

SENATE FINANCE COMMITTEE
March 30, 2016
1:34 p.m.

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CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 1:34 p.m.

MEMBERS PRESENT

Senator Anna MacKinnon, Co-Chair
Senator Pete Kelly, Co-Chair
Senator Peter Micciche, Vice-Chair
Senator Click Bishop
Senator Mike Dunleavy
Senator Lyman Hoffman
Senator Donny Olson

MEMBERS ABSENT

None

ALSO PRESENT

Jordan Shilling, Staff, Senator John Coghill; Nancy Meade Director, General Council, Alaska Court System; Quinlan Steiner, Public Defender, Department of Administration; Dean Williams, Commissioner, Department of Corrections; John Skidmore Director, Criminal Division, Department of Law.

PRESENT VIA TELECONFERENCE

Jeff Edwards, Executive Director, Parole Board, Anchorage.

SUMMARY

SB 91 OMNIBUS CRIM LAW and PROCEDURE; CORRECTIONS

SB 91 was HEARD and HELD in committee for further consideration.

#sb91

SENATE BILL NO. 91

"An Act relating to protective orders; 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 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 Rules 32 and 35(b), Alaska Rules of Criminal Procedure; and providing for an effective date."

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JORDAN SHILLING, STAFF, SENATOR JOHN COGHILL, discussed the presentation, "SB 91 ACJC Pretrial and Sentencing Recommendations Sponsor: Senator John Coghill 3-30-2016" (copy on file).

Mr. Shilling displayed slide 1, "Pretrial Recommendations." He stated that the commission found that the pretrial population was the fastest growing prison population in the state. He explained the reasons behind the increase in the pretrial prison population.

Mr. Shilling looked at slide 2, "Pretrial Recommendations":

1. Expand the use of citations in place of arrest for lower-level nonviolent offenses
2. Utilize risk-based decision-making
3. Implement pretrial supervision
4. Focus supervision resources on high-risk defendants

Mr. Shilling addressed slide 3, "Cite vs. Arrest":

The Commission recommended expanding the use of citations in place of arrest for lower level non-violent offenses.

76 percent of pretrial admissions to prison are for misdemeanor charges.

56 percent of pretrial admissions to prison are for non-violent misdemeanor charges.

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Senator Bishop queried the training of the officers. Mr. Shilling replied that he assumed that the departments and various agencies would educate the officers.

Senator Bishop stressed that there must be an execution of the law. Mr. Shilling replied that it was important for law enforcement to comply with statute.

Mr. Shilling discussed slide 4, "Pretrial Recommendations":

1. Expand the use of citations in place of arrest for lower-level nonviolent offenses
2. Utilize risk-based decision-making
3. Implement pretrial supervision
4. Focus supervision resources on high-risk defendants

Mr. Shilling highlighted slide 5, "Growth in Pretrial Population Linked to Large Number of Nonviolent Offenders Held Pretrial, Longer Stays Behind Bars":

Pretrial population up 81 percent in last decade

Half of pretrial defendants are detained on nonviolent charges, including misdemeanors
Defendants staying longer pretrial than they used to

Mr. Shilling addressed slide 6, "Research Shows: Detention Should be Linked to Risk, Limited for Low-Risk Defendants":

Pretrial risk assessment can help predict likelihood of pretrial failure (far better than a defendant's ability to pay bail); and

Pretrial detention can lead to worse outcomes, particularly for low-risk defendants.

Senator Hoffman wondered whether those awaiting pretrial be able to have the assessment. Mr. Shilling replied that, after the defendant was arrested, they were brought to a Department of Corrections (DOC) facility.

Senator Hoffman pointed his question to those currently in facilities. Mr. Shilling replied that the provision was not retroactive. He explained that the effective date was 18 months in the future.

Mr. Shilling continued to discuss Kentucky's experience with the provision.

