped there would be a way for DOC and DMV to partner and attempt to make releases more seamless.

[5:58:24 PM](#)

REPRESENTATIVE LYNN thanked Commissioner Dean Williams, Department of Corrections, for being in the room and suggested the possibility of discussing this issue, or getting it into the bill somehow. He asked Ms. Guitierrez to quickly restate her comments regarding removing a felony conviction from a person's lifetime record.

MS. GUITIERREZ responded that the last provision Ms. Abbott explained to the committee deals with a suspended entry of judgment. She offered a scenario of John Doe being convicted, if the prosecutor and defense agree Mr. Doe has good prospects for rehabilitation there would be an agreement between the prosecutor and the defense that he would have to do A, B, and C, during a set period of time. The agreement would further state that if Mr. Doe did the required A, B, and C, the actual judgment would not be entered. She summarized that Mr. Doe did complete the requirements and; therefore, without ever being convicted he would not be a convicted felon.

REPRESENTATIVE LYNN surmised that someone trying to get a job that has never committed a felony in their life is competing with someone who did commit a felony, and he opined the person who never committed the felony would be the person to hire and described it as a philosophical argument.

[6:01:08 PM](#)

CHAIR LEDOUX advised that is one of the policy calls the committee will have to make.

MS. GUITIERREZ commented that when she was a criminal defense attorney she represented an individual who had had a very successful life. She described him as a blue collar worker with

a long history of demonstrating a good work ethics, but he got involved with drugs for a short period of time and was convicted, and this suspended entry of judgment was not in place. Gratefully, she said, the prosecutor was able to see beyond the fact that this individual had violated a drug provision. They then agreed, with the judge's permission, that they would continue the sentencing for six months. This person then proceeded to do a number of rehabilitative conditions and he completed his rehabilitative efforts within the prescribed time period and the court's sentence reflected the fact that the individual had demonstrated significant positive prospects for rehabilitation. She related that the person received a suspended imposition of sentence but he was required to report from that point forward that he had been convicted of a felony. Therefore, even though he had an outstanding work history, his ability to continue to work in his field had been greatly impaired. She opined that the policy call required [of the committee] is whether or not a person, such as the person she represented, should continue to be penalized for life because he was involved in drugs for a short period of time.

[6:03:58 PM](#)

CHAIR LEDOUX referred to the reentry process and identification restoration and said that if the identification is taken away when they are originally charged, why the person can't get their identification back again, what is the purpose of keeping their identification when it is not evidence.

MS. GUITIERREZ answered that the identification is taken by law enforcement as evidence and ...

CHAIR LEDOUX interjected that she assumed it was taken as evidence so law enforcement knows who they are, but once that is no longer in doubt, assuming the person stipulates they are the correct John Doe, she asked why law enforcement would keep the identification.

MS. GUITIERREZ explained that law enforcement keeps the identification if the case is appealed, and sometimes people are released from custody while their cases are on appeal and at that point they don't release the identification.

CHAIR LEDOUX argued that if they are on appeal for some issue, such as suppression of evidence or something of that nature, that has nothing whatsoever to do with whether the person's

identity is correct, she again asked why the government is keeping the identification.

MS. GUITIERREZ acknowledged that she can't answer that question. The other issue, she commented, is that there is a significant amount of paperwork required of which normally needs to be filled out by the person's defense attorney. She remarked that public defenders are swamped with active cases requiring trial preparation, and that filling out the necessary paperwork to submit to law enforcement to have that individual's property released doesn't fall at the top of their "to do" list.

CHAIR LEDOUX expressed that she understands, and possibly there is someone in the audience that can answer why the public defender should even have to request it. She continued that unless the issue is actually the person's identification why it shouldn't just automatically happen because it's not like giving back cocaine, it's just the driver's license.

[6:07:25 PM](#)

KRIS SELL, Lieutenant, Juneau Police Department (JPD), City & Borough of Juneau (CBJ), Member, Capital City Chapter - Juneau, Vice President, Board of Directors, Alaska Peace Officers Association (APOA), said she represents the Alaska Criminal Justice Commission where she served as a commissioner and that she has been in law enforcement for 18.5 years. She advised that when a person is arrested they do not always have a driver's license on them and law enforcement has to identify them in other ways, but they will still need a driver's license when they are released. She offered a case where someone committed another crime after becoming frustrated when he couldn't cash a paycheck after living in the shelter and working through a pay period. It was a horrific crime, and she pointed out that it can be a real decision point for people when they are that frustrated and really don't have much.

CHAIR LEDOUX stressed that she understands that, and further stressed that it is almost Orwellian to try to get identification when you don't have identification ...

LIEUTENANT SELL interjected that sometimes they don't have identification when they are arrested, and sometimes identification is given back when the case is over and evidence is disbursed, but [JPD} doesn't go through the list to pick and choose which evidence will be returned and not returned. She said, "Oh, it's about the traffic stop so we'll just throw this

knife away. We're not going to do that, we're not going to start splitting up a case not really knowing where this is going in the court system. So, I don't think that's reasonable to expect. Okay, it's under appeal but we'll go fish out the ID from the bloody wallet and give that back assuming it's not an issue. I don't think that's an appropriate burden for the evidence custodian to be going through and calling the prosecutors and the attorneys trying to make that decision." She acknowledged that anyone released from prison needs identification. They may get it turned back by the police and explained the difficulty of standardizing the process.

