

SENATE FINANCE COMMITTEE
March 31, 2016
1:06 p.m.

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CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 1:06 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

Jeff Jessee, Chief Executive Officer, Alaska Mental Health Trust Authority; Laraine Derr, Appointee, Juneau; Jordan Shilling, Staff, Senator John Coghill; Dean Williams, Commissioner, Department of Corrections.

PRESENT VIA TELECONFERENCE

Jerome Selby, Appointee, Kodiak; Tony Piper, Statewide Program Manager, Alcohol Safety Action Program, Division of Behavioral Health, Department of Health and Social Services.

SUMMARY

SB 91 OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS

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

CONFIRMATION HEARINGS:

ALASKA MENTAL HEALTH TRUST AUTHORITY BOARD OF TRUSTEES

^CONFIRMATION HEARING: ALASKA MENTAL HEALTH TRUST AUTHORITY BOARD OF TRUSTEES

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JEROME SELBY, APPOINTEE, KODIAK (via teleconference), discussed his qualifications. He believed that he had a strong background, and would be helpful to the board and the state. He shared that his 24 years of work as the mayor of Kodiak had provided him with extensive experience in resource development, as well as his work with the Outer Continental Shelf Advisory Committee for the Department of the Interior. He spoke of his familiarity with the development of timber. He asserted that he was a proponent of developing wisely for the benefit of all Alaskans, and believed that the trust would be a vehicle for which he could serve Alaskan residents. He felt that the management of resources and opening up of jobs would help the economy, and would generate additional funding for the trust authority to be able to fund programs that were targeted to the beneficiaries of the trust.

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Mr. Selby thought that given the state's budget situation, it was important to work closely with the Department of Health and Human Services in order to maximize the benefits of mutual beneficiaries. He was interested in doing the most possible with the limited resources available, and had been having related discussions for the past three decades. He was looking forward to the challenge of doing the best job possible with the resources that were available.

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Co-Chair MacKinnon outlined AS 47.30.010:

Sec. 47.30.016. Board establishment, membership, quorum, fees, and expenses. (a) The authority shall be governed by its board of trustees.

(b) The board consists of seven members appointed by the governor and confirmed by the legislature. The

members appointed under this subsection shall be appointed

(1) based upon their ability in financial management and investment, in land management, or in services for the beneficiaries of the trust;

(2) after the governor has considered a list of persons prepared by a panel of six persons who are beneficiaries, or who are the guardians, family members, or representatives of beneficiaries; the panel shall consist of

(A) one person selected by the Alaska Mental Health Board established by AS 47.30.661;

(B) one person selected by the Governor's Council on Disabilities and Special Education;

(C) one person selected by the Advisory Board on Alcoholism and Drug Abuse established by AS 44.29.100;

(D) one person selected by the Alaska Commission on Aging established by AS 47.45.200;

(E) one person selected by the Alaska Native Health Board; and

(F) one person selected by the authority.

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Co-Chair MacKinnon asked which position Mr. Selby was being appointed under.

Mr. Selby replied that he did not know.

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JEFF JESSEE, CHIEF EXECUTIVE OFFICER, ALASKA MENTAL HEALTH TRUST AUTHORITY, elucidated that the aforementioned positions were intended for the nominating committee, which met and solicited applications, and then made recommendations to the governor. He relayed that there were no designated seats on the board.

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Co-Chair MacKinnon continued:

(c) A member of the board appointed by the governor under (b) of this section may not

(1) be an officer or employee of the state;

Co-Chair MacKinnon asked whether Mr. Selby had been, or currently was, an employee or officer of the state.

Mr. Selby replied in the negative.

Co-Chair MacKinnon continued reading from the statute:

(2) within the preceding two years or during the member's term of office have an interest in, served on the governing board of, or been employed by an organization that has received, during that same period, money from the mental health trust settlement income account under a grant or contract for services.

Co-Chair MacKinnon asked whether any of the above language pertained to Mr. Selby.

Mr. Selby answered in the negative. He clarified that as mayor of Kodiak he had managed the Kodiak Island Mental Health Center, which had included interaction with the trust. He added that the city had since contracted the center to Providence Health and Service. He noted that he had not been mayor for over 2 years.

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Co-Chair MacKinnon asked if Mr. Selby was available to attend meetings of the Alaska Mental Health Trust Authority (AMHTA). She had observed that he was a private business owner.

Mr. Selby stated that he would be available to attend meetings and participate in committee work.

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LARAINÉ DERR, APPOINTEE, JUNEAU, discussed her qualifications. She pointed out that the trust had an enormous responsibility to the state. She expressed that it was important to have a variety of people on the board, and she believed that her finance background had been beneficial to the board.

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Co-Chair MacKinnon noted Ms. Derr's nine and a half years of service on the board, and suggested that service should be limited. She felt that Ms. Derr had "termed out" and was being reappointed based on a technicality.

Ms. Derr replied that the law read that two, full five-year terms could be served. She explained that the term that she would again fill had expired in March of 2005, and she had been appointed fall of 2005. She said that she had researched the legality of her continued service and had determined that she could legally maintain her position on the board. She revealed that in February 2015, Governor Walker had appointed someone to replace her. She said that he replaced her with someone who had been subject to confirmation the following March; the legislature had failed to confirm the Governor's appointment, and she was placed back on the board. She relayed that she offered to step down, but after the Governor reviewed her credentials he reappointed her, subject to confirmation by the legislature in 2016.

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Co-Chair MacKinnon asked whether Ms. Derr would be available to attend meetings, and if her past attendance record would reveal adequate meeting attendance.

Ms. Derr replied that she had not missed as meeting, she had either attended in person or telephonically.

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Co-Chair MacKinnon understood that, if confirmed, Ms. Derr would be serving 14.5 years in a seat that normally had a 10 year duration.

Ms. Derr replied in the affirmative.

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Co-Chair MacKinnon FORWARDED the appointments of Laraine Derr and Jerome Selby be to a Joint Session for consideration in accordance with Alaska Statute. She relayed that this did not reflect an intent by any member

to vote for or against the confirmation of the individuals during any further sessions.

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RECONVENED

#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 Community Supervision Recommendations." He stated that the commission had recommended policies aimed at strengthening supervision in order to reduce recidivism. He relayed that there was a robust amount of body of research in the area of supervision that showed how to use probation and parole supervision to change criminal behavior. He related that

the Department of Corrections (DOC) had taken steps to incorporate the new research into their probation and parole practices, which had resulted in some positive strides. He furthered that the commission had discovered several areas that could benefit from statutory changes.

Mr. Shilling discussed Slide 2, "Community Supervision Recommendations":

- **Implement graduated sanctions**
- Cap incarceration time for technical violations of supervision
- Establish a system of earned compliance credits
- Reduce maximum lengths for probation terms and standardize early discharge proceedings
- Extend good time eligibility to offenders serving sentences on electronic monitoring
- Focus ASAP resources to improve program effectiveness
- Improve treatment offerings in CRCs and focus use of CRC resources on high-need offenders

Mr. Shilling explained that the graduated sanctions and incentives matrix would give probation officers additional tools to address bad behavior with quick sanctions, or illicit good behavior with incentives. He said that although the department had implemented some of the strategies, and a reduction in recidivism since the early 2000s had been observed, Alaska still had one of the highest recidivism rates in the country. He added that two-thirds of the state's offenders either violated or committed new crimes and returned to prison within 3 years of release, most of the recidivism occurring within the first 3 months of release.

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Mr. Shilling turned to Slide 3, "Almost Two-Thirds of Offenders Released Return to Prison Within Three Years," which showed a graph illustrating the percentage of offenders released who return to prison within three years.

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Mr. Shilling displayed Slide 4, "Swift, Certain, and Proportional Sanctions Effective at Changing Offender Behavior":

- Research shows that responding to violations quickly, certainly, and proportionally is the most effective way to change offender behavior. Key elements of a successful system include:
 - Developing a range of sanctions -from the less serious (i.e. increased drug testing, curfews) to the more serious (i.e. electronic monitoring, prison time), and apply according to the frequency and seriousness of the violations;
 - Communicating a credible and consistent threat of sanctions to the supervisee; and
 - Streamlining procedures to allow the probation officer to swiftly respond to the violation.

Mr. Shilling spoke of the Probation Accountability and Certain Enforcement (PACE) program, which used the evidence based strategies; however, the vast majority of offenders on probation and parole did not fall within the program. He said that currently the law did not offer probation officers any options, outside of filing a petition to revoke probation, to address violations.

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Mr. Shilling discussed Slide 5, "Recommendation: Implement Graduated Sanctions":

- Authorize the DOC to create a graduated sanctions matrix using swift, certain, and proportional responses, and to follow the matrix when responding to technical violations of supervision.