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Mr. Shilling discussed slide 7, "Pretrial Recommendations":

1. Expand the use of citations in place of arrest for lower-level nonviolent offenses
2. Utilize risk-based decision-making
3. Implement pretrial supervision
4. Focus supervision resources on high-risk defendants

Mr. Shilling highlighted slide 8, "Implement Pretrial Supervision":

Minimal supervision with court date reminders

Basic supervision (in-office appointments, phone calls, field visits)

Enhanced supervision (higher frequency contacts, drug and alcohol testing, electronic monitoring)

Research shows that enhanced supervision should be focused on those who are most likely to fail pretrial.

Senator Hoffman queried the pretrial implementation in a village, such as Aniak. Mr. Shilling replied that the new level of enhanced public safety and supervision would not be available for all parts of the state. He did not know the location of the supervision, and deferred to Commissioner Williams for more information regarding implementation.

Mr. Shilling looked at slide 10, "Sentencing Recommendations":

5. Limit the use of prison for lower-level misdemeanor offenders
6. Revise drug penalties to focus the most the severe punishments on higher-level drug offenders
7. Utilize inflation-adjusted property thresholds
Align non-sex felony presumptive ranges with prior presumptive terms
8. Expand and streamline the use of discretionary parole
9. Implement a specialty parole option for long-term geriatric inmates
10. Incentivize completion of treatment for sex offenders with an earned time policy

Mr. Shilling discussed slide 11, "Vast Majority of Admissions to Prison Are Misdemeanants." He stated that most of the misdemeanors were low level, nonviolent misdemeanors. The commission recommended changes in misdemeanor sentencing in order to "stem" the large number of low level offenders who occupied the expensive limited number of beds. The commission recommended reducing some low level Class B misdemeanors to the level of violation. He shared that Senator Coghill had deviated slightly from that recommendation upon introducing the bill. He shared that, of the approximately 80 Class B misdemeanors, SB 91 only reduced approximately 5 of those Class B misdemeanors to violations. Those reductions were considered more "benign" Class B misdemeanors. He shared that the commission recommended changing addressing the crime of driving with a suspended license to differentiate from those who were driving with a suspended license with an underlying revocation from a DUI.

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Co-Chair MacKinnon wondered how the mandate would be initiated and monitoring statewide. She furthered queried the technology to support implementation of a mandatory requirement. Mr. Shilling replied that the commission recommended that the individual would serve their term of imprisonment at home, under the supervision of a probation officer, if the electronic monitoring was unavailable. He

furthered that the person would serve time under house arrest, should a probation officer be unavailable.

Co-Chair MacKinnon asked whether a third party custodian would be responsible for monitoring the person in their home. Mr. Shilling responded that the bill did not eliminate third party custodianship.

Senator Bishop wondered if a village public safety officer (VPSO) could act as a probation officer. Mr. Shilling agreed to provide that information.

Co-Chair MacKinnon requested options about the types of officers who could serve as third party custodians.

Mr. Shilling addressed slide 12, "Sentencing Recommendations":

5. Limit the use of prison for lower-level misdemeanor offenders
6. Revise drug penalties to focus the most the severe punishments on higher-level drug offenders
7. Utilize inflation-adjusted property thresholds
Align non-sex felony presumptive ranges with prior presumptive terms
8. Expand and streamline the use of discretionary parole
9. Implement a specialty parole option for long-term geriatric inmates
10. Incentivize completion of treatment for sex offenders with an earned time policy

Mr. Shilling highlighted slide 13, "Over Last Decade, More Offenders Entering Prison for Drug Crimes, and Staying Longer":

Over past 10 years-

admissions to prison for felony drug offenses has grown by 35 percent, driven in large part by a 68 percent increase in admissions for MICS 4 offenders; and

length of stay for Alaska's felony drug offenders has increased by 16 percent.

Mr. Shilling addressed slide 14, "Research Shows: Long Prison Sentences for Drug Offenders Have Low Deterrent Value":

There is no significant effect of longer prison stays on recidivism rates (i.e. staying in prison longer does not make an offender less likely to recommit a crime).