CHAIR LEDOUX agreed that that makes sense.

[6:10:07 PM](#)

REPRESENTATIVE LYNN asked whether law enforcement also takes social security cards or maybe a Medicaid ...

LIEUTENANT SELL interjected that it depends upon whether they have it on them at the time of arrest. Law enforcement may take a wallet, sometimes it goes with their personal property to jail, sometimes it's part of the case, if it's left in the DUI car the whole thing is taken, and everything is case specific depending upon what they had on them, and whether it is relevant. She said that law enforcement doesn't go through the wallet to decide what to keep since it is not something they are worried about at that point, they are in a criminal case and have bigger fish to fry.

REPRESENTATIVE LYNN advised that he agrees it is not law enforcement's department, but the DOC facility should obtain whatever identification a person had when they walk out the door. Let the Department of Corrections do the work on this thing ...

[6:11:23 PM](#)

LIEUTENANT SELL interjected that it seems as though that is the point.

REPRESENTATIVE LYNN continued that a social security card is obtained through the mail ...

LIEUTENANT SELL interjected that she forgot to mention that if it is a DUI offense the identification is sent to DMV;

therefore, administratively it has to go down a different pipeline.

REPRESENTATIVE LYNN continued his comment that he does not think that is the function of the police department. He then referred to the reentry discussion in that approximately a month before an inmate's release date, the inmate goes through a process, and part of the process should be to get whatever identification they need, or ...

LEIUTENANT SELL interjected that addressing it at that point is probably the most efficient way. She said she is not trying to shift her work to the Department of Corrections, but they are in charge at that point.

REPRESENTATIVE LYNN commented that she is the one that keeps them in business.

CHAIR LEDOUX related that it is the criminal that keeps everyone in business.

[6:12:36 PM](#)

REPRESENTATIVE CLAMAN said he generally agrees that it makes more sense for the Department of Corrections (DOC) to try to make it easier for people to obtain identification. He referred to Lieutenant Sell's testimony, "Oh well, it's the evidence of the crime ..." and said he certainly understands when it is a DUI and it was in the car in the wallet, he then further referred to Lieutenant Sell's testimony "What's so special about the ID, how does it trace in the crime," and pointed out that there are evidence rules allowing duplicates to be admitted if it is necessary to show that this identification looks like the person, and the original driver's license isn't ...

LIEUTENANT SELL interjected that the police can arrange with the prosecutor to submit something such as a picture or photocopy in lieu of the actual evidence. She said, "But do we really want ... is it worth bogging us down with that? I mean, so you understand it's like what is the most efficient way to deal with this particular problem." She explained that the reason for taking the driver's license is because "who you are" is always an element of the charge.

[6:13:55 PM](#)

REPRESENTATIVE KELLER noted that Mary Geddes, Administrator for the Alaska Commission on Judicial Conduct (ACJC), corrected him in that the commission unanimously recommended the substantive law for suspended imposition of sentence (SIS), the repeal of the food stamp ban, and the changes to the community work service program. He reiterated that those three things were recommended by the commission, and he guessed there was no recommendation on the limited driver's license or the administrative license.

CHAIR LEDOUX noted that Lieutenant Sell was shaking her head and asked whether she would like to put something on the record.

LIEUTENANT SELL agreed that the above three issues were common sense and non-controversial, but when discussing the driver's license the commission kicked the can down the road to the Title 28 working group.

[6:15:43 PM](#)

REPRESENTATIVE CLAMAN referred to Lieutenant Sell's earlier testimony and surmised that she liked the administrative revocation which is separate from the court revocation. He explained that under the language of this proposal, it allows a person whose license is administratively revoked, to go to court and if the court doesn't convict them, they can then go to DMV and get their license back. He further surmised that Lieutenant Sell now supports that approach even though as a law enforcement officer she sees advantages of the current system.

[6:16:40 PM](#)

LIEUTENANT SELL responded that when there is a DUI, law enforcement is aware of the many reasons cases are dismissed or settled with something other than a conviction, having nothing to do with the guilt or innocence of the person. Yes, she admitted that sometimes she felt satisfied because the person still lost their driver's license. Lieutenant Sell related that her mentor once told her to do the right thing for the right reason; therefore, if you are disciplining someone not because it makes them better but because it makes you feel better, that's coming from the wrong place. She related that she has had to do a lot of soul searching on the Alaska Criminal Justice Commission.

REPRESENTATIVE CLAMAN surmised that she does support the recommendation.

LIEUTENANT SELL agreed that she does, but a lot of the recommendations are not comfortable which does not mean they are wrong.

6:18:44 PM

REPRESENTATIVE MILLETT asked Lieutenant Sell to walk through revocation of a driver's license on the civil side wherein someone is caught driving three times without insurance or has not paid a parking ticket or fine. She questioned whether that rolls into the DMV where they can administratively revoke a driver's license.

LIEUTENANT SELL replied that her only experience with administrative revocation is DUIs where law enforcement seizes the driver's license, sends it in, and the person receives a temporary driver's license to get them through the first week or ten days while initiating court. She offered that law enforcement sometimes submits someone for retesting having to do with their ability to competently drive safely.

