

SENATE FINANCE COMMITTEE

April 5, 2016

1:46 p.m.

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CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 1:46 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

April Wilkerson, Director, Division of Administrative Services, Department of Corrections; Lauree Morton, Executive Director, Council on Domestic Violence and Sexual Assault, Department of Public Safety.

PRESENT VIA TELECONFERENCE

Randall Burns, Emergency Services Specialist, Division of Behavioral Health, Department of Health and Social Services; Lt. David Hanson, Alaska State Troopers; John Skidmore, Director, Criminal Division, Department of Law; Nancy Meade, General Counsel, Alaska Court System.

SUMMARY

SB 91 OMNIBUS CRIM LAW & 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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Co-Chair MacKinnon indicated that SB 91 had a new set of fiscal notes that would be discussed during the meeting. She directed attention to a spreadsheet titled "CSSSSB 91 (FIN) Version F - Omnibus Crime Law & Procedure; Corrections" dated 04/05/2016 (copy on file) that summarized the fiscal notes.

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Vice-Chair Micciche noted the following zero fiscal notes from the Department of Administration (DOA): FN 16 (ADM), allocated to the Office of Public Advocacy, OMB (Office of Management and Budget) component number 43; FN 17 (ADM) allocated to the Public Defender Agency, OMB component number 1631, FN 9 (ADM) allocated to Motor Vehicles, OMB component number 2348.

Vice-Chair Micciche turned to the Department of Corrections

(DOC) new fiscal note (COR) allocated to Information Technology MIS, OMB component number 698. He noted the \$1.5 million one-time appropriation services cost in FY 17 with no additional capital costs.

Co-Chair MacKinnon asked why the fiscal note was not a capital request since the appropriation was requested only in FY 17.

APRIL WILKERSON, DIRECTOR, DIVISION OF ADMINISTRATIVE SERVICES, DEPARTMENT OF CORRECTIONS, relayed that the department placed the fiscal note in the operating budget but felt that, as a one-time appropriation it was possible to attach it to either budget.

Vice-Chair Micciche reported the DOC fiscal note FN 19 (COR) allocated to Institution Director's Office OMB component number 1381. He noted that it was the only fiscal note denoting General Fund (GF) savings. He specified that in FY 17 the savings amounted to \$4.543 million, in FY 18 the savings amounted to \$16.446 million, in FY 19 the savings amounted to \$26.713 million, in FY 20 the savings amounted to \$24.427 million, in FY 21 the savings amounted to \$21.998 million, and in FY 22 the savings amounted to \$19.323 million with no capital costs.

Vice-Chair Micciche noted the zero DOC fiscal note FN 20 (DOC), allocated to Statewide Probation and Parole, OMB component number 2826. He spoke to the new DOC fiscal note, allocated to Community Residential Centers, OMB component number 2244 expending \$2 million each year for services from FY 17 through FY 22.

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Senator Hoffman asked where the requested positions for the Parole Board were located. Ms. Wilkerson explained that the positions for the parole board were all in Anchorage.

Co-Chair MacKinnon asked how the department had come up with the \$2 million threshold. Ms. Wilkerson answered that the calculation was based on current department staff expenses for programing services support for the Community Residential Centers (CRC). The department would provide the programing service through a contract with the CRC. Co-Chair MacKinnon noticed that there were no FTEs (Full-Time Equivalent) associated with the fiscal note. She asked for

clarification. Ms. Wilkerson clarified that the bill increased the services and requirements for the CRCs. The department was currently not providing specific programming for offenders housed in the CRCs. She ascertained that the services could be provided contractually.

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RECONVENED

Vice-Chair Micciche discussed the DOC fiscal note FN 22 (COR) allocated to the Parole Board, OMB component number 695 that expended \$775.9 thousand in FY 17 and \$700.9 thousand in FY 18 through FY 22. He detailed that the allocation was for 5 full-time positions with no capital costs.

Senator Hoffman asked whether the positions were based in Anchorage. Ms. Wilkerson answered in the affirmative.

Co-Chair MacKinnon asked whether the department had a reason why the positions were located in Anchorage instead of other places throughout the state. Ms. Wilkerson responded that the Anchorage area was the location of the majority of the parole hearing activity. Co-Chair MacKinnon relayed that Commissioner Williams, (Dean Williams, Commissioner, Department of Corrections) reported that the parole activity was centered in a "hub" community.