In addition, some studies find that severe punishments such as felony convictions and prison terms may have criminogenic effects, causing offenders to be more likely to commit crimes in the future.

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Senator Bishop surmised that the report stated that one in 15,000 drug deals were made before an arrest was made. Mr. Shilling agreed.

Mr. Shilling highlighted slide 15, "Sentencing Recommendations":

5. Limit the use of prison for lower-level misdemeanor offenders
6. Revise drug penalties to focus the most the severe punishments on higher-level drug offenders
7. Utilize inflation-adjusted property thresholds
Align non-sex felony presumptive ranges with prior presumptive terms
8. Expand and streamline the use of discretionary parole
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10. Incentivize completion of treatment for sex offenders with an earned time policy

Mr. Shilling discussed slide 16, "Felony Theft Threshold in Alaska Has Not Kept Pace with Inflation."

Mr. Shilling addressed slide 17, "Research Shows: Raising the Felony Theft Threshold Has No Impact on Crime":

Between 2001 and 2011, 23 states raised their felony theft thresholds. In these 23 states, the change in threshold had no impact, up or down, in the state's overall property crime rate.

In fact, property and larceny crime rates fell slightly more in the 23 states that raised their thresholds from 2001 to 2011 than the 27 states that did not.

Senator Dunleavy wondered whether there was a consideration regarding the financial hardship as a result the absence of an item. Mr. Shilling replied that the issue was considering when addressing the paying of restitution. He stated that the consideration was not addressed in sentencing.

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Senator Hoffman supported the escalators, in order to avoid a larger factor. He felt that the stolen item was the same product, with a vast difference in dollars. He remarked that there may be an added value of larger products in rural Alaska that would put people over the threshold, because of the high cost of living. Mr. Shilling replied that there was a disparity in how the law was applied, based on where you live.

Co-Chair MacKinnon urged the court to consider the cost differential.

Senator Hoffman wanted something other than a rural exemption.

Co-Chair MacKinnon queried the committee that removed the link to the consumer price index (CPI) Mr. Shilling replied that it was the State Affairs Committee. He remarked that the increase for vehicle theft was removed, so it remained at \$750. He shared that the threshold for fraudulent use of an access device was lowered to \$50 as the dividing line between a felony and a misdemeanor.

Senator Hoffman queried the committee's justification for the changes. Mr. Shilling replied that he was not privy to many of the policy discussions when developing the amendments. He stated that there was some history surrounding the threshold for fraudulent use of an access device.

Senator Bishop wondered if there was an elimination of the CPI. Mr. Shilling replied that in order to implement the

five year adjustment of the CPI, the bill "piggy backed" on existing language in the minimum wage statute. That statute relied on the Department of Labor and Workforce Development (DOLWF) calculation of the CPI.

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Senator Olson queried the commission's position on those changes. Mr. Shilling replied that the commission unanimously recommended that the property crime threshold be raised to \$2000 and linked to inflation.

Senator Olson queried the commission's position on the change in the access device. Mr. Shilling replied that they recommended that

Mr. Shilling highlighted slide 18, "Sentencing Recommendations":

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8. Align non-sex felony presumptive ranges with prior presumptive terms
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10. Implement a specialty parole option for long-term geriatric inmates
11. Incentivize completion of treatment for sex offenders with an earned time policy

Mr. Shilling looked at slide 19, "In 2005, Alaska Moved From Presumptive Terms to Presumptive Ranges." He stated that the legislature had raised sentences in 2005 in response to a US Supreme Court case: *Blakeley v. Washington*. Following that case, states were required to do sentencing differently. He stated that Alaska moved from a presumptive term system to a presumptive range system. He noted that, in developing the ranges, the legislature used the former term as the bottom of the new range. He remarked that there was some intent language in that bill. He noted that it was the expressed intent of the legislature that there not be an overall increase in the amount of active imprisonment time. He stressed that using the former term

as the bottom allowed for only upward movement in length of sentences.