REPRESENTATIVE MILLETT asked Amy Erickson, Division of Motor Vehicles, to discuss the process in administratively revoking a license.

6:21:30 PM

AMY ERICKSON, Director, Division of Motor Vehicles, Department of Administration, said the authority for the Division of Motor Vehicles (DMV) to administratively revoke a driver's license is set out in statute. In the case of a DUI, the license is seized by the police officer, the person is issued a Notice and Order of Revocation and in seven-days, if the arrestee does not request an administrative hearing, the action is put on their record and the person waits for their court date.

CHAIR LEDOUX asked, other than a DUI, whether there is any other reason to administratively revoke a driver's license.

MS. ERICKSON responded that not with revocation, but there are suspensions for mandatory insurance and other. In response to Chair LeDoux, answered that an example of "other" would be "court ordered revocations for DUIs."

MS. ERICKSON said she would not like to offer testimony, but was available for questions.

[6:22:58 PM](#)

REPRESENTATIVE CLAMAN asked whether there is a difference between an administrative suspension, such as points or lack of insurance, and revocation, and the circumstances under which a license can be suspended without a court action.

MS. ERICKSON deferred to Nichole Tham, Division of Motor Vehicles (DMV).

[6:23:40 PM](#)

NICHOLE THAM, Manger, Driver Services, Division of Motor Vehicles, Department of Administration, explained that a revocation is an expiration or a stop of driving privileges, and when the driver becomes eligible [to drive] they are required to reapply. Whereas, she explained, a suspension is a temporary withdrawal of driving privileges and once the action is over the driver can resume their driving privilege and pick up where they left off rather than having to reapply.

REPRESENTATIVE CLAMAN noted that the suspension is temporary and asked who suspends it, and further asked whether he could have his license suspended by some action at DMV without anything ever being filed in court or any court action.

MS. THAM replied that DMV would only take action to suspend a license under the statutes set that would require DMV to do so.

REPRESENTATIVE CLAMAN requested an example.

MS. THAM referred to an example of mandatory insurance suspension wherein if a person drives without insurance the department may take action under AS 28.20 and AS 28.22.

[6:24:58 PM](#)

REPRESENTATIVE CLAMAN asked whether there are any other examples of when the department might suspend a license other than lack of mandatory insurance.

MS. THAM said another example would be child support wherein Alaska State Statutes require that the license be suspended for failure to comply with child support.

REPRESENTATIVE CLAMAN asked for a third example of a license suspension not performed by the court but by following statute.

MS. THAM advised that she could not think of a third example off the top of her head but would get back to the committee with a full list of issues that would generate a suspension.

CHAIR LEDOUX questioned whether not paying child support generates a driver's license suspension.

MS. THAM advised that there are statutes requiring DMV to suspend a license for failure to comply with child support.

REPRESENTATIVE CLAMAN asked whether the court then reports the failure to comply with child support to the DMV, and questioned how DMV knows the child support has not been paid.

MS. THAM opined that child support enters those suspensions directly onto the driver's record and at that point DMV [has the information]. In the event the person were to apply for a license, obtain a driving record, or otherwise inquire, DMV would become aware and would let the person know.

[6:26:57 PM](#)

CHAIR LEDOUX referred to the issue of lack of mandatory insurance and asked whether the police department reports it to DMV.

MS. THAM responded that usually the mandatory insurance and financial responsibility is identified either through the certificate of insurance form a person fills out after a crash, or on a crash report that is submitted to the department by law enforcement or on the citizen crash report.

CHAIR LEDOUX referred to parking tickets and asked whether that is an issue a license might be suspended.

MS. THAM answered that DMV does not have a suspension for failure to pay parking tickets; however, DMV does statutorily have a suspension for accumulation of too many points on a person's driving record. Usually, she explained, parking violations are excluded, but if a person accumulates up to 12 points in 12 months, or 18 points in a 24-month period, DMV is required to suspend driving privileges.

[6:28:49 PM](#)

NANCY MEADE, General Counsel, Administrative Staff, Office of the Administrative Director, Alaska Court System, said that the Alaska Court System does not have a position on whether or not limited license provisions are changed in this bill. She related that she has worked with the sponsors' offices in the House of Representatives and the Senate regarding this issue for a few years in an attempt to craft a system to protect public safety and help those constituents who might be thought to deserve their license back at some point.

CHAIR LEDOUX asked Ms. Meade to briefly walk the committee through the license provisions.

MS. MEADE responded that according her notes, DMV can suspend a license for the following: demerit point accumulation; blood alcohol test above .08; no insurance; an unsatisfied court judgment; certain medical conditions; minor operating after consuming; false identification; and child support arrearages. She noted that the court must suspended for a list of approximately 9-10 things, including: reckless driving; manslaughter in which a vehicle was used; a felony in which a vehicle was used; evading police in which a vehicle was used; DUI; and refusal [of a blood alcohol concentration (BAC) test].