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Mr. Shilling showed Slide 6, "Community Supervision Recommendations":

- Implement graduated sanctions
- **Cap incarceration time for technical violations of supervision**

- Establish a system of earned compliance credits
- Reduce maximum lengths for probation terms and standardize early discharge proceedings
- Extend good time eligibility to offenders serving sentences on electronic monitoring
- Focus ASAP resources to improve program effectiveness
- Improve treatment offerings in CRCs and focus use of CRC resources on high-need offenders

He stated that one-fifth of the prison population was comprised of people that had not committed a new crime, but had committed a technical violation of probation. He furthered that those in prison for technical violations spent an average of 106 days in prison. He opined that despite the understanding that swift and certain punishment was important, data showed that many petitions to revoke probation took over one month to resolve, which meant that people spent time in prison pre-trial prior to the violation being adjudicated.

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Mr. Shilling referenced Slide 7, "Petitions to Revoke Take a Month to Resolve," which showed a graph depicting the mean length of stay for un-sentenced supervision violators from 2004 to 2014.

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Mr. Shilling spoke to Slide 8, "Once Sentenced, Nearly Half of Revocations Staying More than One Month," which showed a graph of the number of supervision violators released in 2005 and 2014, by length of stay. He noted that some spent much longer than one month in prison for technical violations. He shared that according to the DOC, the most common types of technical violations were rule violations, such as missing and appointment or failing to notify a change of address. He noted that the list also contained alcohol and drug violations. He said that the large amount of judicial discretion that the court had in sentencing the violations, had led to the problem of one-fifth of the prison population consisting of technical reoffenders. He asserted that the delayed, random, severe sanctions did not work, which head to the commission's recommendation for limited revocations.

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Mr. Shilling addressed Slide 9, "Recommendation -Cap Incarceration Time for Technical Violations of Supervision

- For offenders not participating in PACE program, limit revocations to prison for technical violations as follows: First revocation: Up to 3 days
 - o Second revocation: Up to 5 days
 - o Third revocation: Up to 10 days
 - o Fourth and subsequent revocation: Up to the maximum remaining suspended time
 - o Revocation for absconding: Up to 30 days

Mr. Shilling noted that SB 91 would not treat all probation violations the same, there were some technical violations that were worse than others, such as not completing sex offender treatment or batterer's intervention programs. He said that for the purposed of defining a technical violation in the bill, such violations had been excluded.

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Mr. Shilling turned to Slide 10, "Community Supervision Recommendations":

- Implement graduated sanctions and incentives
- Cap incarceration time for technical violations of supervision
- **Establish a system of earned compliance credits**
- Reduce maximum lengths for probation terms and standardize early discharge proceedings
- Extend good time eligibility to offenders serving sentences on electronic monitoring
- Focus ASAP resources to improve program effectiveness
- Improve treatment offerings in CRCs and focus use of CRC resources on high-need offenders

Mr. Shilling shared that currently, offenders were kept on probation for long periods of time, and even those on probation that were deemed low-risk and were not violating their conditions, remained on probation caseloads long passed the point where the data had shown they were likely to reoffend. He relayed that the data showed that if an

offender did fail, they would do so within the first three months of release. He added that most violations occurred within the first year, if at all. He stated that individuals that would need sustained, intensive supervision would be identified early on, as well as those that could forego long term probation. He asserted that the "carrot worked better than the stick" at reducing violations and that the state had too many low-risk individuals consuming probation caseloads. He asserted that so many low-risk individuals' caseloads made it difficult to focus current probation resources on those most likely to reoffend. He shared that 39 percent of probationers were classified as low-risk, and supervising them for long periods of time cost a lot to the state unnecessarily. He opined that due to the current fiscal environment, the state did not have the ability to hire more probation officers to adequately supervise offenders. He contended that the best case scenario for the legislation would be the allowance of the probation division to laser focus their resources on the worst offenders.

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Mr. Shilling turned to Slide 11, "To Change Offender Behavior, Rewards More Effective than Sanctions":

- Research shows that states achieve higher successful supervision rates when rewards outnumber sanctions. Successful supervision programs provide incentives for meeting case-specific goals (for example, rewarding an offender with a drug addiction for participating in an out-patient drug treatment program), thereby enhancing supervisees' motivation.

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Mr. Shilling discussed Slide 12, "Recommendation: Establish a System of Earned Compliance Credits":

Establish an earned compliance policy that grants probationers and parolees one month credit towards their supervision term for each month that they are in full compliance with the conditions of their supervision.

Mr. Shilling relayed that the credits had been used in other states, and were a core component in incentivizing sustained compliance with the conditions of probation.

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Mr. Shilling showed Slide 13, "Community Supervision Recommendations":

- Implement graduated sanctions
- Cap incarceration time for technical violations of supervision
- Establish a system of earned compliance credits
- **Reduce maximum lengths for probation terms and standardize early discharge proceedings**
- Extend good time eligibility to offenders serving sentences on electronic monitoring
- Focus ASAP resources to improve program effectiveness
- Improve treatment offerings in CRCs and focus use of CRC resources on high-need offenders

Mr. Shilling turned to Slide 14, "Average Length of Stay in Community Supervision Up to 13 percent Over Past Decade," which contained a line graph that plotted the mean length of supervision for successful discharge, 2005 through 2014. He reiterated that the increasingly long terms of probation were unnecessary due to the fact that the data reflected that most violations occurred within the first year. He turned to Slide 15, "Failure Most Likely to Happen Within Three Months," which contained a bar graph; the orange bars reflected the time served on probation/parole before returning to prison. The chart showed that 62 percent of individuals offended within the first three months. He continued to Slide 16, "Large Portion of Supervision Population Low-Risk," which contained a bar chart that used the DOC risk assessment tool, Level of Services Inventory Revised (LSI-R). The slide showed that there were 1,602 people currently on probation in the minimum bank.

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Mr. Shilling showed Slide 17, "Focus Supervision Resources.":

- Research shows that supervision resources provide the greatest public safety returns when focused on those most likely to reoffend: high-risk offenders and those recently released from prison. Key elements of a successful system include:
 - Identifying offenders who warrant enhanced supervision and those who do not, including reducing reporting requirements for those who are succeeding; and
 - Deterring future crime and technical violations by changing offender behavior in the first few days, weeks, and months after release.

Mr. Shilling noted that some of the research was duplicative because much of the same research undergirded all of the probation recommendations, but in order to see a reduction in probation violations and new crimes, it was important to focus the limited resources.

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Mr. Shilling showed Slide 18, "Recommendation—Reduce Maximum Lengths for Probation Terms and Standardize Early Discharge":

- Cap maximum probation terms at-
 - 5 years for felony sex offenders and Unclassified felony offenders;
 - 3 years for all other felony offenders
 - 2 years for 2ndDUI and DV assault misdemeanor offenders; and
 - 1 year for all other misdemeanor offenders.
- For certain offenders, reduce the minimum time needed to serve on probation or parole prior to being eligible for early discharge to 1 year.
- For certain offenders, require the DOC to recommend early termination of probation or parole for any offender who has completed all treatment programs and is in compliance with all supervision conditions.

Mr. Shilling shared that as the bill had evolved that lengths had increased. For example, 5 years for felony sex offenders and Unclassified felony offenders had been increased to 10 years.

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Mr. Shilling spoke to Slide 19, "Community Supervision Recommendations":

- Implement graduated sanctions
- Cap incarceration time for technical violations of supervision
- Establish a system of earned compliance credits
- Reduce maximum lengths for probation terms and standardize early discharge proceedings
- **Extend good time eligibility to offenders serving sentences on electronic monitoring**
- Focus ASAP resources to improve program effectiveness
- Improve treatment offerings in CRCs and focus use of CRC resources on high-need offenders

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Mr. Shilling displayed Slide 20, "Unlike Those in Prison, Offenders on EM Unable to Earn Good Time":

The ACJC found that, while most offenders who are housed within an institution have the opportunity to earn "good time" up to one-third off their sentences in acknowledgement of positive behavior, offenders on electronic monitoring are currently banned from earning this incentive.

Mr. Shilling turned to Slide 21, "Recommendation - Extend Good Time Eligibility to Offenders Serving Sentences on Electronic Monitoring":

- Allow offenders on electronic monitoring to qualify for good time credits under the same conditions set forth for offenders in DOC institutions.

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Mr. Shilling showed Slide 22, "Community Supervision Recommendations":

- Implement graduated sanctions

- Cap incarceration time for technical violations of supervision
- Establish a system of earned compliance credits
- Reduce maximum lengths for probation terms and standardize early discharge proceedings
- Extend good time eligibility to offenders serving sentences on electronic monitoring
- **Focus ASAP resources to improve program effectiveness**
- Improve treatment offerings in CRCs and focus use of CRC resources on high-need offenders

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Mr. Shilling showed Slide 23, "Increases in Referrals to ASAP Have Limited Program's Effectiveness":

- Alaska's Alcohol Safety Action Program ("ASAP") provides needed screening and treatment referral services for thousands of misdemeanor offenders who are referred by the court.
- However, the Commission found that increases in the number of referrals to ASAP have not correlated with increased funding for the program, resulting in limited program effectiveness.
 - o In fiscal year 2015, ASAP received nearly 7,250 referrals. 57% of which were statutorily mandated referrals (DUI and MCA). The remaining 43% were referrals that were not mandated by statute.