Mr. Shilling discussed slide 20, "Change in Felony Sentencing Led to Increases in Length of Stay Behind Bars":

From 2004 to 2014, average length of stay for:
Class A felonies grew 80 percent;
Class B felonies grew 8 percent; and
Class C felonies grew 17 percent

Mr. Shilling highlighted slide 21, "Align Ranges with Prior Terms." The commission recommended a wider range to include a shorter length of stay than the presumptive term.

Mr. Shilling stated that there were six recommendations that did not receive unanimous support.

Senator Bishop stressed that there should be training and rehabilitation to reduce recidivism. Mr. Shilling replied that the justice reinvestment initiative was focused on that issue.

Senator Bishop remarked that the efforts to alter the current system was an attempt to reduce recidivism.

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Mr. Shilling discussed slide 22, "Sentencing Recommendations":

5. Limit the use of prison for lower-level misdemeanor offenders
6. Revise drug penalties to focus the most the severe punishments on higher-level drug offenders
7. Utilize inflation-adjusted property thresholds
8. Align non-sex felony presumptive ranges with prior presumptive terms
9. Expand and streamline the use of discretionary parole
10. Implement a specialty parole option for long-term geriatric inmates
11. Incentivize completion of treatment for sex offenders with an earned time policy

Mr. Shilling highlighted slide 23, "Parole Eligibility Applied Inconsistently." He stated that eligibility for

discretionary parole was restricted to the most serious crimes: unclassified felonies. He stated that unclassified felonies included crimes such as murder. The discretionary parole also included the lowest level felonies: first and second time class C felonies; and first time class B felonies. He stated that the commission recommended expanding eligibility to those individuals; and expanding eligibility to sex offenders, except for repeat class A and unclassified sex offenders. He stated that the commission determined that reducing ass sex offender sentencing should not be included in the recommendation. The commission recommended an examination of sex offenders on a more individualized case by case basis.

Mr. Shilling addressed slide 24, "For Those Who are Eligible, Parole Underutilized":

On any given month in 2014, an average of 463 inmates were eligible for discretionary parole, and an average of only 15 parole hearings were held.

Anecdotal reports point to long waits for parole hearings and archaic and confusing application procedures as reasons why offenders choose not to apply for parole.

Co-Chair MacKinnon wondered if there were only fifteen applications for the fifteen hearings held. Mr. Shilling replied in the affirmative.

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Co-Chair MacKinnon queried who received the parole application; and how the applications were available to the inmates.

JEFF EDWARDS, EXECUTIVE DIRECTOR, PAROLE BOARD, ANCHORAGE (via teleconference), replied that once an inmate became eligible, there was a list generated by the institutional staff. The list was then posted throughout the institution. There was a deadline for the inmates who wished to apply for discretionary parole to fill out the application.

Co-Chair MacKinnon wondered if institutional officers denied incomplete packages. Mr. Edwards replied in the negative. He explained that the packet would be returned, if it was found that they are incomplete.

Co-Chair MacKinnon queried the number of inmates who did not have a GED, had trouble reading, or had dyslexia. Mr. Edwards did not know the answer to the question. He explained that there was an outsourcing technical assistance to specifically address the application process. He stated that the previous application would be difficult for someone with a fifth grade education. There was a recent alteration to the application to make it less complex with fairly simple questions. He agreed to provide a copy of the application to the committee.

Senator Dunleavy queried the difference between discretionary and administrative parole. Mr. Edwards replied that the basis of administrative parole deems a certain class of inmate who met the specific requirements to be automatically released without a hearing. He explained that discretionary parole addressed a separate class of inmate that would, if eligible, appear before the board for a hearing. He stressed that a hearing must be heard for administrative parole, should the victim of a crime request a hearing.

Co-Chair MacKinnon asserted that one in five people have dyslexia, or a related issue. Mr. Shilling did not know if that was true.