[6:30:32 PM](#)

MS. MEADE turned to HB 205, and said three of the provisions affecting limited licenses are Secs. 84, 85, and 91. She agreed with the clarification that this is not a provision that was discussed at length by the Alaska Criminal Justice Commission, although, someone did bring up the issue just because it has been the topic of bills for the last few years. She noted there is a Title 28 work group, within the commission, studying issues related to administrative revocations and limited licenses. She then turned to Sec. 85, and explained that chronologically Sec. 85 occurs first, and this section would be an amendment to the existing law allowing misdemeanants in DUIs and refusal to get a limited license for some purposes. Sec. 85, she explained, adds a new section to that statute reading that certain felons can get a limited license, which is a new idea in the law. This section only applies for felony DUIs, wherein the felony DUI is the third time within the last ten years. She explained that in the event a person has a felony conviction and has successfully been in therapeutic court for six months or completed therapeutic court at some point in the past, this would apply. The person must then have proof of insurance, have the ignition

interlock device installed, go to ASAP, not previously had a limited license, and go to the 24/7 program. In the event they have completed these requirements they can get the limited license. She advised there are a few drafting issues she has discussed with the sponsors' offices because there is language that does not exactly work in that felons never go to the Alaska Alcohol Safety Action Program (ASAP), for example, and there are several other issues such as that to be adjusted.

[6:33:16 PM](#)

CHAIR LEDOUX asked why felons do not go to the Alaska Alcohol Safety Action Program (ASAP).

MS. MEADE replied that by statute the ASAP program deals with misdemeanants with drug or alcohol issues and currently that statute allows misdemeanor DUI people to obtain a limited license, but they must be in compliance with ASAP which was incorporated into this section as an innocent error.

CHAIR LEDOUX surmised that if it is the desire of the committee that felons participate in ASAP, another statute should be changed.

MS. MEADE agreed, and she put forth that the Alaska Justice Criminal Commission recommended the opposite, such as ratcheting down what ASAP should be responsible for in order to more appropriately focus just on the misdemeanor DUI type of people. There has been a bit of mission creep wherein judges order people to ASAP for things that are not required, and she pointed out that the commission wants it to be narrowed rather than expanded.

[6:34:32 PM](#)

REPRESENTATIVE KELLER [humorously] asked the record to reflect that judges are responsible for the mission creep.

MS. MEADE responded that the court is doing its best for defendants that appear to have alcohol and drug problems, and rehabilitating them.

MS. MEADE explained that another issue in the draft for felons is that it requires those in therapeutic court to comply with the 24/7 program and that may not be a perfect fit. She pointed out that it is a policy call, but currently people in therapeutic court do not also go to the 24/7 program. The

therapeutic court folks consider it to be duplicative or redundant and, she explained, it is not ever done together with all the treatment they receive in therapeutic court.

[6:35:32 PM](#)

CHAIR LEDOUX asked Ms. Meade to explain the 24/7 program.

MS. MEADE answered that the 24/7 program was placed into statute two years ago by Senate Bill 64, and is run by the Department of Health and Social Services through the ASAP office. It is a program through which defendants in criminal cases, either as a condition of bail or a condition of probation, are required to blow into a tube to determine whether they have alcohol in their system mornings and evenings, 24-hours a day, 7-days a week. The program is designed to ensure sobriety and give the person a sense that someone is checking up on them and gives structure to their life. She said the program has proven effective in other jurisdictions in helping people maintain their sobriety.

CHAIR LEDOUX asked whether 24/7 means that their case officer can call them at 3:00 a.m., and tell them to come into the office and blow into a tube.

MS. MEADE responded that is not how the program is set up, it also applies to misdemeanants in the program who do not have probation officers. In the event a person is ordered into the 24/7 program as a condition of bail, the person receives a document with the address of the vendors approved by ASAP to administer these tests. She used Anchorage as the example, and said that the person is required to report to a vendor's facility between 6:00 - 9:00 a.m., and 6:00 - 9:00 p.m., every day, all the time. She explained that when the person blows into the tube and it registers 000, they leave, and if it is not 000 the requirement for the vendor is to notify law enforcement that the person is violating one of their terms of bail or probation.

[6:37:33 PM](#)

CHAIR LEDOUX said that technically, a person could blow 000 at 6:00 p.m., and then have a few drinks and blow into the tube at 9:00 a.m., and it would show that the person hadn't been drinking.

MS. MEADE pointed out that how well the program can actually detect whether the person has been drinking has been discussed

at length. The fact is that alcohol stays in most people's systems for the amount of time that it would be detected within 12 hours, but that is not to say there couldn't be the outlier who takes the test at 6:00 p.m., and waits until 9:00 a.m., so they have 15 hours rather than the 12 hours. The response is that the vendors administering these tests are quite in tune to that possibility and track the times people are coming in and will advise an individual they are to return at 6:00 a.m., not 9:00 a.m. She opined that the monitoring has been quite effective and it is definitely something everyone is aware of and tries to stop from the get-go.

[6:39:07 PM](#)

REPRESENTATIVE CLAMAN referred to [AS 28.15.201(g)(7)] Sec. 85, page 52, lines 29-31, which read:

(7) the person is participating in a program established under AS 47.38.020 for a minimum of 120 days from the date a limited license is granted under this section.

REPRESENTATIVE CLAMAN then referred to [AS 28.15.201(g)(5), Sec. 85, page 52, lines 24-26], which read:

(5) the person is enrolled in and is in compliance with or has successfully completed the alcoholism screening, evaluation, referral, and program requirements of the Department of Health and Social Services under AS 28.35.030(h);

REPRESENTATIVE CLAMAN surmised that from the standpoint of the commission's recommendation and the ASAP program, it does not want the program dealing with people in a felony setting. He asked whether that is also true with the 24/7 program.