Vice-Chair Micciche addressed the new DOC fiscal note allocated to Pre-Trial Services, OMB component number 3121. The appropriation totaled \$3.904 million in FY 17 that included 31 full-time positions and in FY 18 through FY 22 the appropriation totaled \$15.616 million for each year including 125 full-time additional positions in the out years with no capital request.

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RECONVENED

Vice-Chair Micciche reviewed the positions on the fiscal note. The 31 positions included (in the first year) one

Adult Probation Officer V, three Adult Probation Officer III, a supervisor for each regional office, 24 Adult Probation Officers I and II, and three Criminal Justice Technicians I and II.

Co-Chair MacKinnon stated she would ask her staff to create a working group to address the fiscal note. She announced that the DOC request was "unacceptable" and declared that the committee rejected hiring 130 new state employees to implement the reforms. She referred to a previous fiscal note that reported savings possibly from the elimination of other positions and she expected DOC to "redeploy" the positions to manage the risk assessment tool. She directed the committee's attention to page 2 of the fiscal note, third paragraph:

It is anticipated the program will require 125 full-time positions for (approximately) \$16 million..

Co-Chair MacKinnon relayed that there was an option that required 95 positions and reduced the fiscal note by \$4 million. She suggested that a centralized office performing the assessments might save resources. She wanted to work with the department to reduce the fiscal note.

Vice-Chair Micciche outlined that the out years added additional positions. Co-Chair MacKinnon relayed that the committee had asked the commissioner about the use of high-level positions such as the Adult Probation Officer V. She wanted to see corresponding cost savings before spending \$15 million on new positions.

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Senator Bishop referred to page 2 of the fiscal note, and referenced the "assumptions that were made to calculate pre-trial costs" and asked whether the costs were based on a nationwide industry standard. Ms. Wilkerson answered in the affirmative. She explained that the state had approximately 32 thousand individuals processed through the court system. She noted that other states experienced 70 percent of the court population placed in the pre-trial services program.

Co-Chair MacKinnon interjected that the bill would be set aside while the fiscal notes were being reconsidered.

Vice-Chair Micciche moved to the Department of Health and Social Services (DHSS) fiscal note allocated to Behavioral Health Treatment and Recovery Grants, OMB component number 3099 in the amount of \$2.5 million in FY 17 and \$3 million from FY 18 through FY 22. He stated that "the grants and benefits would be provided to the existing re-entry center and to community re-entry coalitions to expand access to treatment and support services."

Senator Dunleavy asked whether any additional funding was anticipated from the federal government for behavioral health and substance abuse and wondered whether the money was considered for reform purposes. Co-Chair MacKinnon stated that the question would be addressed by the fiscal note working group.

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RANDALL BURNS, EMERGENCY SERVICES SPECIALIST, DIVISION OF BEHAVIORAL HEALTH, DEPARTMENT OF HEALTH AND SOCIAL SERVICES (via teleconference), addressed the fiscal note. He explained that the reinvestment efforts were "recalculated" and the governor's office "suggested" that \$2.5 million would be available for the Division of Behavioral Health. The department examined other reentry programs and calculated what it would cost to establish a funding stream for inmates returning to their communities; to assist with housing, employment and social supports. He based the fiscal note on a variety of support services that local reentry coordinators could choose from to help support the inmates upon release.

Co-Chair MacKinnon stated that when the committee worked on SB 74 (MEDICAID REFORM; TELEMEDICINE; DRUG DATABASE) [CHAPTER 25 SLA 16 - 06/21/2016] they redeployed money to behavioral health services and often matching money was available. She wondered whether matching funds were available for the items in the fiscal note. Mr. Burns thought that matching funds were available and he was working on what items were reimbursable. Co-Chair MacKinnon pointed to the "net spend" of \$8.735.3 million and asked him to look for further reductions. She invited him to participate in the fiscal note working group. Mr. Burns agreed to participate and re-examine the fiscal note.

Senator Olson compared DHSS the fiscal note to the fiscal note from DOC for CRCs behavioral disorders amounting to \$2

million and wondered about duplication of services. Mr. Burns did not believe the department was duplicating services. He revealed that the program in question was well established and identified the variety of resources available for the specific program. He offered to examine the fiscal notes with DOC.