Mr. Shilling discussed Slide 24, "Recommendation -Focus ASAP Resources to Improve Program Effectiveness."

Mr. Shilling shared that the original purpose of the program had been to assess and refer DUI offenders to treatment. He said that overtime referrals to the program had ballooned in size to include offenders of all types. He relayed that the growth had placed a burden on the program and made it difficult for ASAP to focus resources on the people who needed it the most. The commission hoped that ASAP could expand and enhance assessments and begin to provide a modicum of supervision to moderate and high-risk offenders.

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Mr. Shilling showed Slide 25, "Community Supervision Recommendations":

- Implement graduated sanctions
- Cap incarceration time for technical violations of supervision
- Establish a system of earned compliance credits
- Reduce maximum lengths for probation terms and standardize early discharge proceedings
- Extend good time eligibility to offenders serving sentences on electronic monitoring
- Focus ASAP resources to improve program effectiveness
- **Improve treatment offerings in CRCs and focus use of CRC resources on high-need offenders**

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Mr. Shilling spoke to Slide 26, "CRCs Mixing High and Low-Risk Offenders; Not Providing Evidence-Based Treatment":

- The Commission found that CRCs, otherwise known as halfway houses, are likely mixing high- and low-risk offenders, which research has shown can lead to increased recidivism for low-risk offenders.
- Additionally, the Commission found that CRCs would be more effective at reducing recidivism if the facilities offered evidence-based treatment for offenders in addition to supervision.

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Mr. Shilling showed Slide 27, "Recommendation - Improve Treatment Offerings in CRCs and Focus CRC Resources on High-Risk Offenders":

- Require CRCs to provide treatment (cognitive-behavioral, substance abuse, aftercare and/or support services) designed to address offenders' criminogenic needs.
- Implement admission criteria for CRCs that would:

- o Prioritize placement in CRCs for people who would benefit most from more intensive supervision and treatment; and
- o Minimize the mixing of high- and low-risk offenders

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Senator Hoffman asked where CRCs were located in the state.

Mr. Shilling believed that there were 8 facilities in the state, and that the DOC could provide a list with addresses.

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Senator Bishop wondered whether the commission had considered the workforce potential of those housed in CRCs, and whether to improve or expand on work programs.

Mr. Shilling agreed that CRCs would be the appropriate place to transition a long-term sentenced offender into the work environment before completely reentering society. He expressed that he would be happy to work with the committee to address the issue.

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Vice-Chair Micciche referred to Slide 3. He wondered why the two years [FY 2002 and FY 2011] had been chosen.

Mr. Shilling replied that he did not know why the two specific years had been selected. He said that he could provide the committee with recidivism rates for all of the years spanning 2002 through 2011.

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Vice-Chair Micciche requested the same information for Slide 8, which only listed 2005 and 2014. He said he was leery of years being specifically selected in order to make a point.

Mr. Shilling pointed out that the years were had been chosen in order to offer a 10 year window of time.

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Vice-Chair Micciche wanted to know what the average term of probation for each class of offender listed on the slide.

Mr. Shilling replied that felony offenders had an average probation sentence of 3.69 years, misdemeanor offenders had average probation sentences of 2.96 years, and 17 percent of misdemeanor offenders had probation sentences of 5 years or more. He offered to provide more comprehensive numbers at a later date.

Vice-Chair Micciche wanted to know how many offenders would fall outside of the cap, and why those terms would be longer.

Mr. Shilling agreed to provide the information.

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Senator Bishop stated that the presumptive terms for incarceration were different in 2005 than they were currently. He wondered whether Slide 18 correlated with Page 30 of the commission's report.

Mr. Shilling explained that the policy was meant for a person who was no longer in a DOC facility, and was on active supervision. He said that the state of Alaska had never had a limit or a range on how long someone could spend in prison for probation violations. He stated that there had always had been a wide range of judicial discretion in sentencing for violations. He relayed that SB 91 proposed limiting that discretion, as offenders were currently spending inordinate amounts of time in prison for relatively low-level conduct.

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Vice-Chair Micciche asked whether a technical violation was considered a secondary crime under Alaska law.

Mr. Shilling stated that a technical violation was generally defined as any probation violation that was not a new offense. He qualified that often when looking at DOC

data on probation violators, a petition to revoke probation/parole were placed alongside a new offence, which made it difficult to separate the numbers. He furthered that often a probation violation is done alongside new criminal conduct.

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TONY PIPER, STATEWIDE PROGRAM MANAGER, ALCOHOL SAFETY ACTION PROGRAM, DIVISION OF BEHAVIORAL HEALTH, DEPARTMENT OF HEALTH AND SOCIAL SERVICES (via teleconference), informed the committee that he was available to answer questions.

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DEAN WILLIAMS, COMMISSIONER, DEPARTMENT OF CORRECTIONS, acknowledged that many of the recommendations would signify a course change for the department. He mentioned that the department had struggled with caps on technical violations. He relayed that the department supported the legislation, and highlighted that the challenges raised by the bill were positive. He agreed with incentivizing probation.

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Senator Olson wondered whether people in the department would welcome the changes proposed in the bill, and whether compliance might be a problem.

Commissioner Williams responded that bureaucracies traditionally balked at change. He felt that the current fiscal climate forced the reexamination of certain assumptions about the system. He expressed that he was ready to be proactive with the changes proposed in the legislation. He believed that reformation of the system was the right thing to do.

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Senator Olson worried that the commissioner would face opposition from correctional officers. He queried the location of the CRCs in the state.

Commissioner Williams stated that there were facilities in Anchorage, Fairbanks, Nome, Juneau, and Bethel. He added that there were 3 in Anchorage.

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Senator Dunleavy asked whether the commissioner foresaw the tracking of "good time" credit as a future accounting problem.

Commissioner Williams replied in the affirmative, but added that the problem could yield positive results. He expressed concern that the time accounting issue was currently a problem. He believed that the certain challenge of the issue did not negate the benefit of getting people out and incentivizing change.

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Senator Hoffman thought that the legislation would move the state in the right direction, but foresaw implementation problems with contract jails.

Commissioner Williams believed that he would be able to work with contract jails, which he noted would not be lesser used under the bill, but could possibly assist in reform. He relayed that several contract jails had already contacted him about the possibility of being involved in electronic monitoring. He reiterated that some of the challenges that the bill highlighted would result in opportunities that had yet to be explored. He stressed the importance that contract jails be kept healthy, as they served an important purpose.

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Co-Chair MacKinnon explained that the committee would walk through the sectional analysis on SB 91. She noted that the committee would be working from the sectional analysis for SB 91, version S, and the sectional visual aid (copy on file).

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Vice-Chair Micciche stated that he could provide page numbers to those following along.

[1:59:27 PM](#)

Mr. Shilling discussed the Sectional Analysis [corresponding bill pages are after each section in brackets]:

Section 1

11.41.110(a) - *Murder in the Second Degree (Amended)*

Conforms to the realigned misconduct involving controlled substances statutes. [Page 2]

Section 2

11.41.150(a) - *Murder of an Unborn child (Amended)*

Conforms to the realigned misconduct involving controlled substances statutes. [Page 3]

Section 3

11.46.130(a) - *Theft in the Second Degree (Amended)*

Increases the threshold value for theft in the second degree from \$750 to \$2,000. [Page 3]

[2:00:22 PM](#)

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Mr. Shilling continued to read from the sectional:

Section 4

11.46.140(a) - *Theft in the Third Degree (Amended)*

Increases the threshold value for theft in the third degree from \$750 to \$2,000. [Page 4]

Section 5

11.46.220(c) - *Concealment of Merchandise (Amended)*

Increases the threshold value for concealment of merchandise from \$750 to \$2000. [Page 4]

[2:01:30 PM](#)

Mr. Shilling continued:

Section 6

11.46.260(b) - *Removal of Identification Marks (Amended)*

Increases the threshold value for removal of identification marks from \$750 to \$2,000. [Page 6]

Section 7

11.46.270(b) - *Unlawful Possession (Amended)*

Increases the threshold value for unlawful possession from \$750 to \$2,000. [Page 6]

Section 8

11.46.280(d) - *Issuing a Bad Check (Amended)*

Increases the threshold value for issuing a bad check from \$750 to \$2,000. [Page 6]

Section 9

11.46.285(b) - *Fraudulent Use of an Access Device (Amended)*

Decreases the threshold value for fraudulent use of an access device from \$750 to \$50. [Page 6]

Section 10

11.46.295 - *Prior Convictions (Amended)*

Conforms definition for prior convictions for theft related crimes. [Page 6]