[6:39:52 PM](#)

MS. MEADE clarified that the commission did not have anything to do with these provisions of HB 205, and as a matter of course, statutorily felons are never in ASAP.

REPRESENTATIVE CLAMAN interjected that paragraph (5) should be removed from this section dealing with felonies.

MS. MEADE agreed, and advised that the 24/7 requirement may not be advisable for people in therapeutic court, but noted that

this limited license provision is also for those who have successfully completed therapeutic court. Therefore, if someone finished therapeutic court in 2012, graduated and has a certificate from the court - which they literally do have, it could be worded such that paragraph (7), the 24/7 program, would be required for those individuals to get their limited license. It would not necessarily be duplicative of the program they were in, as it would be for those participating in therapeutic court.

[6:41:11 PM](#)

CHAIR LEDOUX asked that when a person graduates from therapeutic court, as an additional requirement they then have to participate in the 24/7 program.

MS. MEADE related it would be the committee's call, and flagged a concern regarding participants required do the 24/7 program because it is duplicative of therapy in therapeutic court, and that it would be difficult for the person to comply because they are already doing a lot of therapy in therapeutic court. She pointed out that that same reasoning does not apply to those who have successfully completed therapeutic court at some point in the past. She said the committee could decide to make them go to the 24/7 program for a period of time to get their limited license without over-burdening them because they would not be in a therapeutic court program that has a lot of time commitments.

[6:42:09 PM](#)

REPRESENTATIVE CLAMAN surmised that in looking at paragraphs (5) and (7) and possible amendments, paragraph (5) is not appropriate because ASAP is not for felons. Although, paragraph (7) may need review in terms of whether the committee wants to have that as an option and this may not be the wording that gets the committee there to make it an option. He said some of the people that have already completed the program or been involved in therapeutic court wouldn't be in it at the time they received their limited license. This particular language is somewhat too narrow for giving flexibility on that, he said.

MS. MEADE agreed and advised that the people who have graduated from therapeutic court uniformly have not been in the 24/7 program. She described it as wordsmithing and she did not mean to raise it as a big issue because she can work with the sponsors' offices, and that she has discussed some of the small drafting issues. She said that is the way for a person to get their limited license.

6:43:20 PM

MS. MEADE turned to Sec. 84, [AS 28.15.181(f)(1)(B)(iii), page 51, lines 21-24], which read:

(iii) has been granted limited license privileges under AS 28.15.201(g) and has successfully driven for three years under that limited license without having the limited license privileges revoked;
and

MS. MEADE explained that if a person has had their limited license for three years, the court can terminate the revocation.

MS. MEADE turned to Sec. 91, [AS 28.35.030(o), page 56, lines 5-28], and pointed out that the court doesn't actually deal in driver's licenses so the court would prepare a termination of revocation but the person still has to go to DMV to actually receive their license back. She explained that Sec. 91 is a subsection of the long DUI statute, AS 28.35.030 and Sec. 91 that lays out how a person gets their license back. AS 28.35.030(n) reads that if a person is a felon their license is permanently revoked, and AS 28.35.030(o) is how the person can get their permanently revoked license back, which is a bit confusing. She pointed to AS 28.35.030(o)(1)(A), Sec. 91, page 56, lines 9-10, which read:

(A)[1] the license has been revoked for
a period of at least 10 years;

MS. MEADE explained that, currently, under AS 28.35.030(o) a person can get their license back after 10 years if there has not been any other criminal offenses, and the person can show insurance. She pointed to Sec. 91, [AS 28.35.030(o)(2), page 56, lines 14-28, which read:

(2) shall restore the driver's license if
(A) the person has been granted limited license privileges under AS 28.15.201(g) and has successfully driven under that limited license for three years without having the limited license privileges revoked;
(B) the person has successfully completed a court-ordered treatment program under AS 28.35.028;

(C) the court previously terminated the person's revocation as provided in AS 28.15.181(f)(1)(B);

(D) the person has not been convicted of a violation of AS 28.35.030 or 28.35.032 or a similar law or ordinance of this or another jurisdiction since the license was revoked;

(E) the person's privilege to drive may be restored as provided in AS 28.15.211; and

(F) the person provides proof of financial responsibility.

MS. MEADE explained that the added language lays out how the DMV will restore a person's license fully.

[6:45:48 PM](#)

REPRESENTATIVE KREISS-TOMKINS referred to Sec. 91, [AS 29.35.030(o), page 56, line 28, which read:

F the person provides proof of financial responsibility.

REPRESENTATIVE KREISS-TOMKINS then referred to Sec. 91, [AS 29.35.030(o), page 56, line 13, which read:

(C) [(3)] the person provides proof of financial responsibility;

REPRESENTATIVE KREISS-TOMKINS asked the rationale behind proving financial responsibility for the person to have their license back.

MS. MEADE related that that is the wording used in the statute showing proof of car insurance. She explained that after a DUI it is sometimes difficult and always expensive to obtain SR 22 insurance from an insurance company, and that DMV has the responsibility to check before issuing the limited license. She described it as a policy call made previously.