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Co-Chair MacKinnon referred to page 2, paragraph 4 of the fiscal note and noted that that analysis spoke to the division's assistance in planning community reentry centers. She wondered whether the state had paid for planning services for the one reentry center currently in operation. Mr. Burns answered in the negative. He stated that the goal of the bill was to reduce recidivism. He clarified that beside the reentry center in operation in Anchorage, there were coordinators in other communities and the division hoped to expand the capacity of the other reentry programs. Co-Chair MacKinnon requested that he look for other federal reentry grant funding.

Vice-Chair Micciche discussed the new DHSS fiscal note allocated to the Alcohol Safety Action Program (ASAP) OMB component number 305. He revealed that the fiscal note appropriated \$30.3 thousand in FY 17 and \$29.2 thousand in FY 18 through FY 22. He noted that the funding was specifically for manuals and trainings. Vice-Chair Micciche asked about the assumptions on page 2 of the fiscal note that reported the ASAP office received 3,969 new cases in FY 15 and the private grantee offices received another 3,079 new adult cases in FY 15. He read the following from the analysis:

... with the referral criteria limited by newly proposed statute and the development of administrative regulations there should be closer to 4,000 referrals per year total...

Vice-Chair Micciche wondered why the division requested increased funds when the number appeared to be reduced by 40 percent in overall referrals. Mr. Piper stated that the assumption was based on a "re-tooling" of how the Alcohol Safety Action Program (ASAP) office operated. He noted that the bill mandated that the office perform more than just screening for substance abuse. The bill required ASAP to screen for "criminogenic risk needs" and monitor high risk

individuals more closely, which required new training for all staff in all offices.

Co-Chair MacKinnon was concerned about Mr. Piper's use of the phrase "high risk." She recounted a discussion with Commissioner Williams about the "high risk" label that referred to a higher monitoring level but not a high risk to public safety. She asked for comments. Mr. Piper clarified that when he used the phrase "high risk" he was referring to individuals that were at a "higher risk" for not completing the requirements and possibly reoffending. Co-Chair MacKinnon wanted to confirm her understanding that the label did not mean a higher risk to the public. Mr. Piper confirmed her understanding.

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Vice-Chair Micciche mentioned the zero DHSS fiscal note FN 27 (DHS) allocated to Probation Services, OMB component number 2134 with no capital expenditure.

Vice-Chair Micciche reviewed the Department of Law (DOL) fiscal note allocated to Criminal Justice Litigation, OMB component number 2202 that was indeterminate from FY 17 to FY 22. He relayed that the following from the fiscal note analysis:

The Department of Law anticipates an increase in the number of trials as well as an increase in the amount of work required for misdemeanors due to these changes.

... Another new requirement is a risk assessment by a pretrial services officer. That assessment along with recommendations on conditions of release must be presented to the judge, prosecutor, and defense attorney before each person is arraigned. How those assessments are conducted, interpreted and applied may result in new litigation.

Because inability to pay would be an allowable basis for requesting a bail review hearing, bail review hearings will be available to a larger group of people and may result in an increase in hearings. It is unclear exactly how many more hearings or how much new litigation will result from these sections. Therefore,

the department is unable to quantify the impact of these sections at this time.

Co-Chair MacKinnon wanted feedback from committee members on the fiscal note, and noted that the department could not quantify the cost. She had seen other committee chairs zero out indeterminate fiscal notes.

Vice-Chair Micciche clarified that there were five sections in the fiscal note analysis, the first two; Reduction in Sentence Length and Bail Reform he previously referred to. The department also spoke to Capping Time Imposed for Technical Violations of Probation, Drug Offenses, and Suspended Entry of Judgement that did not anticipate a fiscal impact. He suggested requesting an expected range of costs estimated by DOL. Co-Chair MacKinnon agreed with the Vice-Chair's assessment and voiced that she would discuss the fiscal note with the working group.

Vice-Chair Micciche noted the new zero Department of Public Safety fiscal note allocated to Alaska State Trooper Detachments, OMB component number 2325 with no capital costs.

LT. DAVID HANSON, ALASKA STATE TROOPERS (via teleconference), confirmed that the troopers did not expect any additional fiscal impact from the legislation.

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Co-Chair MacKinnon asked whether Mr. Skidmore had comments about the department's fiscal note and if he would participate in the working group.