Section 11

11.46.460 - *Disregard of a Highway Obstruction (Amended)*

Reclassifies the crime of disregard of a highway obstruction to a violation punishable by up to \$1,000 fine. [Page 7]

[2:02:28 PM](#)

Mr. Shilling read from the sectional:

Section 12

11.46.482(a) - *Criminal Mischief in the Third Degree (Amended)*

Increases the threshold value for criminal mischief in the third degree from \$750 to \$2,000. [Page 7]

Section 13

11.46.484(a) - *Criminal Mischief in the Fourth Degree (Amended)*

Increases the threshold value for criminal mischief in the fourth degree from \$750 to \$2,000. [Page 8]

Section 14

11.46.530(b) - *Criminal Simulation (Amended)*

Increases the threshold value for criminal simulation from \$750 to \$2,000. [Page 8]

Section 15

11.46.620(d) - *Misapplication of Property (Amended)*

Increases the threshold value for misapplication of property from \$750 to \$2,000. [Page 8]

Section 16

11.46.730(c) - *Defrauding Creditors (Amended)*

Increases the threshold value for defrauding creditors from \$750 to \$2,000. [Page 9]

[2:03:13 PM](#)

Mr. Shilling continued with the sectional:

Section 17

11.56.730 - *Failure to Appear (New Subsection)*

Establishes that not receiving a reminder notification from a court is not a defense. [Page 9]

Section 18

11.56.757(a) - *Violation of Condition of Release (Amended)*

Conforms to the reclassification of the crime of violation of a condition of release to a violation. [Page 9]

Section 19

11.56.757(b) - *Violation of Condition of Release (Amended)*

Reclassifies the crime of violation of condition of release to a violation punishable by a fine up to \$1,000. [Page 9]

Section 20

11.56.759(a) - *Violation by Sex Offender of Condition of Probation (Amended)*

Conforms to renumbered statutes. [Page 9]

Section 21

11.61.110(c) - *Disorderly Conduct (Amended)*

Decreases the punishment for disorderly conduct from 10 days to 24 hours. [Page 10]

Section 22

11.61.145(d) - *Promoting an Exhibition of Fighting Animals (Amended)*

Reclassifies the crime of attending an exhibition of fighting animals as a violation for the second offense. Maintains third and subsequent offenses as a class A misdemeanor. [Page 10]

[2:04:10 PM](#)

Mr. Shilling spoke to the sectional:

Section 23

11.61.150(a) - *Obstruction of Highways (Amended)*

Conforms to the reclassification of the crime of obstruction of highways to a violation. [Page 10]

Section 24

11.61.150(c) - *Obstruction of Highways (Amended)*

Reclassifies the crime of obstruction of highways to a violation punishable by a fine up to \$1,000. [Page 10]

Section 25

11.66.100 - *Prostitution (New Subsection)*

Provides a person may not be prosecuted for prostitution if they are cooperating with law enforcement in the reporting of another crime. [Page 11]

Section 26

11.66.200(c) - *Gambling (Amended)*

Reclassifies the crime of unlawful gambling to a violation punishable by a fine up to \$1,000. [Page 11]

[2:04:51 PM](#)

Mr. Shilling continued:

Section 27

11.71.030(a) - *Misconduct Involving a Controlled Substance in the **Second** [THIRD] Degree (Amended)*

Renames the crime of misconduct involving a controlled substance in the third degree as misconduct involving a controlled substance in second degree. Provides that manufacture or delivery of more than 2.5 grams of a IA, IIA, or IIIA controlled substance is an element of the offense. Adds in manufacture of methamphetamine or methamphetamine precursors as an element of the offense. [Page 11]

Section 28

11.71.030(c) - *Misconduct Involving a Controlled Substance in the **Second** [THIRD] Degree (Amended)*

Conforms to renaming of misconduct involving a controlled substance in the third degree as misconduct involving a controlled substance in the second degree. [Page 13]

Section 29

11.71.030 - *Misconduct Involving a Controlled Substance in the **Second** [THIRD] Degree (New Subsection)*

Provides that possession of certain amount of specific chemicals is prima facie evidence of intent to manufacture or deliver methamphetamine or methamphetamine precursors. {Page 13}

[2:05:50 PM](#)

Mr. Shilling continued:

Section 30

11.71.040(a) - *Misconduct Involving a Controlled Substance in the **Third** [FOURTH] Degree (Amended)*

Renames the crime of misconduct involving a controlled substance in the fourth degree as misconduct involving a controlled substance in the third degree. Provides that manufacture or delivery of less than 2.5 grams of a IA, IIA, or IIIA controlled substance, or any amount of a schedule IVA or VA controlled substance, is an element of the offense. {Page 14}

Section 31

11.71.040(d) - *Misconduct Involving a Controlled Substance in the **Third** [FOURTH] (Amended)*

Conforms to renaming of misconduct involving a controlled substance in the fourth degree as misconduct involving a controlled substance in the third degree. [Page 16]

[2:06:27 PM](#)

Mr. Shilling read from the sectional:

Section 32

11.71.050 - *Misconduct Involving a Controlled Substance in the **Fourth** [FIFTH] Degree (Amended)*

Renames the crime of misconduct involving a controlled substance in the fifth degree as misconduct involving a controlled substance in the fourth degree. Consolidates simple possession of IA, IIA, IIIA, IVA and VA controlled substances into misconduct involving a controlled substance in the fifth degree, excepting small quantities of specified IIIA drugs as set forth in AS 11.71.060. [Page 16 - 17]

Section 33

11.71.060 *Misconduct Involving a Controlled Substance in the **Fifth** [SIXTH] Degree (Amended)*

Renames the crime of misconduct involving a controlled substance in the sixth degree as misconduct involving a controlled substance in the fifth degree. [Page 18]

Section 34

11.71.311(a) - *Restriction on Prosecution for Certain Persons in Connection with a Drug Overdose (Amended)*

Conforms to the realigned misconduct involving controlled substances statutes. [Page 18]

[2:07:22 PM](#)

Mr. Shilling continued:

Section 35

12.25.150(a) - *Rights of Prisoner after Arrest (Amended)*

Provides that an arrested person shall appear before a judge or magistrate within 24 hours of arrest absent compelling circumstances, and that the hearing may not take place more than 48 hours after arrest. [Page 19]

Section 36

12.25.180 - *When Peace Officer May Issue Citation or Take Person Before the Court (Amended)*

Establishes a presumption to cite and summons to court for nonviolent misdemeanors and class C felonies, with exceptions including significant danger to self or others, and specified crimes. For infractions or violations, provides that a peace officer may bring the person before a judge if the violation is for a violation of conditions of release or for failure to appear. [Page 19]

Section 37

12.25.180 - *When Peace Officer May Issue Citation or Take Person Before the Court (New Section)*

Forbids civil action for damages for failure to comply with this section. [Page 20]

Mr. Shilling commented that the provision had been requested by the Anchorage Police Department.

[2:08:14 PM](#)

Mr. Shilling continued:

Section 38

12.25.190(b) - *When Person to be Given Five-Day Notice to Appear in Court (Amended)*

Reduces the minimum duration, when issued a citation for certain offenses, before the first appearance from five days to two days. [Page 20]

Section 39

12.25.190 - *When Person to be Given Five-Day Notice to Appear in Court (New Section)*

Conforming to allow the notice to appear to remain five working days after the issuance of a citation for certain offenses including traffic violations. [Page 21]

Section 40

12.30.006(b) - *Release Procedures (Amended)*

Conforming to changes made in 12.30.011. [Page 21]

Section 41

12.30.006(c) - *Release Procedures (Amended)*

Requires judicial review and reconsideration of the conditions of release for instances where the defendant is detained pre-trial due to those conditions, unless the judicial officer finds that less restrictive release conditions cannot reasonably ensure the appearance of the person in court and safety of the victim, other persons, and the community. [Page 21]

[2:09:13 PM](#)

Mr. Shilling continued:

Section 42

12.30.006(d) - *Release Procedures (Amended)*

Allows for defendant's inability to pay to be considered as a factor to at bail review hearings. Specifies that a defendant may only receive one bail review hearing for new information relating to the person's inability to pay. [Page 21]

Section 43

12.30.006(f) - *Release Procedures (Amended)*

Conforms to creation of a pretrial services office, authorizing a pretrial services officer to arrest a person without a warrant for violating a court order. [Page 22]

Section 44

12.30.006(h) - *Release Procedures (New Subsection)*

Directs the first appearance to occur within 24 hours after a person's arrest absent compelling circumstances. [Page 22]

Section 45

12.30.011 - *Release Before Trial (Amended)*

Limits judicial discretion to detain low- and moderate-risk pretrial defendants charged with non-violent, non-DUI misdemeanors and low-risk pretrial defendants charged with non-violent, non-DUI Class C felonies. This section prevents the use of secured monetary bail for lower-risk defendants while ensuring conditions can be imposed to require defendants to refrain from alcohol consumption, to avoid all contact with victims, and to keep regular contact with a pretrial services officer. In determining the conditions of release, the court shall consider the conditions of release recommended by the pretrial services officer and the person's pretrial risk assessment score. In addition to conditions of release, the judicial officer may impose the least restrictive conditions that reasonably ensure the person's appearance and the safety of the victim, other persons, and the community. [Page 22]