[6:46:36 PM](#)

CHAIR LEDOUX noted that if a person completes all of the requirements the DMV shall restore a person's driver's license. She turned to Sec. 91 [AS 28.35.030(o)(2)(E), which read:

**(E) the person's privilege to drive may
be restored as provided in AS 28.15.211; and**

CHAIR LEDOUX pointed out that the language reads "may be" restored as opposed to "shall be" restored.

MS. MEADE referred to Sec. 91 [AS 28.35.030(o)(2), page 56, line 14, which read:

(2) shall restore driver's license if

MS. MEADE explained this is how the DMV restores a driver's license after a DUI or refusal, and line 8, AS 28.35.030(o)(1), which read:

(1) may restore the driver's license if

MS. MEADE reiterated that the DMV may restore a driver's license if 10 years have passed and the person has not had any criminal offenses. She opined that the DMV would not arbitrarily deny someone a license even though that is a "may." The drafter was careful on line 14 to put "shall" restore the driver's license so there is no discretion, and the person who has jumped through the hoops "shall" have their license restored by the DMV.

[6:47:37 PM](#)

CHAIR LEDOUX referred to line 26, subparagraph "**(E) the person's privilege to drive may be restored as provided in AS 28.15.211; and**" so the "shall" be restored is on line 14, and "may be" restored on line 26.

MS. MEADE offered that it is an area in one of the meetings with the DMV that it decided should have language adjusted. She explained that subparagraph (E) is supposed to mean that the DMV is authorized to restore a person's privilege under these other provisions. Actually, she related, this brings up an issue that means a person cannot have any other revocations outstanding. She pointed out that people in this category may have their licenses revoked for other reasons because by the time a person gets to a felony DUI, perhaps they have points on their record and a driving with license suspended or revoked. In speaking with the DMV, she noted that some people have "stacked revocations" into the future; therefore, those people may not be eligible to get a license until 2025 because they have a bad driving record. Subparagraph (E) reads, she said, that the person's privilege to drive will only be restored under this

limited license if they are eligible to have it restored and do not have other time to serve with a revoked license under other provisions of the DMV laws.

[6:49:25 PM](#)

REPRESENTATIVE MILLETT suggested that "may be eligible" might be a better phrase because people may have met the qualifications in this bill, but not met the qualifications of other revocations they have. She offered that this would tell the DMV that they can give the license back if all conditions are met, and they have no other revocations.

CHAIR LEDOUX said she was questioning whether or not they can get their license back despite their felony DUIs. She asked the committee whether it wants to word it so a person can get their license back even when they've had other driving violations. She questioned whether it makes sense if the language lets them have their license back despite the fact that they now have three DUIs, but they did X, Y, and Z.

[6:50:40 PM](#)

MS. MEADE advised that she spoke at length with the Division of Motor Vehicles (DMV) and they are on line to discuss it.

REPRESENTATIVE CLAMAN commented, it appears the left hand often does not know what the right hand in government is doing wherein someone looks good on one side, and they may not look so good on the other side [of government].

[6:51:35 PM](#)

MS. THAM commented that the issue of stacked revocations was a topic of discussion and that the department does have concerns that while some people would be eligible under this provision to terminate a felony revocation, that others, for the reasons previously discussed, may not be eligible at that time but possibly in the future.

CHAIR LEDOUX asked whether the DMV has any thoughts one way or the other whether it is going to be mandatory to give a license back to someone who has a felony DUI, and whether the legislature should keep them from getting their driver's license because they have an excess of points perhaps resulting from a DUI conviction.

MS. THAM responded that would be a policy call.

CHAIR LEDOUX commented that many things in this committee are a policy call.

[6:53:19 PM](#)

REPRESENTATIVE MILLETT asked Ms. Tham to walk the committee through stacked revocations that may be in place in order to understand other discretionary policy changes.

MS. THAM offered an example such as, someone with a felony DUI but had an outstanding suspension for child support, the [failure to pay child support] would have to be remedied with child support in order to help the person become eligible to restore driving privileges.

CHAIR LEDOUX commented that it is probably easier to pay off child support obligations if the person has a license to drive to work.

MS. THAM noted that the DMV is hopeful issues such as this can incentivize people to meet the requirements so they can be eligible for driving privileges or to restore driving privileges.

[6:55:17 PM](#)

REPRESENTATIVE LYNN noted that there may be reasons why a person is not paying child support such that they do not have the money to do so, and they need to have a car to get the money. He commented that most of the time a person does not pay child support because they are deadbeats, although sometimes people do not pay child support because they really do not have the money and the legislature needs to help them out.

REPRESENTATIVE MILLETT suggested that in working with the DMV that qualifications can be crafted offering a payment plan for someone once they receive their driver's license and become gainfully employed.

CHAIR LEDOUX said she likes that idea.

REPRESENTATIVE MILLETT related that the point of this bill is to get people back into society, out of beds within the Department of Corrections, to be successful Alaskans, and not give up on

any one particular crime. She described this as a shift in the legislature's thinking.

CHAIR LEDOUX advised that Sean O'Brien, Division of Public Assistance, is next and will discuss food stamps for drug felons.