Co-Chair MacKinnon wondered if the current system would change to allow for everyone to qualify for parole. Mr. Shilling replied in the affirmative. He stated that once a person became eligible for parole, they were granted a hearing.

Mr. Shilling continued to discuss slide 24. He addressed the issue of administrative parole.

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Senator Dunleavy queried examples of individuals on administrative parole. Mr. Shilling replied that some class C, such as theft under \$750 or some drug cases, would be allowed administrative parole. He furthered that there were some violent crimes, such as assault, were class B and class C felonies. He stated that criminally negligent homicide was a class B felony. He shared that the sponsor was open to making adjustments to that policy.

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Mr. Shilling discussed slide 25, "Sentencing Recommendations":

5. Limit the use of prison for lower-level misdemeanor offenders
6. Revise drug penalties to focus the most the severe punishments on higher-level drug offenders
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8. Align non-sex felony presumptive ranges with prior presumptive terms
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Mr. Shilling highlighted slide 26, "Population of Oldest Offenders Has More than Doubled in Past 10 Years." He stressed that the geriatric prison population had more than doubled in the last ten years. He stated that it was due to the significant increase in sentences in recent years.

Mr. Shilling looked at slide 27, "Alaska's Oldest Offenders Least Likely to Recidivate Upon Release." He remarked that the geriatric offenders were the least likely to recidivate. He stated that there was no special option for parole for this cohort of offenders in Alaska. He stressed that geriatric offenders were the least likely to recidivate. He added that geriatric inmates cost two to three times more to incarcerate than other inmates. The commission recommended a parole option, specifically for geriatric inmates. They recommended an option for a parole hearing, if an inmate was between the ages of 55 and 60, and served ten years of their sentence. The recommendation was changed in the state affairs committee to exclude unclassified felons and sex offenders. He remarked that it was currently likely that the policy would have no impact, because those were the only types of offenders who served long sentences.

Co-Chair MacKinnon noted that everyone in the committee would be considered "geriatric."

Mr. Shilling noted that the State Affairs Committee adjusted the geriatric age from 55 to 60.

Mr. Shilling addressed slide 28, "Sentencing Recommendations":

5. Limit the use of prison for lower-level misdemeanor offenders
6. Revise drug penalties to focus the most the severe punishments on higher-level drug offenders
7. Utilize inflation-adjusted property thresholds
8. Align non-sex felony presumptive ranges with prior presumptive terms
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Mr. Shilling highlighted slide 30, "Sex Offender Treatment Proven to Work, But Underfunded in Alaska":

A cost-benefit analysis compiling all credible evaluations of sex offender treatment found that in-prison treatment had a cost-benefit ratio of \$1.87 (i.e. for every \$1 spent on treatment, there is a \$1.87 dollar benefit returned to the state and state residents).

However, in Alaska, the need for in-prison sex offender treatment far outstrips the supply. Currently, the waitlist for treatment is at least four years long.

Mr. Shilling discussed slide 29, "Sex Offenders Staying 86 Percent Longer Behind Bars Over Past 10 Years." He stressed that sex offenders were spending much longer in prison than in the past.

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Senator Bishop assumed that the report showed almost a dollar for dollar return on investment. Mr. Shilling agreed.

Co-Chair MacKinnon shared that she had a specific view based on her experience as an executive director of a rape crisis center. She remarked that in any given evening there could be as many as four people victimized at one time. She stressed the importance of evaluating the recommendation. She remarked that objectivity was sometimes lost when personal opinion or past experiences affect policy examination. She remarked that there were many different ways to examine "reoffending."

Senator Dunleavy wondered if the discussion was related to the sex offender.

Co-Chair MacKinnon replied that the consideration of the investment return should be weighed against the recommendations of victim advocacy agencies in order to understand the research.

Senator Dunleavy felt that there could be a situation with two teenagers only three years apart who were engaged in a mutual relationship. He stressed that the situation was much different than a geriatric person and a child.