[2:10:44 PM](#)

Mr. Shilling continued:

Section 46

12.30.011 - *Release Before Trial (New Subsection)*

Creates a presumption of release on personal recognizance or unsecured bond, with appropriate release conditions, for low-risk defendants and for most nonviolent misdemeanor and Class C felony defendants. The court can overcome this presumption and order partially- or fully-secured money bond if it finds on the record that no less restrictive conditions can reasonably assure court appearance and public safety. [Page 26]

Section 47

12.30.016(b) - *Release Before Trial in Certain Cases (Amended)*

Conforms to creation of a pretrial services office, authorizing a pretrial services officer to search a person's residence for the presence of alcohol under conditions to refrain from alcohol. [Page 29]

Section 48

12.30.016(c) - *Release Before Trial in Certain Cases (Amended)*

Conforms to creation of a pretrial services office, authorizing a pretrial services officer to search a person's residence for the presence of a controlled substance under conditions to refrain from consuming from controlled substances. A judicial officer may order a defendant to participate in random drug testing by the pretrial services division. [Page 29 - 30]

[2:12:05 PM](#)

Mr. Shilling continued to read from the sectional:

Section 49

12.30.021(a) - *Third-Party Custodians (Amended)*

Restricts availability of third-party custodian release conditions to cases in which pretrial supervision is not available, secured money bond has not been ordered, and no other combination of release

conditions can reasonably assure court appearance and public safety. [Page 30]

Section 50

12.30.021(c) - *Third-Party Custodians (Amended)*

Changes the restrictions on people who are eligible to serve as third-party custodians to prohibit those who are likely to be called as witnesses, as opposed to those who may be called as witnesses. [Page 31]

Section 51

12.30.055 - *Persons Appearing on Petition to Revoke (New Subsection)*

Provides for a probationer arrested for a technical violation to be released upon reaching imprisonment limits. [Page 31]

[2:12:54 PM](#)

Mr. Shilling continued:

Section 52

12.55.011 - *Victim and community involvement in sentencing (New Subsection)*

Requires at sentencing the court provide the victim with a form that provides information about who to contact with questions about sentencing and potential release of the offender. [Page 31]

Section 53

12.55.025(a) - *Sentencing Procedures (Amended)*

Conforms to addition of administrative parole as a type of parole that the court must include in its sentencing report in stating the minimum term of imprisonment the defendant must serve before becoming eligible for parole. [Page 32]

Section 54

12.55.025(c) - *Sentencing Procedures (Amended)*

Conforming to ensure credit is applied for time spent in custody for a violation of a condition of probation or parole pending a revocation hearing. [Page 33]

Section 55

12.55.027(d) - *Credit for Time Spent Toward Service of a Sentence of Imprisonment (Amended)*

Limits pretrial credit to 120 days for time spent on electronic monitoring that complies with the Department of Corrections guidelines. [Page 33]

Section 56

12.55.027(f) - *Credit for Time Spent Toward Service of a Sentence of Imprisonment (New Subsection)*

Limits credit to 120 days against a total term of imprisonment imposed for person crimes, sex offenses, delivery of a controlled substance to a person under 19, burglary, arson. To qualify as a treatment program, a program must address criminogenic traits, provide measures of progress, and require notification to the court or probation officer for violations of bail or probation. [Page 33]

Mr. Shilling stated that the section had been heavily amended in the Senate Judiciary Committee.

[2:14:27 PM](#)

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[2:15:02 PM](#)

RECONVENED

Mr. Shilling resumed reading from the sectional:

Section 57

AS 12.55.051(a) - *Enforcement of Fines and Restitution (Amended)*

Conforms to changes to the probation revocation process. [Page 34]

Section 58

12.55.051 - *Enforcement of Fines and Restitution (New Subsection)*

Authorizes the Department of Law to garnish a permanent fund dividend to collect restitution ordered by the court. [Page 35]

Section 59

12.55.055(c) - *Community Work (Amended)*

Increases the value of an hour of community work from three dollars to the state's minimum wage if the defendant is unable to pay the fine and the court offers the defendant the option of performing community work in lieu of a fine. [Page 35]

Section 60

12.55.055 - *Community Work (New Subsection)*

Prevents the court from converting community work service into a sentence of imprisonment or offering the defendant the option of serving jail time in lieu of completing community work service. [Page 35]

Section 61

12.55.078 - *Suspended Entry of Judgement (New Section)*

Establishes a process for suspending an entry of judgment, whereby if a 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. Upon successful completion of probation, the court shall discharge the person and dismiss the case after one year. [Page 35]

[2:16:24 PM](#)

Mr. Shilling continued:

Section 62

12.55.090(b) - *Granting of Probation (Amended)*

Conforms to new early discharge process. [Page 37]

Section 63

12.55.090(c) - *Granting of Probation (Amended)*

Limits probation terms to 10 years for an unclassified felony or felony sex offense, five years for any other felony offense, four years for a DV-related misdemeanor, two years for a second-time misdemeanor DUI, and one year for all other misdemeanor offenses. [Page 37]

Section 64

12.55.090(c) - *Granting of Probation (Amended)*

Authorizes the court to alter a term of probation in accordance with the earned compliance policy, or if a probation officer recommends to the court that the probationer be discharged from probation for completing treatment and complying with the conditions of probation. [Page 38]

Section 65

12.55.090 - *Granting of Probation (New Subsection)*

Requires probation officers to recommend early discharge from probation to the court for any probationer who has served at least one year, completed any required treatment, and is currently in compliance with the conditions of probation, excepting offenders convicted of an unclassified or sex felony offenses, or a crime involving domestic violence. This section also establishes an opportunity for a crime victim to be notified and comment at an early discharge hearing. Provides that court shall discharge the defendant from probation upon completion of the period of probation, including the time served and earned credits. [Page 38]

[2:17:55 PM](#)

Mr. Shilling continued:

Section 66

12.55.100(a) - *Conditions of Probation (Amended)*

Conforming to ensure that probationers can be required to comply with the graduated sanctions imposed by a probation officer. [Page 39]

Section 67

12.55.100(c) - *Conditions of Probation (Amended)*

Conforms to renumbered statutes. [Page 40]

Section 68

12.55.110 - *Notice and Grounds for Revocation and Suspension (New Subsection)*

Limits the maximum sentence for technical violations of probation for probationers who are not in the PACE program to 3 days for the first revocation, 5 days for the second revocation, 10 days for the third revocation, and up to the remainder of the suspended sentence for the fourth or subsequent revocation. Exceptions are made for absconding and failure to complete sex offender treatment. [Page 41]

Section 69

12.55.115 - *Fixing Eligibility for Discretionary Parole at Sentencing (Amended)*

Conforms to addition of administrative parole as a type of parole for which the court has discretion to restrict eligibility. [Page 42]

[2:19:00 PM](#)

Mr. Shilling continued with the sectional:

Section 70

12.55.125(a) - *Sentences of Imprisonment for Felonies (Amended)*

Increases the minimum sentence of imprisonment for murder in the first degree from 20 to 25 years. [Page 42]

Section 71

12.55.125(b) - *Sentences of Imprisonment for Felonies (Amended)*

Increases the minimum sentence of imprisonment for murder in the second degree from 10 to 15 years. [Page 43]

Section 72

12.55.125(c) - *Sentences of Imprisonment for Felonies (Amended)*

Maintains the maximum sentence for non-sex Class A felonies at 20 years, while reducing the presumptive range for a first felony conviction to three to six years, a first felony conviction if the defendant uses a dangerous instrument or the offense is directed at a first responder to five to nine years, a second felony

conviction to eight to twelve years, and a third felony conviction to thirteen to twenty years. Conforms to refer to the realigned misconduct involving controlled substances statutes. [Page 44]

[2:19:59 PM](#)

Mr. Shilling continued:

Section 73

12.55.125(d) - *Sentences of Imprisonment for Felonies (Amended)*

Maintains the maximum sentence for non-sex Class B felonies at 10 years, while reducing the presumptive range for a first felony conviction to zero to two years, a second felony conviction to two to five years, and a third felony conviction to four to 10 years. Conforms to refer to the realigned misconduct involving controlled substances statutes. [Page 45]

Section 74

12.55.125(e) - *Sentences of Imprisonment for Felonies (Amended)*

Maintains the maximum sentence for non-sex Class C felonies at 5 years, while reducing the presumptive range for a first felony conviction to a suspended term of imprisonment of up to eighteen months, a second felony conviction to one to three years, and a third felony conviction to two to five years. [Page 45]

Section 75

12.55.135(a) - *Sentences of Imprisonment for Misdemeanors (Amended)*

Provides for a presumptive range of zero to thirty days for class A misdemeanors, excepting offenses with mandatory minimums above thirty days or if the conviction is for crime of assault in the fourth degree involving domestic violence. Allows the presumptive range to be overcome if the prosecution proves that the conduct constituting the offense was the most serious included in the definition of the offense or the defendant has past criminal convictions

similar in nature to the offense in question. [Page 46]

Section 76

12.55.135(b) - *Sentences of Imprisonment for Misdemeanors (Amended)*

Truncates the maximum term of imprisonment for a class B misdemeanor to ten days. [Page 47]

[2:21:33 PM](#)

Mr. Shilling continued:

Section 77

12.55.135 - *Sentences of Imprisonment for Misdemeanors (Amended)*

Provides that the court may not impose a sentence of imprisonment or suspended imprisonment for a person convicted of theft in the fourth degree; concealment of merchandise ; removal of identification marks; unlawful possession; issuing a bad check; or criminal simulation who has not been convicted of one of these theft offenses at least twice.