[6:57:55 PM](#)

SEAN O'BRIEN, Director, Division of Public Assistance, said he is available to answer questions relative to Sec. 148, and that the Division of Public Assistance and the Department of Health and Social Services support it.

[Chair LeDoux passed the gavel to Representative Keller.]

REPRESENTATIVE LYNN referred to earlier questions about food stamps and pointed out that people have to eat and they can't afford it because they just got out of jail. He pointed out that it appears obvious that well fed people don't steal as much as people who are starving, and that this is just common sense which doesn't seem to be so common.

MR. O'BRIEN responded that he was not sure he understood the question but offered that the same mission that drives the Division of Public Assistance to assist a variety of people to become independent and successful in Alaska is the same heart as this bill. He explained, it is to help transition individuals from where they are to where they need to be, and in that sense, it is common sense, and the Division of Public Assistance offers a variety of programs to try to help Alaskans successfully transition. He opined that this is an example of that and the answer to Representative Lynn's question is yes.

[7:00:49 PM](#)

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

[7:01:07 PM](#)

The committee took a brief at ease.

[Representative Keller passed the gavel back to Chair LeDoux.]

[7:01:44 PM](#)

CHAIR LEDOUX asked Ms. Wooden to explain the reentry program, such as, support and resources provided to individuals, and further asked what the division's role would be in the reentry program.

MS. WOODEN explained that the division has had the anti-recidivism services contract since July 2015, and the social and community supports provided by this contract range from housing, employment, substance abuse, and mental health treatment referrals. Currently, she explained, this contract is dually funded by the Department of Corrections and the Department of Health and Social Services who then partners with a vendor within the community to assist in reentry and assisting individuals in receiving the support they need.

CHAIR LEDOUX asked whether she said they contract with a vendor.

MS. WOODEN answered yes.

CHAIR LEDOUX further asked whether it was just one vendor or a number of vendors.

MS. WOODEN explained that Partners for Progress is the vendor for the entire anti-recidivism services contract and they do refer out to other providers within the community, specifically for substance abuse and mental health treatment.

[7:03:21 PM](#)

CHAIR LEDOUX asked her, and anyone in the public, to talk to the committee about Partners for Progress and what it does pursuant to this grant.

MS. WOODEN responded that Partners for Progress (Partners) have a (indisc.) center, and there may be confusion because they do have funding outside this particular contract. Although, for this specific contract the supports and deliverables they are specifically working with are primarily focused on housing, employment, substance abuse, mental health treatment referrals, and other support services which include everything from bus passes to clothing vouchers. She offered that the majority of referrals the division receives for this contract are from the Department of Corrections and they work closely with the department to utilize the risk assessment for this particular contract. The risk assessment is the Level of Service Inventory - Revised (LSI-R) and it helps to measure the likelihood of

(indisc.) criminogenic needs. The vendor is able to tailor their case management process toward the level of needs of the offender in addition to the risk assessment. She explained that when discussing this contract the discussion is the vendor Partners for Progress, as well as the Department of Corrections, and the Department of Health and Social Services, as well as other departments who have helped, such as Department of Labor & Workforce Development for the employment piece.

[7:05:18 PM](#)

CHAIR LEDOUX related that she has been to Partners for Progress and expressed that it is a great program, and asked how things will change within their program once the bill has passed.

MS. WOODEN replied that she does not know in particular, but a lot of the changes do affect the Department of Corrections. Interestingly, she said, many of the changes, especially when it comes to reentry, do seem to go along with what Partners for Progress is already doing. For instance, 90 days before someone is released from prison, it ensures the inmate has identification and a plan. She related that this is helpful to the contract because it encourages communication between the Department of Corrections and Partners for Progress. She remarked that she is not sure what it will look like in the future.

CHAIR LEDOUX said she is interested in the role Partners for Progress might play in the future, and asked that someone get back to the committee with the information.

[7:06:33 PM](#)

MS. ABBOTT noted there are numerous other services that Partners for Progress is able to provide through partnerships, such as job placement resources, housing placement and others. She opined that Partners for Progress resources could be transitioned into other helpful services.

CHAIR LEDOUX asked her to explain.

MS. ABBOTT responded that the Anchorage Reentry Center through Nine Star helps with job skills, GEDs, and increased services for housing. At this point it is a fairly small operation and it could provide substantially more if it were able to shift some things that are happening during the incarceration period, she said.

7:08:07 PM

CHAIR LEDOUX asked when the services for partnership ends.

MS. ABBOTT asked whether she meant through the contract they are working with or through grant funding.

CHAIR LEDOUX answered no, and offered the scenario of someone released from prison and Partners for Progress helps them, at what point does the person leave the nest and become totally independent.

MS. ABBOTT opined that they could speak with Partners for Progress as to when it might cease assistance, but further opined that it will help someone reenter until the person has found housing and a job. At that point, she said, the mission of Partners for Progress is finished, but she will get a more thorough answer.

CHAIR LEDOUX suggested bringing Janet McCabe or Kathleen McLaughlin to the committee to explain exactly what Partners for Progress does now and how they envision its role changing after the bill has passed.

MS. ABBOTT offered that they are scheduled for later this week.