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Co-Chair MacKinnon shared that she had a similar conversation as related to consensual sex, such as statutory rape. She stated that it was a difficult issue for victim advocacy groups. She remarked that she understood the gravity of assigning a person as "sex offender" for their entire life. She wondered if the statute was a three year differential, once over the age of 18. Mr. Shilling replied that he did not know.

Co-Chair MacKinnon noted that an audience member was indicating in the affirmative.

Senator Dunleavy stressed that an expert in the field may help the committee understand the issue.

Co-Chair MacKinnon shared that there would be some victims' rights agencies available to provide information.

Mr. Shilling shared that there were many advocates available for more information.

Senator Bishop felt that his question may not be answered. He wondered if alcohol addiction was the same as sexual addiction.

Co-Chair MacKinnon had a similar question.

Senator Dunleavy stressed that he would like to hear someone that was focused on the science of sex offending.

Co-Chair MacKinnon shared that she would hear more information from experts.

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NANCY MEADE DIRECTOR, GENERAL COUNCIL, ALASKA COURT SYSTEM, stressed that the Court's position was neutral on the legislation. She stated that the sentencing provisions were statutes that the Court simply provides. She stated that the pretrial provisions directly impacted the courts.

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Ms. Meade stated that the bail was set by judges based on recommendations, looking at the offense and what needed to occur to maintain public safety. She remarked that there was a constitutional right to bail. She remarked that the commission was concerned that more people were in jail before the proof of innocence. She stated that there would be a risk assessment on each person that was arrested. She stated that the court would be provided with information, in order to have bail set 24 hours before the arrest. She stated that the bill may undergo a rewrite.

Co-Chair MacKinnon wondered how and who would adopt a risk assessment tool. She understood that there were other states that used an assessment tool at a high rate of success. Ms. Meade replied that the Department of Corrections (DOC) would use the assessment tool.

Co-Chair MacKinnon surmised that DOC would select the risk assessment.

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Senator Bishop assumed that there was a matrix that was "off the shelf", because the report was using data from other parts of the country. Ms. Meade replied that several states already used the pretrial assessment tool, including Kentucky. She stated that DOC would decide whether to adjust the other state's tools.

Co-Chair MacKinnon queried suggestions on the significant changes in bail statutes. She remarked that the court may not have the flexibility. Ms. Meade replied that the court did not have a problem with no discretion, rather that it was a change from the current system. She shared that, currently the court had the discretion to set bail amounts and conditions.

Co-Chair MacKinnon encouraged work with her staff. Ms. Meade agreed.

Co-Chair MacKinnon queried additional comments. Ms. Meade replied that the court was ready to implement the pretrial provisions. She stated that there were other provisions that she would speak to at a later date.

Co-Chair Kelly asserted that the Court system took positions on bills.

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QUINLAN STEINER, PUBLIC DEFENDER, DEPARTMENT OF ADMINISTRATION, introduced himself. He testified in support of the initiatives in the bill. He stated that he was a member of the commission, and shared some conversations regarding their recommendations.

Co-Chair MacKinnon wondered how restitution as a reward or penalty system was discussed. Mr. Steiner replied that the discussion was conducted in terms of the sentencing statutes. He shared that there was a sentencing statute that provided for payment, and child support was the highest restitution. He shared that jail time was not a deterrent for theft. He stressed that there was more opportunity for rehabilitation when jail time was not applied to a crime.

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DEAN WILLIAMS, COMMISSIONER, DEPARTMENT OF CORRECTIONS, commented on the pretrial services section of the bill. He remarked that he had expressed the importance of the reinvestment portion of the bill. He observed that the plan was a starting place, and he echoed Mr. Schilling's comments. He felt that there was wisdom in the timeframe of the implementation model. He stressed that, upon passage of the bill, the work would immediately begin in the department. He felt that allowing for time was essential to properly implement the program.