Provides that the court may not impose a sentence of longer than 24 hours for a person convicted of disorderly conduct. The court may not sentence active imprisonment for a person convicted of misconduct involving a controlled substance in the fourth or fifth degrees, unless the person has previously been convicted more than once of an offense under AS 11.71

Provides that if the state seeks to establish a fact-based aggravating factor at sentencing, the factor must be established by clear and convincing evidence before the court sitting without a jury. If the state seeks to establish a law-based aggravating factor at sentencing, the factor must be presented to a trial jury and proved beyond a reasonable doubt, unless the defendant waives trial by jury, stipulates to the existence of the factor, or consents to allow the court to establish the aggravator by clear and convincing evidence without a jury. [Page 47]

[2:23:02 PM](#)

Co-Chair MacKinnon stated that John Skidmore, Director, Criminal Division, DOC, had previously spoken to the section. She recalled that the aggravators on Lines 12 and 17 were not consistent.

Mr. Shilling responded that the technical changes would be appropriate; the sponsor wanted to refer to the correct aggravators because one aggravator was proven before a jury, and the other was proven by the judge.

Co-Chair MacKinnon noted that the section would need a technical change.

[2:24:11 PM](#)

Mr. Shilling continued:

Section 78

12.61.015(a) - Duties of Prosecuting Attorney
(Amended)

Requires the prosecuting attorney to confer with the victim of a felony crime in regards to a proposed plea agreement, at the request of the victim. [Page 48]

Mr. Shilling said that the section spoke to the request from the Office of Victims' Rights to play a greater role when the Department of Law chose to enter into a plea agreement.

Section 79

22.35.030 -

Requires the court to publish the court record of a person granted suspended entry of judgment or a person convicted of violation of conditions of release. [Page 49]

Section 80

28.15.165 - *Administrative Revocations and Disqualifications resulting from chemical sobriety tests and refusals to submit to tests.*

Requires the DMV to restore a person's driver's license if all charges have been dismissed or if the person has been acquitted of driving while under the influence. [Page 50]

Section 81

28.15.181(f) - *Court Suspensions, Revocations, and Limitations (Amended)*

Allows for the court to terminate a revocation if the person has successfully completed the therapeutic court program, has not been convicted of DUI, and has successfully driven under the limited license for three years without being revoked. [Page 50]

Section 82

28.15.201 - *Limitation of Driver's License (New Subsection)*

Authorizes the court to grant limited license privileges for felony DUI offenders if the person has completed the therapeutic court program, has proof of insurance, and an installed ignition interlock device. This section allows the court or the department to revoke a limited license if the person is convicted of a DUI or refusal. [Page 51]

[2:25:47 PM](#)

Mr. Shilling continued:

Section 83

28.15.291 (*Driving While License Suspended*)

Conforms to section 78 by differentiating DWLS offenses related to DUI license revocations and those unrelated to DUI license revocations. [Page 52]

Section 84

28.15.291(b) - *Driving While License Suspended (Repealed and Reenacted)*

Reduces the mandatory minimum for second time DWLS offenders whose license revocation is related to DUI offenses to 10 days. Removes the mandatory minimum for first time DWLS offenders whose license revocation is related to DUI offenses. Reduces the penalty for non-DUI-related DWLS offenses from a misdemeanor to an infraction. [Page 52]

Section 85

28.35.028(b) - *Court-Ordered Treatment (Amended)*

Authorizes the court to reduce a license revocation for the purposes of granting a limited license to eligible offenders. [Page 53]

Section 86

28.35.030(k) - *Operating a Vehicle... Under the Influence (Amended)*

Requires first-time DUI offenders to serve a mandatory term of electronic monitoring. If unavailable, imprisonment is determined by the department. [Page 54]

Section 87

28.35.030(l) - *Operating a Vehicle... Under the Influence (Amended)*

Conforming to require that costs of imprisonment required to be paid under subsection (k) reflect the requirement to be placed on electronic monitoring. [Page 55]

Section 88

28.35.030(o) - *Operating a Vehicle... Under the Influence (Amended)*

Requires the department restore a driver's license to a person who has been granted a limited license and has successfully driven for three years without having driving privileges revoked, has successfully completed the therapeutic court program, has not been convicted of a DUI or refusal, and provides proof of insurance. [Page 55]

[2:27:34 PM](#)

Mr. Shilling continued:

Section 89

28.35.032(o) - *Refusal to Submit to Chemical Test (Amended)*

Requires first-time refusal to submit to a chemical test to serve a mandatory term of electronic monitoring. If unavailable, imprisonment is determined by the department. [Page 56]

Section 90

29.10.200(21) - *Limitation of Home Rule Powers (Amended)*

Conforms to the requirement that a municipality may not proscribe a greater penalty for a municipal ordinance than what is imposed for a state crime with comparable elements. [Page 57]

Section 91

29.25.070(a) - *Penalties (Amended)*

Conforms to the requirement that a municipality may not proscribe a greater penalty for a municipal ordinance than what is imposed for a state crime with comparable elements. [Page 57]

Section 92

29.25.070 - *Penalties (New Subsection)*

Requires that a municipality may not proscribe a greater penalty for a municipal ordinance than what is imposed for a state crime with comparable elements. [Page 57]

Section 93

33.05.020 - *Duties of Commissioner (New Subsection)*

Requires the commissioner to establish an administrative sanction and incentive program to facilitate a prompt and effective response to violations of probation. Also requires the commissioner to establish a system of earned compliance credits. [Page 57]

Section 94

33.05.040 - *Duties of Probation Officers (Amended)*

Conforms section to include earned compliance credits, administrative sanctions, and early discharge to the duties of probation officers. [Page 59]

Section 95

33.05.080 - *Definitions (New Paragraph)*

Defines "administrative sanctions and incentives" to mean responses by a probation officer to a

probationer's compliance or noncompliance with the conditions of probation. [Page 59]

[2:29:19 PM](#)

Mr. Shilling continued:

Section 96

33.07.010 - *Pretrial Services Program (New Section)*

Establishes a pretrial services program at the Department of Corrections to conduct pretrial risk assessments, make recommendations to the court regarding release decisions, and supervise pretrial defendants who are released. Directs the Commissioner to adopt a risk assessment tool and relevant training and regulations.

Outlines duties of pretrial services officers to conduct pretrial risk assessments, make recommendations to the court regarding release and conditions of release, and provide supervision for defendants released pretrial. Authorizes pretrial services officers to make pretrial diversion recommendations and to arrest defendants who have failed to appear or violated their release conditions. Requires pretrial services officers to recommend release on personal recognizance or unsecured bond for nonviolent, non-DV misdemeanor and Class C felony charges, low- or moderate-risk DUI charges, and other low-risk charges, with limited options for departing from this requirement if the pretrial services officer finds that no combination of non-money conditions can reasonably ensure court appearance and public safety. [Page 60]

Section 97

33.16.010(c) - *Parole (Amended)*

Conforms section to include administrative and special medical parole as not limiting eligibility for mandatory parole. [Page 63]

Section 98

33.16.010(d) - *Parole (Amended)*

Conforming to include prisoners released on administrative parole as being subject to the conditions of parole imposed by the board. [Page 63]

Section 99

33.16.010 *Parole (New Subsection)*

Provides for a prisoner meeting the eligibility requirements to be released on administrative parole by the board of parole. [Page 64]

Section 100

33.16.060(a) *Duties of the Board (Amended)*

Conforming to ensure the parole board shall impose conditions on all prisoners released on parole. Additionally, this section requires the board to consider prisoners who are eligible for administrative and discretionary parole at least 90 days before eligibility. [Page 64]

Section 101

33.16.089 - *Eligibility for Administrative Parole (New Section)*

Creates administrative parole for inmates convicted of a Class B or C felony that is not a sexual felony who have not been previously convicted of a felony. These inmates are eligible for administrative parole if they complete the requirements of their case action plan (including following institutional rules and completing treatment requirements) and if no victim requests a hearing. [Page 64]