JOHN SKIDMORE, DIRECTOR, CRIMINAL DIVISION, DEPARTMENT OF LAW (via teleconference), voiced that his preference was to provide figures for any anticipated fiscal impact but the impact was unknown. He shared that he had directed the fiscal note to be indeterminate because he was truly unable to calculate impacts. He was happy to participate in a working group. Co-Chair MacKinnon thanked Mr. Skidmore and indicated that he had done what he could do on behalf of the department and the committee's approach was to zero out any currently unknown costs.

Vice-Chair Micciche discussed the new DPS fiscal note allocated to the Council on Domestic Violence and Sexual

Assault, OMB component number 521. He noted that the appropriation was \$2.5 million in FY 17 which included one full-time position and increased to \$3 million per year for services, grants, and benefits from FY 18 through FY 22. He summarized the second page of the fiscal note as follows:

Section 163 of this bill implements reforms identified and recommended by the Alaska Criminal Justice Commission (ACJC) in its Justice Reinvestment Report by adding uncodified language instructing the Council on Domestic Violence and Sexual Assault (CDVSA) to create or expand community-based violence prevention programming and services for victims of a crime involving domestic violence or sexual assault....

...Funds will be used to support local communities in expanding readiness to implement prevention services most applicable to their own community...

Another priority of the victim service roundtables was to provide sexual assault forensic exams to victims through community health aides and/or public health nurses. CDVSA will bring together a workgroup of stakeholders including victim service providers, health aides, tribal health consortiums, public health, law enforcement and law to address this issue and prepare a plan for implementation by FY18.

One Program Coordinator I position would be added to the staff to ensure a robust implementation of the projects with appropriate technical assistance and monitoring of grant funds.

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Senator Dunleavy asked whether the programs were research-based. Co-Chair MacKinnon replied in the affirmative. HE restated his question about the programs listed on the second page of the fiscal note analysis and wondered whether all of them were research based.

LAUREE MORTON, EXECUTIVE DIRECTOR, COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT, DEPARTMENT OF PUBLIC SAFETY, discussed the programs in question. She shared that the two programs; COMPASS and Talk Now Talk Often were developed in the state and the council was currently evaluating them. The programs were only in operation for two years and the

research was not yet available. She confirmed that the other listed programs were all evidenced based. Senator Dunleavy asked whether any of the programs were destined for use the schools. Ms. Morton stated that some programs such as Coaching Boys into Men and Girls on the Run were used school facilities.

Senator Bishop asked how many additional communities or individuals the programs would serve for the additional funding. Ms. Morton agreed to provide the information.

Co-Chair MacKinnon communicated to Ms. Morton that the cost savings anticipated by the sponsor were falling short of the reinvestment needed and requested that she participate in the working group.

Vice-Chair Micciche presented the zero Judiciary (JUD) fiscal note FN 32 (CRT) allocated to Trial Courts, OMB component number 768, with no capital expense.

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Co-Chair MacKinnon asked whether the Court System anticipated any savings from the legislation.

NANCY MEADE, GENERAL COUNSEL, ALASKA COURT SYSTEM (via teleconference), did not anticipate any savings. She commented that the bill contained some provisions that potentially decreased its caseload and some provisions that increased the caseload. She specified that the use of citations in lieu of arrest did not change the caseload it only changed the way a case began. She thought some drug offenses could move down to misdemeanors and could possibly create marginal savings. She anticipated more bail hearings, petitions to revoke probation hearings, and misdemeanor trials and hearings. She reported that overall the Court System had determined that they would not lose staff due to decreases or need additional resources due to increases. She considered the outcome a "wash."

Senator Bishop was curious whether Judiciary (JUD) estimated the amount of time necessary to develop the new Pre-Trial procedures in cooperation with DOC. Ms. Meade stated that the programs had a delayed effective date of approximately one and a half years. She furthered that most of the initial work was DOCs and the Judiciary would work closely with the department on regulations and logistics.

Vice-Chair Micciche discussed the JUD fiscal note allocated to the Judicial Council, OMB component number 771, which requested \$67.9 thousand in FY 17 in addition to the amount included in the governor's FY 17 budget of \$193.8 thousand totaling \$261.7 thousand and continued through the out years to FY 21. The fiscal note included a full-time and a part-time position. He read from the third paragraph on page 2 of the fiscal note:

The Council anticipates that it could continue to support the commission's work with the new requirements by slightly increasing the existing staffing level, beginning in FY17. The request is to increase the existing 30-hour/week attorney position to full time (37.5 hours/week); to add 9 hours per week to the research analyst's time (increasing the hours from 20/week to 29/week); and to add 7.5 hours per week of administrative support...