7:10:04 PM

REPRESENTATIVE KREISS-TOMKINS referred to Sec. 139, the prisoner reentry provision and noted there may be a drafting error with the statutory citation which can easily be fixed. He remarked that there is a lot of potential to assist in reentry and help inmates become productive members of society after spending their time in prison and rehabilitation. At risk of going down a political rabbit hole, he asked, in addition to identification and other basic needs, whether health care is another consideration. He opined that most people coming out of prison don't have ready access to health care but would be Medicaid eligible, and whether medical resources orientation to the health care system would be something the committee may want to consider.

MS. ABBOTT opined that it is not something the commission considered, and deferred to the commissioners in the room or online.

CHAIR LEDOUX expressed that it makes a lot of sense to give prisoners an orientation as to options that may be available, be it Medicaid enrollment, community clinics, or whatever.

[7:12:18 PM](#)

REPRESENTATIVE MILLETT opined that is a fair assessment and noted there are opportunities without jumping straight to Medicaid, such as neighborhood health clinics, free clinics for people eligible for Indian health services.

CHAIR LEDOUX related that the state should identify all of the options available for reentry, such as Tribal health, community health, and/or Veterans benefits, without the state taking the philosophy that maybe they shouldn't have Medicaid, it is out there and it should be identified.

REPRESENTATIVE MILLETT opined that is something Janet McCabe can speak to as part of its reentry program in getting the released inmates health care, support and various groups, and the things Partners for Progress takes care of. She said it is not necessarily a statute call but it is part of something that should be considered during reentry.

[7:14:19 PM](#)

CHAIR LEDOUX noted that Representative Millett may be correct and she referred to AS 30.30.095, Duties of the commissioner before release of prisoner.

REPRESENTATIVE MILLETT said in reading through the long list of duties, it discusses treatment, residency, employment, and counseling services.

CHAIR LEDOUX agreed, and advised Representative Kreiss-Tomkins that with housing, employment, and treatment that probably covers it.

[7:15:01 PM](#)

REPRESENTATIVE KREISS-TOMKINS commented that there is the potential to end the negative feedback that seems to exist, and he is looking forward to hearing from the Department of Labor & Work Force Development later this week.

[7:15:32 PM](#)

REPRESENTATIVE KELLER related that many things have to be developed here and he referred to Community Resource Centers (CRC) and the responsibility of their contracts they have and the possibilities for that. He pointed out that this falls on the commissioner and the Department of Corrections to work magic over the next year or two, and it can't all be defined in statute and [the legislature] cannot continue to look the other way.

REPRESENTATIVE CLAMAN commented that in reading HB 205, Sec. 139, pages 84-85, and the question of subparagraph (B) community resources available for housing, employment, and treatment. He said that most of the discussion is treatment, which tends to be drug and alcohol treatment, and whether medical care should be added to the list of resources available which is different from treatment, and then said he did not know whether treatment necessarily includes medical care.

REPRESENTATIVE CLAMAN referred to the suspended imposition of sentence versus the new option, and asked Ms. Kaci Schroeder the perspective of the Department of Law as to whether the state is moving away from the suspended imposition of sentence, which comes with a conviction that is set aside. He asked whether the state is moving to the new model which would be a finding of guilt, no sentence imposed, with a period of time on probation, and at the conclusion of probation if the person has complied there is never a conviction.

[7:17:52 PM](#)

KACI SCHROEDER, Assistant Attorney General, Criminal Division, Legal Services Section, Department of Law, said the suspended imposition of sentence (SIS) statute was not repealed for a purpose, and opined that the suspended entry of judgment (SEJ) is another tool in the toolbox that is appropriate for some defendants. The suspended imposition of sentence (SIS) would still have merits for other defendants, which depends upon the negotiations between the defense and prosecution. She reiterated that the Department of Law sees it as another tool in the toolbox.

REPRESENTATIVE CLAMAN asked whether she anticipates the SEJ would be used more than the SIS, or whether she knows.

MS. SCHROEDER responded that it is difficult to know because this is a new section of law and it does require an agreement between the defense and prosecution, which is not necessarily

true for the SIS. Therefore, it is difficult to know how often it would be used and, she opined, defendants would probably request an SEJ more often than an SIS due to the set aside, and the SIS has been identified as being somewhat problematic.

[7:19:05 PM](#)

CHAIR LEDOUX asked whether, at any time, a suspended imposition of sentence was successfully completed wherein a person could tell a prospective employer they have never been convicted of a felony.

MS. SCHROEDER acknowledged that she did not know the legislative history of the SIS, but suspects that that was part of the consideration. She opined that the intent was to (indisc.) the collateral consequences associated with a conviction. However, the conviction is actually entered and is set aside, and she believes people in the civil world do not understand what "set aside" means. Under most circumstances, prosecutors are not able to use that as a prior conviction and, she opined, there are civil areas where collateral consequences may not have been anticipated.

[7:20:17 PM](#)

CHAIR LEDOUX recalled that 25 years ago, Kodiak judges told defendants if they had an SIS and had successfully completed the terms, they would be able to tell a prospective employers they had not been convicted of a felony. She said this [provision] actually comes as a surprise that they are not able to do that.

MS. SCHROEDER opined, that is true for many defendants who expected to have less collateral consequences. It comes as a surprise when they have to report their experiences and are unable to get things such as licenses.

[HB 205 was held over.]

[7:21:32 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 7:21 p.m.