[2:31:46 PM](#)

Mr. Shilling continued:

Section 102

33.16.090(a) - *Eligibility for Discretionary Parole ...Served (Amended)*

Expands eligibility for discretionary parole to all inmates, excluding inmates convicted of an unclassified or sexual felony, who are over the age of 60 and have served at least 10 years of their sentence. [Page 65]

Section 103

33.16.090(b) - *Eligibility for Discretionary Parole ...Served (Amended)*

Expands eligibility for discretionary parole to all offenders except Class A or Unclassified sex offenders with a prior felony conviction. [Page 66]

Section 104

33.16.100(a) - *Granting of Discretionary Parole (Amended)*

Conforming to the expansion of eligibility for discretionary parole. [Page 68]

Section 105

33.16.100(b) - *Granting of Discretionary Parole (Amended)*

Conforming to changes in the parole release application and decision-making process. [Page 68]

Section 106

33.16.100 - *Granting of Discretionary Parole (New Subsection)*

Authorizes the parole board to grant discretionary parole to a prisoner who has been convicted of a class A, class B, or class C felony, or a misdemeanor, provided the prisoner is eligible for discretionary parole and has met the requirements of their case plan. If the board finds by clear and convincing evidence that the prisoner poses a threat to the public, the board may deny discretionary parole. When considering a prisoner over the age of 60 for release on discretionary parole, the board must take into consideration the prisoner's likelihood of recidivism given the prisoner's age, as well as whether or not the prisoner poses a threat to the public. [Page 68]

Section 107

33.16.110(a) - *Preparole Reports (Amended)*

Requires the parole board to consider the inmate's case plan and re-entry plan when evaluating an

inmate's suitability for discretionary parole. [Page 69]

Section 108

33.16.120(a) - *Rights of Certain Victims in Connection with Parole (Amended)*

Conforms to reflect changes to the parole application process. [Page 70]

[2:33:33 PM](#)

Mr. Shilling continued:

Section 109

33.15.120(f) - *Rights of Certain Victims in Connection with Parole (Amended)*

Conforming to ensure victims receive notification for inmates eligible for administrative parole. [Page 70]

Section 110

33.16.120(g) - *Rights of Certain Victims in Connection with Parole (Amended)*

Conforms to the requirement that the parole board notify a victim of a crime involving domestic violence or sexual assault thirty days in advance of discretionary and geriatric parole hearings. Additionally, the board shall inform the victim of any decision to grant or deny parole, and notify the victim of release on parole, including mandatory parole. [Page 70]

Section 111

33.16.120 - *Rights of Certain Victims in Connection with Parole (New Subsection)*

Requires notice to a victim who has a right to receive notice from the parole board and enables the victim to request a hearing before a prisoner is administratively paroled. The notice to the victim must include the procedure for requesting a hearing. [Page 71]

Section 112

33.16.130 - *Parole Procedures (Repealed and Reenacted)*

Streamlines the hearing process for discretionary parole by requiring the parole board to hold hearings for all prisoners who are eligible, rather than wait for prisoners to determine eligibility and prepare an application prior to a hearing. If the board denies parole, the board shall provide a written plan for addressing all of the factors relevant to the denial. The board shall schedule a subsequent hearing within two years after the first parole eligibility date, and for additional denials, within two years after the most recent hearing. [Page 71]

Section 113

33.16.140 - *Order for Parole (Amended)*

Conforming to include administrative parole in list of parole types where a parole order is issued by the board that sets out conditions of release. [Page 72]

Section 114

33.16.150(a) - *Conditions of Parole (Amended)*

Conforming to include administrative parole as a type of parole that carries mandatory conditions of parole. [Page 72]

Section 115

33.16.150(b) - *Conditions of Parole (Amended)*

Conforming to include administrative parole as a type of parole that carries conditions that can be imposed by the board or a designated member of the board. [Page 73]

[2:35:37 PM](#)

Mr. Shilling continued:

Section 116

33.16.150(e) - *Conditions of Parole (Amended)*

Conforming to include administrative parole as a type of parole that can carry conditions imposed by a designated member of the board acting on behalf of the full board. [Page 74]

Section 117

33.16.150(f) - *Conditions of Parole (Amended)*

Conforming to include administrative parole as a type of parole that carries additional conditions for a prisoner serving a term for a crime involving domestic violence. [Page 75]

Section 118

33.16.150(g) - *Conditions of Parole (Amended)*

Conforming to include administrative parole as a type of parole that carries the additional condition of electronic monitoring if the prisoner was sentenced with an aggravating factor relating to street gangs. [Page 75]

Section 119

33.16.150 - *Conditions of Parole (New Subsection)*

Provides that the parole board may require that prisoners serving a sentence for an offense involving the use of alcohol or controlled substances comply with a program established under AS 33.16.060(c) or AS 47.38.020. [Page 76]

Mr. Shilling relayed that the section had been an amendment added in the Senate Judiciary Committee.

Section 120

33.16.180 - *Duties of the Commissioner (Amended)*

Includes administrative parole as a type of parole that the commissioner is responsible for conducting investigations of prisoner eligibility and notifying the board within 30 days after sentencing of potential eligibility. Requires preparation of pre-parole reports and notification to the parole board of compliance or noncompliance with the prisoner's case plan no less than 30 days before the next parole eligibility date or hearing. The commissioner is required to implement and administer a schedule of sanctions and incentives to facilitate a swift and certain response to violations, while including a process for due process considerations. Additionally, the commissioner shall facilitate the application of earned credit for compliance with the conditions of parole. Requires commissioner to notify victim information regarding release of offender. [Page 77]

[2:37:51 PM](#)

Mr. Shilling continued:

Section 121

33.16.200 - *Custody of Parolee (Amended)*

Conforming to include administrative parolees as a type of parolees that the board retains custody of until the expiration of the maximum term of imprisonment to which the parolee is sentenced. [Page 78]

Section 122

33.16.210 - *Discharge of Parolee (Amended)*

Reduces the period of time before a parolee becomes eligible for unconditional discharge from parole, in some cases to serve a residual period of probation. [Page 78]

Section 123

33.16.210 - *Discharge of Parolee (New Subsection)*

Allows the board to initiate early discharge if the parolee has completed at least one year on parole, has completed all required treatment programs, is in compliance with all other conditions, and has not been convicted of unclassified felony, a sexual felony, or a crime involving domestic violence. The board shall also grant monthly parole incentive reductions for compliance with conditions imposed by the board. [Page 78]

Mr. Shilling commented that previous committees had excluded sexual felonies, unclassified felonies, and those convicted of domestic violence from the provision.

[2:39:03 PM](#)

Mr. Shilling continued:

Section 124

33.16.215 - *Sanctions for a Technical Violation of Parole (New Section)*

Provides for a system of imprisonment for technical violations not to exceed three days for the first technical violation of parole; five days for the second technical violation of parole; 10 days for the third technical violation of parole; and up to the remainder of the suspended portion of the sentence for a fourth or subsequent technical violation of parole. For defendants found absconding, the board may impose a period of imprisonment of up to 30 days. For probationers failing to complete sex offender treatment, the board may impose a period of imprisonment up to the remainder of the suspended portion of the sentence. These limits would not apply to parolees enrolled in the PACE program. [Page 78]

Section 125

33.16.220(b) - *Revocation of Parole (Amended)*

Conforms to include the commission of a new offense or failing to complete a sex offender treatment program as conduct that requires a preliminary hearing to determine if a violation of the conditions of parole occurred. [Page 80]

Section 126

33.16.220(f) - *Revocation of Parole (Amended)*

Conforms to ensure that revocation hearings for technical violations of parole occur within 15 days, while preserving current process for non-technical offenses. [Page 80]

Section 127

33.16.220(i) - *Revocation of Parole (Amended)*

Conforms to ensure the limits on parole revocations listed in Section 124 apply. Also conforming to ensure that any credits a parolee earned for compliance under Section 87 cannot indirectly be taken away through a board extension of the term of parole. [Page 80]

Section 128

33.16.220 - *Revocation of Parole (New Subsection)*

Changes the parole hearing process to ensure that revocation hearings for technical violations of parole occur within 15 days. [Page 80]

Section 129

33.16.240 - *Arrest of a Parole Violator (New Subsection)*

Provides for a parolee arrested for a technical violation to be released upon reaching imprisonment limits. [Page 81]

Section 130

33.16.270 - *Earned Compliance Credits (New Section)*

Requires the commissioner to establish a program that allows parolees to earn credits for complying with the conditions of parole. A parolee can earn a credit of 30 days for each month served in which the parolee has complied with conditions of parole. [Page 81]