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RECONVENED

Co-Chair MacKinnon explained the reason for the fiscal note. She related that the sponsor wanted to continue the work of the commission in the areas of reinvestment and public safety. The commission would monitor DOC and the other agencies during the process of implementing changes in the criminal justice system.

Vice-Chair Micciche continued to read from page 2 of the fiscal note:

... A full-time attorney is needed to be a consistent liaison between the commissioners, policy makers, and the public, to guide the work of the commission, and to provide information to state policy makers as requested...

...The Council will need to rent office space for the Research Analyst (\$29,000 year), and parking for two employees (\$1,800 per year)...

Co-Chair MacKinnon remarked that the cost for rent could be cut.

Vice-Chair Micciche reviewed the agency totals listed on the spreadsheet. He relayed that the DOC total was \$3.637.1 million in FY 17 with the addition of 36 positions. The FY 18 total was \$1.871.6 million with 130 positions. Savings were demonstrated from FY 19 through FY 22 in order as follows; \$8.4 million, \$6.1 million, \$3.6 million, and \$1 million with 130 new positions added each year.

Co-Chair MacKinnon referred to the commission's finding that the state needed a new prison facility by 2019. She could not recall the cost. Vice-Chair Micciche recalled that the cost was approximately \$150 million. Co-Chair MacKinnon believed that the sponsor of the bill had indicated that with the implementation of corrections reform, the new facility was not necessary and some prison facilities would close by FY 19. Vice-Chair Micciche thought it was anomalous that the savings were increasingly diminished if the former statement was correct. Co-Chair MacKinnon stated she would follow up with the fiscal note working group to attempt to quantify the costs to the state that would be a one-time expense with ongoing operating expenses. She communicated that other members of the legislature wanted a comparison of the costs of housing inmates out of state versus reforms.

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Vice-Chair Micciche thought there were segments of the bill that were difficult to quantify, such as state agencies that were supporting the families of those that were incarcerated. He supported the efforts to "tighten up the fiscal notes." Co-Chair MacKinnon offered that he was welcome to join the working group discussions.

Senator Dunleavy suggested looking for the possibility of fund sources other than UGF (Undesignated General Funds) and ensuring reform programs were research based.

Vice-Chair Micciche addressed the DHSS fiscal note totals. He reported that in the area of behavioral health in FY 17 the total was \$2.530.3 million and increased to \$3.029.2 million in FY 18 through FY 22.

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RECONVENED

Vice-Chair Micciche clarified the DHSS figures. He noted that in FY 17 the behavioral health total was \$2.5 million and \$30.3 thousand for ASAP totaling \$2.530.3 million. In the out years, FY 18 through FY 22 the increase for behavioral health was \$500 thousand and ASAP expenses decreased to \$29.2 thousand. In addition, no additional FTEs were associated with the appropriations.

Vice-Chair Micciche addressed the summary of fiscal notes from the Department of Law that was indeterminate with no additional FTEs. He turned to the summary of fiscal notes from DPS that totaled \$2.5 million in FY 17 for the CDVSA that increased to \$3 million in FY 18 through FY 22 with one position added to CDVSA from FY 17 through FY 22. He added that no additional expense was designated for the State Trooper Detachments. He addressed the JUD summary of fiscal notes, which reported a \$193.8 thousand governor's request for the Judicial Council in FY 17 which was added to the \$67.9 request for a total of \$261.7 thousand. The figure continued through FY 21 and was zero in FY 22. He drew attention to the total for all funds that amounted to \$8.9 million in FY 17 and \$8.1 million in FY 18, a savings of \$2.1 million in FY 19, \$181.6 thousand request in FY 20, in FY 21 the total was \$2.7 million and in FY 22 the total was \$5 million. He reported the position counts. In FY 17 a total of 38 positions was reported in FY 17, a total of 132 positions in FY 18 through FY 21, and in FY 22 a total of 131 positions were anticipated.

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

Co-Chair MacKinnon discussed the schedule for the remainder of the day.

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ADJOURNMENT

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The meeting was adjourned at 2:49 p.m.