Co-Chair MacKinnon queried the objectivity of the proposed risk assessment. Commissioner Williams replied that the risk assessment had not been designed. He was happy to examine an "off the shelf tool." He stressed that the assessment tools were assumed to be non-interviewed, rather it was about the gathering of the data.

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Senator Hoffman wondered how the parole section would work, and wondered if the bill allowed for an inmate to decline parole. Commissioner Williams shared that he had never seen an issue of someone declining parole, but agreed that it could occur.

Senator Hoffman remarked that some were not applying for parole, because they did not want parole. Commissioner Williams replied that there was some confusion about eligibility. He remarked that some did not apply for parole, because they did not want the conditions of parole. He felt that parole and probation provisions in the bill would change the workload in DOC. He added that the additional individuals in parole would require examinations of DOC operations.

Senator Hoffman felt that the parole provision would save the state a considerable amount of dollars for reinvestment. He queried any contemplation of how those

dollars would be reinvested in the parole department. Commissioner Williams replied that he was working with the executive director of the commission about how to possibly expand the opportunities.

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Co-Chair MacKinnon wondered how the monitor device provisions would treat Alaskans fairly. She wondered whether electronic monitoring was available in small and remote communities. Commissioner Williams replied that there was an issue of the use of the word "may" and "shall" as to require the electronic monitoring for first time offenders.

Co-Chair MacKinnon wondered if there was additional feedback. Mr. Edwards replied that he had a high level overview.

Co-Chair MacKinnon noted that Legislative Budget and Audit (LB&A) had commissioned a report for DOC to examine cost saving measures and make recommendations to the legislature. She remarked that there may be an opportunity to allow some flexibility for prison exit for low risk offenders. She remarked that there may be some changes that would not allow for that possibility. She stated that it was asserted that approximately one-third of the population would never reoffend or commit a crime after incarcerations; one-third would or should be locked away, because they were high-risk to society; and one-third would require objective criteria to determine the possibility of rehabilitation. She wondered if that was an accurate assertion. Mr. Edwards agreed with those statements, in an overall perspective. He shared that the parole board had developed and adopted a tool to place the inmates in those specific thirds. He shared that the board had evaluated those categories and risks, and remarked that the release decisions were not "gut instinct", and were rather extremely systematic.

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Co-Chair MacKinnon recalled a study that would provide an objective tool with some risk assessments to allow for the proper justice for the crime. She wondered whether there were conversations related to that issue. Mr. Edwards responded in the affirmative, and felt that the bill would

target those individuals and the automatic granting of release of those who were low risk, such as first time felons.

Co-Chair MacKinnon surmised that it was believed that the issue was related to administrative parole.

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JOHN SKIDMORE DIRECTOR, CRIMINAL DIVISION, DEPARTMENT OF LAW, stated that he had served as a prosecutor for 15 years. He stated that he was not a member of the Criminal Justice Commission. He thanked the committee and the bill sponsor for all of the work. He stated that the Department of Law (DOL) supported the risk assessment tool. He stated that DOL supported the shift of the felony theft threshold to align with inflation. He stated that increasing the threshold to \$2000 could provide the return of property quickly, because misdemeanor crimes were solved more quickly than felonies. He shared that there should be a correction on page 48 related to the aggravator, and how the aggravator for a misdemeanor offense was proven. He noted that there were two separate burdens of proof: the jury and the judge.

Co-Chair MacKinnon wondered if there was anything related to sentencing and pretrial that was not included in the bill. Mr. Skidmore replied that there were always concerns that the criminal division, and encouraged the committee to adhere to recommendations from the commission.

Co-Chair MacKinnon announced that amendments on the current bill were due by 5pm on Friday. She discussed the schedule for the remainder of the week.

SB 91 was HEARD and HELD in committee for further consideration.

#

ADJOURNMENT

[3:32:26 PM](#)

The meeting was adjourned at 3:32 p.m.