Section 131

33.16.900 - *Definitions (New Paragraph)*

Defines "administrative parole" as the release of a prisoner who is eligible for administrative parole under AS 33.16.089 and who has satisfied the criteria for release, subject to conditions imposed by the board and subject to its custody and jurisdiction. Defines "administrative sanctions and incentives" as a response by a parole officer to a parolee's compliance or noncompliance with the conditions of parole. [Page 81]

Section 132

33.20.010(a) - *Computation of Good Time (Amended)*

Conforms to new technical violation statute making it so technical violators are not eligible for good time credits. [Page 81]

[2:41:39 PM](#)

Mr. Shilling continued:

Section 133

33.20.010(c) - *Computation of Good Time (Amended)*

This section extends credit to individuals on electronic monitoring. [Page 82]

Section 134

33.20.010 - Computation of Good Time (New Subsection)

Allows prisoners convicted of a sexual felony to receive earned credit upon completion of treatment requirements listed in the prisoner's case plan. [Page 82]

Section 135

33.30.011 - *Duties of Commissioner (Amended)*

Requires the commissioner of corrections to establish a program to assess risk levels for pretrial defendants, as well as establish a procedure for providing a written case plan to prisoners within 90 days of sentencing and a reentry plan at least 90 days before release. Additionally, this section establishes standards for electronic monitoring and the approval of private contractors that provide electronic monitoring. [Page 83]

Section 136

33.30.013(a) - *Commissioner to Notify Victims (New Subsection)*

Requires the Department of Corrections to notify the victim if the parolee is eligible for a parole reduction for compliance with conditions. [Page 85]

Section 137

33.30.065(a) - *Service of Sentence by Electronic Monitoring (Amended)*

Allows for a private contractor approve by the department to administer electronic monitoring. [Page 85]

Section 138

30.30.095 - *Duties of Commissioner Before Release of Prisoner (New Section)*

Requires the Department of Corrections to establish a program to prepare a prisoner for re-entry that begins 90 days before the date of release. The program must include a re-entry plan and instruction on resources available in the community and obtaining state identification. [Page 86]

[2:43:28 PM](#)

Mr. Shilling continued:

Section 139

33.30.151 - *Correctional Restitution Centers (Amended)*

Requires CRC's to provide treatment, reduce mixing low and high risk offenders, and adopt quality assurance measures, including standards for assessing risk levels. [Page 86]

Section 140

34.03.360(7) - *Definitions (Amended)*

Conforms to the realigned misconduct involving controlled substances statutes. [Page 87]

Section 141

43.23.065(b) - *Exemption of and Levy on Permanent Fund Dividends (Amended)*

Conforms to ensure that forfeiture of an appearance or performance bond is not exempted from permanent fund dividend garnishment. [Page 87]

Section 142

44.19.645 - *Powers and duties of the commission. (Amended)*

Provides that the Alaska Criminal Justice Commission shall annually make recommendations to the governor and legislature on how savings from criminal justice reforms should be reinvested to reduce recidivism. Allows the commission to appoint a working group to review and analyze the implementation of recommendations, as well as enter into data-sharing agreements with the University of Alaska and the Alaska Judicial Council. [Page 88]

Mr. Shilling noted that the section was part of the oversight responsibilities of the Alaska Criminal Justice Commission.

[2:44:48 PM](#)

Section 143

44.19.645 - *Powers and duties of the commission (New Subsections)*

Requires the commission to track and analyze data collected by agencies and entities charged with implementing the recommendations. Requires the Judiciary, the Department of Public Safety, and the Department of Corrections to report data to the commission on a quarterly basis. [Page 90]

Section 144

44.19.647 - *Annual Report and Recommendations (Amended)*

Requires the commission to issue an annual report that must include a description of the past year, a summary of savings, performance metrics and outcomes from the recommendations, and recommendations for additional reforms. [Page 92]

Section 145

44.19.647 - *Annual Report and Recommendations (New Subsection)*

Requires the commission to submit the report no later than November 1 of each year. [Page 93]

Section 146

44.66.010(a)(12)

Extends the life of the commission to June 30, 2021. [Page 93]

Section 147

47.05.035 - *Disqualification from public assistance for felony drug offenses (New Section)*

Requires a person with a prior conviction for a controlled substances offense to participate in random drug testing if they are receiving public assistance. Disqualifies a person who tests positive or refuses to take a test. [Page 93]

Section 148

47.27.015 - *Disqualifying Conditions (New Subsection)*

Lifts the restriction on eligibility for food stamps for persons convicted of drug felonies, provided the individual is compliant with conditions of probation, has completed treatment, or is working toward rehabilitation. [Page 94]

[2:46:35 PM](#)

Mr. Shilling continued:

Section 149

47.37.040 - *Duties of department (Amended)*

Restricts ASAP referrals to persons who have been referred by a court under AS 28.35.028, 28.35.030, or 28.35.032. [Page 94]

Section 150

47.37.130(h) - *Comprehensive program for treatment: regional facilities. (Amended)*

Requires the department to develop regulations for the operation and management of public and private ASAP programs that ensures the uses of a validated risk assessment. [Page 98]

Section 151

47.37.130 - *Comprehensive program for treatment: regional facilities. (New Subsection)*

Provides that ASAP assess participants for risk to re-offend and supervise based on that risk. [Page 98]

Section 152

47.38.020(d) - *Alcohol, and Substance Abuse Monitoring Program (Repeal and Reenacted)*

Allows for department to enter into contracts to establish and implement test required in this section. [Page 98]

Section 153

47.38.100(a) - *Recidivism Reduction Program (Amended)*

Removes language reference Transitional Re-Entry Programs. [Page 98]

Section 154

47.38.100(b) *Recidivism Reduction Program (Amended)*

Requires that programs that increase access to evidence-based rehabilitation programs and support offender transition and re-entry. [Page 99]

[2:48:00 PM](#)

Mr. Shilling continued:

Section 155

47.38.100 - *Recidivism Reduction Program (New Subsection)*

Defines "evidence-based" as a program or practice that offers a high level of research on effectiveness. [Page 99]

Section 156

Uncodified Law

Amendment to Court Rule 38 of the Alaska Rules of Criminal Procedure providing for hearing reminders to defendants. [Page 99]

Section 157

Uncodified Law

Amendment to Court Rule 41 of the Alaska Rules of Criminal Procedure prohibiting bail schedules for misdemeanors or felonies. [Page 100]

Section 158

Uncodified Law

Repeals Court Rules 41(d) and (e)[Page 100]

Section 159

Uncodified Law

Repeals AS 11.46.140(a)(3), 11.46.220(c)(2)(B), AS 11.71.020, 11.71.040(a)(3), 11.71.050(a)(2), 11.71.060(a)(2)(A); AS 12.30.016(d); AS 12.55.125(o), 12.55.135(j); and AS 33.16.100 . [Page 100]

Section 160

Uncodified Law

Indirect Court Rule Amendments to the Alaska Rules of Criminal Procedure. [Page 100]

Section 161

Uncodified Law

The Council on Domestic Violence and Sexual Assault shall create or expand community-based violence prevention programming. [Page 101]

[2:49:29 PM](#)

Section 162

Uncodified Law

The Alaska Criminal Justice Commission shall provide in the 2017 report an evaluation of barrier offenses. [Page 101]

Mr. Shilling noted that the section was the result of an amendment in the Senate Judiciary Committee.

[2:49:49 PM](#)

Mr. Shilling continued:

Section 163

Uncodified Law

Applicability provisions. [Page 102]

Section 164

Uncodified Law

Provides that certain sections of the bill are conditional on a two-thirds majority vote of each house. [Page 106]

Mr. Shilling believed that the section had been the result of the court rule changes required in the bill.

[2:50:29 PM](#)

Section165

Uncodified Law

Establishes effective date for Sections 1-16, 21-34, 55, 57, 59, 61, 63, 67, 72-85, 88, 90, 92, 132, 133, 142-151, and 159 as July 1, 2016. [Page 107]

Section 166

Uncodified Law

Establishes effective date for Section 79 as October 1, 2016. [Page 107]

Section 167

Uncodified Law

Establishes effective date for Sections 51, 53, 54, 60, 62, 64-66, 68, 69, 86, 87, 89, 93-95, 97-131, and 134-139 as July 1, 2017. [Page 107]

Section 168

Uncodified Law

Establishes effective date for Sections 17 and 156 as January 1, 2018. [Page 107]

Section 169

Uncodified Law

Establishes effective date for Sections 18-20, 35-50, 58, 96,141,156-158 and 160(f) as January 1, 2018. [Page 107]

Mr. Shilling concluded the sectional analysis.

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

[2:50:53 PM](#)

Co-Chair MacKinnon discussed housekeeping.

[2:52:13 PM](#)

Vice-Chair Micciche queried the due date for amendments for SB 91.

Co-Chair MacKinnon clarified that amendments for SB 91 were due by 5:00pm on Friday, April 1, 2016.

#

ADJOURNMENT

2:52:34 PM

The meeting was adjourned at 2:52 p.m.